

Goods and Services Tax (GST) In India – CA Pritam Mahure



The book is a compilation of GST related key draft legal provisions, reports and articles. Readers can also view our **videos** on [GST Youtube.com/c/PritamMahure](https://www.youtube.com/c/PritamMahure)

For feedback mail to capritam@gmail.com

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Goods and Services Tax (GST) in India

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1. Forewords

Reforms are a continuous process. This is particularly true in case of indirect taxes which have a close link with the general economy. The process of key reforms and liberalization started way back in 1986 with introduction of MODVAT and has continued since then.

In indirect taxes, GST / VAT, as a tax system, has been preferred all over the world. India also, with each passing year steadily moved towards GST by taking steps such as introduction of State VAT in India (from 2003 to 2008), integration of central level CENVAT (in 2004) and introduction of Negative list (in 2012).

In the march towards GST, last few years have witnessed major buzz. Now, most of the key aspects of the proposed GST regime are already in public domain through various documents such as 122nd Constitutional Amendment Bill, 2014, Reports on registration, payment, refunds and returns etc. Thus, it has become imperative for everyone to learn about GST as is expected to become reality in days to come.

The smart young man, Pritam has shown great zeal and has taken immense pains to successfully compile all important pieces of legislation together. He has covered all the key areas about GST, steps to be taken for being 'GST ready', chronology of events, various articles on GST etc in a very lucid manner. This will help the reader to quickly grasp the nuances of GST. His videos¹ on GST are available on youtube.com

For all his efforts and research, to sensitise the trade and industry on GST, I congratulate him and wish this endeavourer a great success. Surely, this book will make understanding and research on GST easier for taxman, taxpayer, professionals and students alike. My request to him would be keep updating it as the law changes in future.

Late Shri. Gautam Bhattacharya

Principal Commissioner, Service Tax Commissionerate, Pune

December 2015

¹ [Youtube.com/c/PritamMahure](https://www.youtube.com/c/PritamMahure)

2. About the book and author

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About the Author



- CA Pritam Mahure works in the field of Indirect Taxes (Service Tax, Excise and Goods and Service Tax) since more than a decade. Pritam has also worked with leading multinational consulting organisations.
- Pritam has authored books on "Service Tax" and "GST" for Bharat Publication and CII.
- Pritam has authored more than 100 articles in The Hindu, Business Line, Business Standard, Economic Times, Deccan Herald, Taxmann, Taxindiaonline etc.
- Pritam has addressed more than 75 conferences/ seminars and 10,000 professionals on GST and Service Tax for CII, ASSOCHAM, NASSCOM, MCCIA, DCCIA, ICAI, DGST and Government officers across India.
- Pritam is conducting GST Awareness Campaign for CII IIL by addressing seminars on GST all across India. Pritam is also assisting State Governments with respect to proposed GST.

3. Analysis of various aspects of GST

3.1 Things you must know about GST

1. GST applicable on 'supply'

In GST regime, all 'supply' such as sale, transfer, barter, lease, import of services etc of goods and/ or services **made for a consideration** will attract CGST (to be levied by Centre) and SGST (to be levied by State). As GST will be applicable on 'supply' the erstwhile taxable events such as 'manufacture', 'sale', 'provision of services' etc. will lose their relevance.

Further, certain supplies, even if made **without consideration**, such as permanent transfer of business assets, **self-supply** of goods or services, assets retained after deregistration etc will attract GST. Interestingly, even a '**barter**' of goods transaction which were hitherto un-taxed in VAT regime, will attract GST.

2. GST payable as per time of supply

The liability to pay CGST / SGST will arise at the time of supply as determined for goods and services. In this regard, separate provisions prescribe what will time of supply for goods and services. The provisions contemplate payment of GST at the earliest for

- a. 'Goods'- Removal of goods or receipt of payment or issuance of invoice or date on which buyer shows receipt of goods
- b. 'Service's- Issuance of invoice or receipt of payment or date on which recipient shows receipt of services

It can be observed that there are **many parameters** in determining 'time' of supply. Thus, determining the 'time' of supply and further maintaining reconciliation between revenue as per financials and as per GST rules could be a major challenge to meet.

3. Determining Place of Supply could be the key

At present inter-State supply of goods attract Central Sales Tax. Now, its provides that an inter-State supply of **goods** and/ or **services** will attract IGST ((i.e. CGST plus SGST). Thus, it would be crucial to determine whether a transaction is a 'intra-State' or 'Inter-State' as taxes will be applicable accordingly. In this regard, the draft GST law provides

separate provisions which will help an assessee determine the place of supply for goods and services.

Typically for 'goods' the place of supply would be location where the good are **delivered**. Whereas for 'services' the place of supply would be **location of recipient**. However, there are multiple scenarios such as supply of services in relation to immovable property etc wherein this generic principle will not be applicable and specific rule will determine the place of supply. Thus, the business will have to scroll through all the place of supply provisions before determining the place of supply.

4. Valuation in GST

GST would be payable on the 'transaction value'. Transaction value is the **price actually paid or payable** for the said supply of goods and/or services between un-related parties. The transaction value is also said to include all expenses in relation to sale such as packing, commission etc. Even **subsidies** linked to supply will be includable. As regards **discounts/ incentives**, it will form part of 'transaction value' if it is allowed **after** supply is effected. However, discounts/ incentives given **before or at the time** of supply will be permissible as deduction from transaction value.

The law also provides for Valuation Rules to help determine value in certain cases. The Valuation Rules appear to be drafted by taking few provisions from current Valuation provisions in vague in Excise (for e.g. concept of 'transaction value'), Service Tax (for e.g. concept of 'pure agent') and Customs (for e.g. concept of 'goods of like kind and quality').

5. Input tax credit in GST

Current CENVAT Credit regime disallows CENVAT Credit on various services such as motor vehicle related services, **catering services, employee insurance, construction** of civil structure etc. Similarly, State VAT laws restrict input tax credit in respect of construction, motor vehicle etc. Current, this denial of credits leads to un-necessary cost burden on assessee.

It was expected that in GST regime, seamless credit will be allowed to business houses without any denial or any restrictions except say goods / services which are availed for personal use than official use (something similar to United Kingdom VAT law).

However, surprisingly, *inter-alia*, aforesaid credit would continue to be not available (in respect of both goods or services). Further, credit is proposed to be denied on goods and/or services used for private or **personal consumption**, to the extent they are so consumed. This continuation of denial will lead to substantial tax cascading (as rate of GST will be higher than the current rate of service tax!). Also, another round of litigation as interpretation issues will crop up while determining eligibility or otherwise of GST paid on personal consumptions such as business lunch with clients.

7. There would be 33 GST laws in India

In GST regime, there will be one CGST law and 31 SGST law for each of the States including two Union Territories and one IGST law governing inter-State supplies of goods and services.

8. Rate of GST is not yet specified in the draft GST law

The rate of GST is **not specified** in draft GST law. However, various News reports suggest that the Revenue Neutral Rate (RNR) as proposed by the Chief Economic Advisor Shri. Arvind Subramanian could be 17%-18%. Further, there could be lower rate (of 12%-14%) for concessional goods and higher rate (upto 40%) for luxury goods (such as luxury cars, tobacco products etc).

9. Time limit for show cause notices (SCN)

Time limit for issuance of SCN is generic cases (i.e. other than fraud, suppression etc) would be **three years** and in fraud, suppression etc cases it would be **five** years. It is pertinent to note that the time limit prescribed for issuance of SCN for generic cases is much more than the current time limit prescribed in excise law (i.e. 12 months) and service tax legislation (i.e. 18 months). This will give much leeway to the Authorities while issuing SCN and sleepless night to assesseees for three years!

10. Old provisions re-introduced

Most of the current provisions such as reverse charge, tax deduction, pre-deposit, prosecution (!), arrest (!) etc have been continued in the proposed draft GST law.

The new GST law seems to be a new wine in old bottle as most of the current inefficiencies have been continued in the proposed GST law.

3.2 Analysis of four Reports on GST processes

The Government's determination to introduce GST is palpable from the fact that in the month of October 2015, the Government has placed in the public domain **four reports** on key business processes i.e. registration, payment, refunds and returns in GST regime. From these four reports one can fairly gauge the broad structure and process in GST regime.

This article analyses these reports in detail in the following paras.

1. Report on returns in GST regime

Every registered assessee will be required to file returns (including **NIL returns**). However, persons exclusively dealing in exempted / Non-rated or non-GST goods or services would neither obtain registration nor file returns. It is pertinent to note that there could be 8 GST returns as under:

- 3 returns - Outward supplies (GSTR 1), Inward supplies (GSTR 2) and Monthly return (GSTR 3)
- Return for compounding dealers (GSTR 4)
- Return by non-resident tax payer (GSTR 5)
- Input Service Distributor (ISD) return (GSTR 6)
- Tax deducted at Source (GSTR 7)
- Annual return (GSTR 8)

It is pertinent to note that GSTR-3 would be entirely **auto-populated** through GSTR-1 (of counterparty suppliers), own GSTR-2, ISD return (GSTR-6) (of Input Service Distributor), TDS return (GSTR-7) (of counterparty deductor), own ITC Ledger, own cash ledger, own Tax Liability ledger. However, the taxpayer may fill the missing details to begin with.

As there are multiple returns, for most of the organisations, in GST regime, compliances are expected to increase dramatically. Take example of a service tax assessee, who currently files 2 returns on an annual basis. Now, in GST regime, Service tax assessee could be required to file as many as **61 returns** (5 returns per month plus 1 annual return)!!! Thus, in Human Resource (HR) department and Chartered Accountants will have to anticipate the increase (and decrease in certain cases) in the manpower and plan accordingly.

2. Report on GST Registration

This report provides that the taxable person in the GST regime will be required to take State specific single registration for Central GST (CGST), Integrated GST (IGST) and State GST (SGST) purposes (multiple registrations in a State for business verticals would also be permitted) . In GST regime the registration number would be a PAN based 15 digit alpha numeric registration number.

Registration would be granted through common GST portal. Applicant will be required to apply online and within three working days the State and Centre should raise query or reject the application. However, in case any of the authority neither rejects the application nor raises a query during this period, then the registration would be deemed to have been approved by both the authorities and the GST Common Portal will automatically generate the registration certificate.

It appears from the report that there will be specific provisions for migration of existing registrations to GST regime. This migration process is expected to start sufficiently in advance to ensure smooth transition.

As regards effective date for registration the report states that the date of registration will be the date of application in case the registration is obtained within time limit prescribed by GST law. In case there is a delay in applying for registration, the same could result in denying of GST credits on procurements prior to registration.

Report also suggests that voluntary registration permissible and casual dealers (for conducting a business for a limited period in a State) will have to obtain registration and pay taxes. Further, irrespective of turnover, a person engaged in inter-State supplies or a person liable to GST under reverse charge would be require to compulsory obtain registration.

The current concept of Input Service Distributor is also expected to continue for distributing the credit of GST paid on 'services' proposed to be used at multiple locations which are separately registered. The report recommends that the GST law drafting committee to consider similar provisions for distributing credits on 'inputs'.

The report also provides copy of GST registration application form which contains 21 fields requiring various details from the applicant. Interestingly, in the form has listed out 15 business premises /activities wherein registration could be obtained such as manufacturing, wholesale, retail, leasing, Works contract, Special Economic Zone (SEZ) etc.

3. Report on GST Payments

This report provides that the taxable person will be required to make payment of CGST, SGST, IGST and Additional Tax through internet banking. Over the counter (OTC) payment could be permissible only for payments up to Rs. 10,000/- per challan.

For making e-payment of GST taxpayer will be required to access Goods and Services Tax Network (GSTN) for generation of the Challan where basic details (such as name, address, email, mobile number and GST registration number) of the tax payer will be auto populated in the challan. Once the taxpayer chooses a particular bank for payment of taxes, GSTN will direct him to the website of the selected bank wherein taxpayer will make the payment using the USER ID and Password provided by the bank to enter into the secured e- banking area of his bank.

In the challan the taxpayer will have to use separate accounting codes for making payment of CGST, SGST, IGST or Additional Tax. Further, accounting codes will also be provided for interest, penalty, fees or others payments.

Interestingly, it is specifically provided that the payment of GST could be made by tax payer himself or by his Authorised representative on his behalf.

4. Report on GST refunds

This report provides that in ten situations such as exports, excess payment by mistake, refund of pre-deposit, refund to international tourists etc wherein the taxpayer can claim refund of GST paid.

For export of goods, the report suggests that the exporter should procure the goods on payment of appropriate GST and then claim refund of the same from respective Governments. It is also recommended that the option to procure duty free inputs for

exported goods should not be available in the GST regime. As regards, deemed exports, the report suggests that deemed exports should be treated at par with exports.

The report also suggests that refund form should be electronic format and refunds should be granted in a time bound manner and delay in processing of refund should enable assessee claim refund for such delay.

Way forward

The aforesaid reports also suggest continuation of reverse charge mechanism (including partial reverse charge), pre-deposit, proportionate credit in case of mixed supplies (taxable and exempt) etc. Thus, the taxpayer should be rest assured for nostalgic feelings and goose bumps if they stumble upon few re-produced excise and service tax provisions in GST regime as well!

However, this step of the Government to invite comments from the public at large, is commendable and shows Governments conscious efforts for introducing GST. So, in days to come, India can hope for a Good and Simple Tax regime!

3.3 All you wanted to know about Constitutional Amendment Bill

One of the MOST important step for introduction of Goods and Service Tax (GST) i.e. the 122nd Constitutional Amendment Bill (CAB) for introduction of GST is taken up for discussion in Lok Sabha on 24.02.2015.

In the past, to amend the Constitution, 115th CAB was introduced by the UPA Government in March 2011. However, this 115th CAB lapsed.

The rationale for introduction of CAB is that, currently, the Constitution of India does not provide for a parallel levy of indirect taxes by Centre and State which is a pre-requisite for GST. To address this, CAB was introduced in Lok Sabha.

The CAB is a starter for the approaching GST regime. In the following paragraphs let us understand in detail the key facets of CAB.

1. CAB – Enables introduction of GST

The CAB enables the Centre and State Government (including Union Territories) to introduce law for levying GST on supply of goods or services or both.

Thus, in GST regime, there will be one CGST law and one SGST law each for the States (including Union Territories).

2. 'GST' defined

The term 'GST' is defined in Article 366 (12A) to mean "*any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption*".

Thus, all supply of goods or services or both will attract CGST (to be levied by Centre) and SGST (to be levied by State) unless kept out of purview of GST.

GST will be applicable even when the transaction involves supply of both (goods and services). In effect, works contracts will also attract GST. As GST will be applicable on 'supply' the erstwhile taxable events such as 'manufacture', 'sale', 'provision of services' etc. will lose their relevance.

It may be noted that the term 'supply' is not defined or elaborated or qualified (such as supply for a consideration etc). Thus, it needs to be seen whether even free supply will attract GST.

3. 'Service' defined

It may be recalled that earlier 115th CAB did not provide for definition of the term 'service'. Now, this 122nd CAB specifically provides that '*services means anything other than goods*' [refer Article 366 (26A)]. This broad definition of the term 'service' will altogether remove the disputes on the aspect whether something is goods or services (unless Government proposes different rates for GST on goods or services or both).

4. IGST

At present inter-State supply of goods attract Central Sales Tax. Now, CAB provides that an inter-State supply of **goods** or **services** will attract IGST ((i.e. CGST plus SGST) [refer Article 269A].

It may be noted that IGST will be levied and collected by the Centre and proceeds of IGST will be shared amongst the Centre and the States.

5. Inter-State sale of goods to attract additional tax

CAB provides that an additional tax upto 1% will be levied by Centre on inter-State supply of **goods** (and not on services). This additional tax will be assigned to States from where the supply of goods originates. This additional tax seems be a new version of CST.

This additional tax will be applicable for a period of two years and could be extended further by GST Council.

However, CAB is silent on the aspect whether credit of this additional levy will be available or it will be a cost in the supply chain. If it will be a cost then it appears that the tax cascading will continue in the GST regime too.

6. Import of goods or services

At present, import of goods attracts Basic Customs duty (BCD), Additional Customs Duty (ACD) and Special Additional Customs Duty (SAD). As regards services, it attracts Service Tax (or Research and Development cess in few instances).

CAB provides that the import of goods or services will be *deemed* as supply of goods or services or both in the course of inter-State trade or commerce and thus it will attract IGST (i.e. CGST plus SGST). Thus, import of goods will attract BCD and IGST. It may be noted that import of services, as against service tax at present, in GST regime, will attract IGST.

7. Alcohol for human consumption

It appears that 'alcohol for human consumption' will be kept outside the GST regime. As only 'alcohol for human consumption' is excluded as a corollary it can be stated that all other sectors / goods are intended to be included in GST.

Exclusion of alcohol sector could mean that the companies manufacturing alcohol may not be in a position to avail credit of GST paid by them on their procurements.

8. Petroleum products and tobacco

Petroleum products and tobacco will continue to attract duty of excise.

However, CAB specifically provides that the petroleum products may not attract GST, however, at a later stage, GST Council may decide to levy on petroleum products.

9. Role of GST Council

The CAB is silent on the key aspects of GST such as -

- How the model GST law would be?
- Which taxes, cesses, surcharges will be subsumed in GST?
- Which goods and services are subject to or exempt from GST?
- What will be the rate of GST including floor rates?
- What will be the threshold limit of GST?

However, to address the aforesaid issues, CAB provides that 'GST Council' will be formulated. The GST Council will consist of Union Finance Minister, Union Minister of State and State Finance Minister. On the aforesaid issues, GST Council will have the power to make recommendations to Centre and States.

It may be recalled that earlier 115th CAB also provided for a Dispute Settlement Authority to settle disputes between States or between States and Centre with regard to GST. However, in this CAB the GST Council has been given the authority to determine the

modalities to resolve disputes arising out of its recommendations.

10. Compensation to States

It may be noted that earlier 115th CAB did not provide for compensation to States. However, this CAB specifically provides that Parliament by law, on recommendation of GST Council, provide for compensation to the States for loss of revenue arising out of implementation of GST upto 5 years.

By providing for compensation in the Constitution itself, the Centre seems to have addressed the concerns raised by the State regarding fear of loss of revenue.

Way forward

Though, the CAB may have an easy passage through Lok Sabha it will be interesting to see how Government passes hurdle of Rajya Sabha. Also, to become a law, CAB will have to be approved by more than half of the States.

3.4 Five steps to be GST ready

Though, the Government was able to pass the 122nd Constitutional Amendment Bill, 2014 (GST Bill) in Lok Sabha, which will eventually pave the way for Goods and Services Tax (GST) in India, currently the GST Bill is awaiting passage in Rajya Sabha.

However, the Government's determination to introduce GST is palpable from the fact that in the month of October 2015, the Government has placed in the public domain four reports on key business processes i.e. registration, payment, refunds and returns in GST regime. From these four reports one can fairly gauge the a broad structure and process in GST regime.

Given the aforesaid, it's imperative for the business organisations to gear up (well in advance!) for this biggest tax reform since independence. In the following paras, the author discusses on the possible steps which an organisation could take to be GST Ready.

1. Sensitise the business eco-system

It is an accepted fact that GST is not merely a tax change but a business change as it will impact all functions of an organisation such as finance, product pricing, supply chain, information technology, contracts, commercials etc. Thus, its imperative that all these functional teams should be aware about the GST. But the underlying question is what should these team members read/ refer for GST?

In this regard, its pertinent to note that most of the key aspects of the proposed GST regime are already in public domain through various dsuch as

- a. Draft GST law
- b. 122nd Constitutional Amendment Bill, 2014 ('GST Bill')
- c. Rajya Sabha Select Committee Report on GST Bill
- d. First Discussion Paper (issued by the Empowered Committee)
- e. Task Force Report on GST (issued by the 13th Finance Commission)
- f. Reports on registration, payment, refunds and returns etc.

Thus, based on the aforesaid knowledge available in public domain the organisation may consider sensitising its employees.

The organisation can consider sensitising its entire business eco-system i.e. not only the employees but also vendors (such as Tier-1, Tier-2 vendors etc) and key customers of the organisation. An early initiation of training will give the concerned employees, vendors and customers a sense of involvement in discussion much before GST legislation it is put in public domain.

2. Understand GST Impact on operations

GST may provide opportunities but at the same time it could bring threats. Given this, an organisation may consider carrying out an exercise to identify how its operations will get impacted because of GST. For GST Impact Analysis exercise, the respective department heads such as finance, supply chain, product pricing, human resource etc should be involved to ensure that they provide their inputs and suggestions.

Going one step forward, organisations can also identify possible cost savings which key suppliers / vendors could be entitled to in the proposed GST regime. Based on the possible cost savings to suppliers / vendors, the organisations can have discussion with its vendors for passing of benefits by way of cost reduction in the coming years (i.e. after GST is introduced). Early discussion and engaging with vendors for GST will ensure maximum possible benefit to be passed on to the organisation.

Organisations will also have to take into consideration the increase (most likely!) or decrease (least likely!) in tax compliances. For most of the organisations, in GST regime, compliances are expected to increase dramatically. Take example of a service tax assessee, who currently files 2 returns on an annual basis. Now, in GST regime, Service tax assessee could be required to file as many as 61 returns (5 returns per month plus 1 annual return)!!! Thus, in human resource department will have to be informed about the GST regime so that they can anticipate the increase (and decrease in certain cases) in the manpower.

3. Gear up for transition of Information Technology (IT) systems

Information Technology is a key area for business organisations as irrespective of the fact whether the organisation is ready or not, on the very first day GST is introduced, the information technology system of an organisation has to be ready and running else it will bring the entire business to standstill.

Take example of a retailer having multi-state presence. Currently, his IT system generates invoice/ bill with applicable respective VAT or CST. In GST regime, the IT System should generate invoice/ bill with applicable CGST and SGST or IGST (and additional 1% tax, if applicable!). For a service provider, there could be more challenges as applicability of CGST and SGST or IGST will depend on the Place of Supply Rules (to determine whether the transaction is intra-State or Inter-State). Thus, embedding the Place of Supply Rules (which are yet to be put in public domain!) in the IT system could pose a major challenge.

Given this, to avoid the threat of disruption of business, it is advisable that early study should be carried out to understand how the systems migration for GST could be done.

4. Design Alternate Business Strategies

To gear up for GST regime, the organisation may identify alternate efficient business strategies to ensure smooth transition to GST. Even, supply chain strategies is expected to undergo a major change as entire India will become one market and there may not be any tax cost involved for intra-State vis-à-vis inter-State procurement of goods. An organisation will have to re-visit their pricing strategies as business competitors may well reduce prices of their product to pass on the GST benefits.

However, while forming alternate business strategies, it goes without saying that the organisation should take into consideration the commercial feasibility of alternate business strategies before these strategies are recommended.

5. Make representation before the Government

Introduction of GST regime could affect negatively (than positively!) to few industries/ sectors. Thus, efforts should be made by the organisation to identify the possible issues for which appropriate representation could be made before the Government through various trade chambers and forums.

In next few days, the Government is expected to put the draft GST law in public domain. Given this, while current economic situation is characterised by volatile economic conditions, introduction of GST remains a ray of hope, thus early initiation of aforesaid steps can surely help the organisations gain most of the proposed GST regime.

3.5 Chronology on GST – Past, Present and the Future

Date	Event
1974	Report of L K Jha committee suggested moving to Value Added Tax (VAT) regime
1986	Introduction of Modified Value Added Tax (MODVAT)
1991	Chelliah Committee recommends VAT/Goods and Service Tax (GST)
1 July 1994	Service tax is introduced in India
1999	'Empowered Committee' comprising of representatives of 29 States is formed for the purpose introduction of State VAT
2000	Implementation of uniform State sales tax rates (1%, 4%, 8%, 12%)
2002	Introduction of input credit against services of same category
1 April 2003	Harayana was the first State to introduce VAT. Subsequently, other States introduced VAT (20 States in 2005, 5 States in 2006, Tamil Nadu in 2007 and lastly, Uttar Pradesh in 2008).
1 September 2004	Central level taxes integrated by introduction of 'CENVAT'
January 2005	White Paper, a policy document indicating basic policies of 'State VAT' was released by the 'Empowered Committee'
1 April 2005	Value Added Tax introduced in 20 States
February 2006	Finance Minister Mr. P. Chidambaram comments in the Budget Speech that there is a large consensus that the country must move towards a national level GST that must be shared between the Center and States. He proposes 1 April 2010 as the date for introducing GST.
1 April 2006	VAT implemented in 5 more States
1 January 2007	VAT implemented in Tamil Nadu
April 2007	Central Sales Tax phase out initiated (4% → 2%)
May 2007	Empowered Committee (EC) of State Finance Ministers in consultation with Central Government, constituted a Joint Working Group (JWG),

	consisting of officers of Central and State Governments to examine various models and options for GST and to give their assessment of the same to the EC.
November 2007	Joint Working Group (JWG) presented its report on the GST to the EC. The EC accepted the report on GST submitted by the JWG
1 January 2008	VAT implemented in Uttar Pradesh
April 2008	Empowered Committee finalises the overall strategy for GST introduction in India
November 2009	'First Discussion Paper' on GST is released by EC
December 2009	Task Force submits its report on GST to 13 th Finance Commission
January 2009	Department of Revenue releases its comments on 'First Discussion Paper' on GST
February 2011	IT strategy (by Mr Nandan Nilekani) for GST released
March 2011	115th Constitution Amendment Bill introduced in Parliament. However, this 115 th CAB was lapsed (in May 2014) with change of Government at Center.
1 April 2011	Point of Taxation Rules, 2011 introduced
1 July 2012	- Negative List of Services Regime introduced - Place of Provision of Services Rules, 2012 introduced
July 2014	Union Finance Minister states in the Budget Speech 2014 that "I do hope we are able to find a solution in the course of this year and approve the legislative scheme which enables the introduction of GST"
19 December 2014	The 122 nd Constitutional Amendment Bill (hereafter referred as CAB) was introduced in Lok Sabha
6 May 2015	The 122 nd CAB passed in Lok Sabha
6 May 2015	122 nd CAB introduced in Rajya Sabha. 122 nd CAB was referred to Select Committee of Rajya Sabha
22 July 2015	Rajya Sabha Select Committee tabled its report

October 2015 the Government has placed in the public domain four reports on key business processes i.e. registration, payment, refunds and returns in GST regime.

14th June 2016 Draft GST law made available

Next possible steps

- Rajya Sabha to vote on Constitutional Amendment Bill (To pass the bill, specified majority is required)
- Later, the State Assemblies need to ratify the Constitutional Amendment Bill (here also majority is required)
- Final GST law to be tabled in Parliament

3.6 What is GST?

GST is abbreviation for Goods and Service Tax. GST is also known as Value Added Tax (VAT) in few countries.

GST / VAT is a consumption based tax wherein the basic principle is to tax the value addition at the each business stage. To achieve this, tax paid on purchases is allowed as a set off/ credit against liability on output/income.

GST is levied on all transaction of goods and services. Thus, in principle, GST should not differentiate between 'goods' and 'services'.

Internationally, GST was first introduced in France and now more than 150 countries have introduced GST. Most of the countries, depending on their own socio-economic formation, have introduced National level GST or Dual GST.

GST is different from the current tax structure in many ways. Currently, taxes treat goods and services differently. As mentioned above, 'goods' attract Excise at manufacturing level and VAT at the time of sale. In contrast, services attract only one levy i.e. Services tax on provision of taxable services.

This distinction, in GST regime, would loose its importance as both goods and services would be treated as par for taxing purposes. A transaction in goods and services for a consideration would attract CGST and SGST. Also, the State Government now gets the power to tax services and Central Government gets the power to levy tax at the distribution and retail level.

GST may resolve, not all, but surely, most of the current issues such as the classification, valuation, double taxation disputes etc. On a positive note, most of the credit which is not available will be available in GST regime such as the service provider will be eligible to avail credit of VAT, Luxury tax, Entertainment Tax etc. The compliances are also expected to reduce drastically.

3.7 GST in India

Structure: India is proposing to implement 'dual GST'. In 'dual GST' regime, all the transactions of goods and services made for a consideration would attract two levies i.e. CGST (Central GST) and SGST (State GST).

Taxes that will be subsumed in GST: GST would be levied on all the transactions of goods and services made for a consideration. This new levy would replace almost all of the indirect taxes. In particular, it would replace the following indirect taxes:

At Central level

- Central Excise Duty (including Additional Duties of Excise)
- Service Tax
- CVD (levied on imports in lieu of Excise duty)
- SACD (levied on imports in lieu of VAT)
- Central Sales Tax
- Excise Duty levied on Medicinal and Toiletries preparations,
- Surcharges and cesses

At State level

- VAT/Sales tax
- Entertainment tax (unless it is levied by the local bodies)
- Luxury Tax
- Taxes on lottery, betting and gambling
- Entry tax not in lieu of Octroi
- Cesses and Surcharges

However, certain items / sectors would be outside the GST regime. Products such as alcohol, petroleum products would remain outside GST regime. Further, Land and properties may remain outside since they are neither goods nor services.

Looking at the international practices on GST, it would be advisable that the products outside GST regime should be minimum as allowing parallel levies will only add to cascading effect than any good to industry/economy.

Administration: CGST and IGST will be administered by 'Central Government' and SGST will administered by the respective State Governments.

Law relating to GST: In GST regime, there will be one CGST law and 31 SGST law for each of the States including two Union Territories and one IGST law governing inter-State supplies of goods and services.

Mechanism of input tax credit in GST: Input tax credit of CGST would be available for payment of CGST and input tax credit of SGST would be available for payment of SGST. However, cross utilization of tax credit between the Central GST and the State GST would be allowed in the case of inter-State supply of goods and services under the IGST model.

Interstate transactions in GST: All the inter-State transactions of goods and services would attract IGST (which would be CGST plus SGST). The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST.

Inter-State supply of goods for consideration to attract additional tax: Draft GST law provides that an additional tax upto 1% will be levied by Centre on inter-State supply of **goods** (and not on services) made for consideration. Thus, effectively inter-State branch transfers will not attract this 1% additional Tax. This additional tax will be assigned to States from where the supply of goods originates. This additional tax will be applicable for a period of two years and could be extended further by GST Council. The credit of this additional levy will not be available as thus it will be a cost in the supply chain.

Composition scheme: There would be option available to tax payers having turnover less than Rs. 50 lacs can *opt* for Composition scheme wherein they need to discharge tax at a floor rate of 1%.

Exports and SEZ: Exports would be zero rated, as currently they are. In case of SEZ, if the supply of goods or services is for consumption in processing zone then it would be zero rated by refund mechanism.

Imports: Even under GST regime, Customs duty would be levied on import of goods in India. Currently, import of 'goods' suffers CVD (in lieu of Excise duty) and SACD (in lieu of

VAT). On import of taxable services, Service tax is attracted. In GST regime, both CGST and SGST would be levied on import of goods and services.

Special Area Schemes: The exemptions available under Special Industrial Area Schemes would continue up to legitimate expiry time both for the Centre and the States. Later, after the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives would be converted, if at all needed, into cash refund schemes.

3.8 Rate of GST

Rate of GST is one of the most important and contentious issues. Before we understand what could be the rate of proposed GST, let's understand the current rates of indirect taxes on goods and services.

The different rates of taxes on goods and services is tabulated below:

Particulars	Goods	Services
Excise duty	12.50%/ 6% / 2%	-
VAT	12.50% / 13.50% / 14%	-
CST	2% (against Form C)	-
Local Body Tax	0.10% to 8%	-
Service Tax	-	14%

From the press release dated 4 December 2015, the Revenue Neutral Rate (RNR) as proposed by the Chief Economic Advisor Shri. Arvind Subramanian indicated the following GST rate structure:

Particulars	Concessional	Standard	Luxury goods
GST rate	12%	17%-18%	40%

Further, it appears that the Government may review the existing exemptions so that the list of goods exempt from CGST is aligned to the SGST list and most of items currently exempt from VAT may be exempt from both components of GST.

It is worth noting that the proposed cumulative rate of GST is much higher than the Revenue Neutral Rate suggested by the Thirteenth Finance Commission (TFC). TFC had suggested a rate of 5% CGST and 7% SGST.

3.9 Supply Chain and GST

Warehouses – CST has been a major rationale for setting up of warehouses in past

An inter-State sale of goods is liable to Central Sales Tax @ 2% (subject to declaration forms). CST paid on purchase of goods is not available as set-off. Thus, it results in cost in the supply chain transaction.

Given this, to avoid the applicable CST of 2%, most of the Companies have set up branches /warehouses in different States. It has been observed that some of the Companies have more than 30 branches /warehouses in the Country only to save CST cost².

However, in GST regime, an Inter-State transaction in 'goods' will attract Integrated Goods and Service Tax (IGST). Credit of IGST paid on purchase would be available against output GST liability.

Given the above, the current rationale (i.e. to save CST) for setting up branches/ warehouses in various States will become redundant. In view of this, many Companies which have set up branches/ warehouses in different States only to save CST may reconsider their decision and may consolidate their branches/ warehouses.

Area based incentives³

Most of area based incentives are approaching their legitimate expiry time. In GST regime, the tax exemptions, remissions etc. related to industrial incentives, if at all needed, would be converted into cash refund schemes.

In GST regime (post expiry of area based incentives schemes), the Companies may reconsider shifting their factories to other locations.

² However, many States (such as Maharashtra, Gujarat) have introduced provisions for reduction in input tax credit of VAT for stock transfers. This also results in loss of tax credits to businesses.

³ Area Based Incentives are offered by the Governments to promote investment in a particular State/location such as Baddi (Himachal Pradesh), Kutch (Gujarat) etc

Availment of credit

Currently there are restrictions on **availment of credit** for a service provider. A logistic service provider cannot avail credit of VAT paid on inputs procured. This becomes a cost in the supply chain.

Further, a trader or retailers or malls cannot avail credit of Service tax and excise duty paid on their purchases. Currently, a retail mall owner will not be able to avail credit of Service tax charged by a logistic service provider and thus it becomes a cost in the transaction. In GST the aforesaid will change to a certain extent (discussed in detail in later chapters).

An opportunity

In GST regime, in view of removal CST on inter-State sales, the warehousing decisions will be based on business needs than tax considerations.

Also, expiry of Area Based Exemptions may lead to change in current manufacturing locations to another locations based on business needs than tax considerations.

Cumulatively, the aforesaid will open an window of opportunity to logistic and warehousing companies as the there would be centralization of warehouses and manufacturing locations.

We have reproduced below some of the **news reports/articles** on how the Companies are strategically responding to introduction of proposed GST:

Source	News article
http://www.mydigitalcommerce.com/news/future-group-arm-cuts-logistics-costs-445	Nagpur is the geographical centre of India and has therefore been the focus of many transport firms looking to set up a national base once a unified national Goods and Service Tax regime comes into play. "We are restructuring warehouse operations nationally for better efficiency, higher fill rates, more throughputs. The consolidation will also ensure faster processing, better inventory and cost reduction," said Biyani. In addition to taking care of

the needs of Kishore Biyani-led Future group, Future Supply Chain Solution has over 350 customers across different sectors.

As part of the consolidation, the company will set up two warehouses in Nagpur. "The company is looking to add 6.5 lakh square feet space across two warehouses in Nagpur," said Biyani.

Future group has reduced stock points in all warehouses to cut inventory costs and reduce obsolescence risk. At present, Future Supply Chain has a warehousing space of five million square feet with an additional nine million square feet being planned by 2014

<http://www.expresspharmaonline.com/20120315/management01.shtml>

'The phasing out of CST with the advent of GST could do away with the perennial issue of credit leakage on this front ' - N R Munjal, Vice President cum Managing Director, Ind-Swift Laboratories

...Another evident impact of **GST** would be a definite re-look and review of the present warehousing strategies followed by the pharma Industry. As it stands on date, most pharma manufacturers maintain warehouses in different states to facilitate movement of goods from one warehouse to another so as to save on CST. Also, quite a few entities have set up warehouses at hitherto attractive locations like Pondicherry or Daman as the CST rate in these locations were previously lower than the rates prevalent in other states. Warehouses across various states and movement of goods thereof have been a nightmare for the pharma industry from the logistics perspective – not to mention the increased compliance requirements and transaction costs. ...

3.10 When will GST be introduced in India?

In the past, the Government quite a few times announced the date to introduce GST and the said date has been postponed again and again. Earlier, the date for introduction of GST was April 2010 then it became April 2011 and then April 2012 and so.

Today, even an astrologer can't answer the question on date of introduction of GST!

Having said the above, following important steps show Government is actively working on GST :

- a. 122nd Constitutional Amendment for GST is already passed by Lok Sabha and pending in Rajya Sabha
- b. Contract to manage IT infrastructure already awarded to Infosys
- c. GST law is already drafted and available in public domain

Our Prime Minister Shri. Narendra Modi and Finance Minister Mr Arun Jetley has repeatedly assured that the new proposed date i.e. 1 April 2016 will be followed.

The aforesaid surely shows that the Government is committed to introduction of GST. In view of the aforesaid discussion, in case the date of introduction of GST is postponed, still looking at the commitment level, one cannot rule out introduction of GST in near future say 1 July 2016 or October 2016.

Also, one may not be surprised if the Government hurriedly introduces GST (as it introduced Negative List of services approach without giving sufficient time to industry).

3.11 GST - International Scenario

Internationally, GST was first introduced in France and now more than 150 countries have introduced GST. Most of the countries, depending on their own socio-economic formation, have introduced National level GST or Dual GST. We have discussed below key features of GST prevalent in some of the countries.

United Kingdom⁴

Particulars	Details
Name	Value Added Tax
Date of introduction	01.04.1973
Scope	▪ Supply of goods or services made in UK ▪ Intra-community procurements from EU members ▪ Importation of goods and services
Standard Rate	20 %
Reduced rate	5 % and exempt and zero rated
Threshold exemption limit	£ 73,000
Liability arises on	Accrual Basis: On raising of invoice or receipt of consideration or supply (of goods or services), whichever is earlier. Cash basis (if turnover is below £1.35 million): On receipt of consideration
Payment	Usually quarterly returns. However, small business can opt for annual returns filing.
Export	Exports are 'Zero' rated.
Exempt services	1. Medical and education 2. Finance, insurance, postal services
Innovative concept	To ease the VAT administration, the assessee is informed at the time of registration itself as to which of the three quarterly cycle it should follow for filling the VAT returns.

Canada⁵

Particulars	Details
Name	Federal Goods and Service Tax & Harmonized Sales Tax
Date of introduction	GST 01.01.1991 & HST 01.04.1997
Scope	Taxable supplies of goods and services

⁴ Source www.hmrc.gov.uk

⁵ Source cra-arc.gc.ca

Standard Rate	GST 5% and HST varies from 0% to 15%
Reduced rates	Exempt and Zero rated
Threshold exemption limit	Canadian \$ 30,000
Liability arises on	On accrual (date of invoice, date of issue of invoice) or receipt of consideration, whichever is earlier.
VAT returns and payments	Depending on the turnover, tax needs to be deposited either monthly, quarterly or annually.
Reverse charge mechanism	Reverse charge applies to importation of services and intangible properties.
Export	Exports are 'Zero' rated.
Exempt services	1. Supply of real estate 2. Financial Services and residential renting 3. Supplies by charities 4. Health, education services
Innovative concept	A group concern can supply to another group concern at zero rate

Australia⁶

Particulars	Details
Name	Goods and Service Tax
Date of introduction	01.07.2000
Scope	▪ Taxable supplies of goods and services made which are connected with Australia and made for a consideration by a registered (or required to be registered) person in the course of business enterprises ▪ Importation of goods
Standard Rate	10 %
Reduced rate	0 %
Threshold exemption limit	\$ 75,000
Liability arises on	Accrual basis: On raising of invoice or receipt of consideration, whichever is earlier. Cash basis [an option available to assessee having turnover below \$ 2 million]: On receipt of consideration.
Payment	Depending on the turnover, the tax needs to be deposited either monthly, quarterly or annually.

⁶ Source www.ato.gov.au

Due date for payment	Tax needs to be deposited on 21 st day following the end of the month/quarter/year.
Reverse charge mechanism	Reverse charge applies to supplies made by non-residents
Export	Exports are 'Zero' rated.
Exempt services	1. Government supplies such as water services, drainage services etc. 2. Health, education, religious supplies Financial Services and residential renting 3. Vegetable, fruit, meat
Innovative concept	'Group registration' wherein a single consolidated return for the group can be filed.

Republic of China⁷

Particulars	Details
Name	Value Added Tax
Date of introduction ⁸	01.01.1994
Scope	- Taxable supplies of goods and services for consideration in China by a taxable person in the course or furtherance of a business - Importation of goods The scope of VAT in China is particularly on 'goods'. At present, only two services (viz. Repair services & Service of supply of goods as per customers requirement) attract VAT.
Standard Rate	17 %
Reduced rates	13%, 6%, 4%, 3 % and 0%
Liability arises on	On raising of invoice or receipt of consideration, whichever is earlier. However, in case of payments in installments, the relevant date when the installment is due.
Payment	Depending on the turnover if it is monthly or quarterly then payment within 15 days from end of the month or quarter
Due date for VAT return	Within 15 days from end of the month/ quarterly
Export	Exports are 'zero' rated.
Exempt services	1. Agricultural products and fertilizers 2. Contraceptives, Second hand goods (by individuals)

⁷ Source Chinatax.gov.cn

⁸ Recently, China introduced Shanghai VAT Pilot Project

Innovative concept	Small businesses can pay VAT @ 3% (however input tax credit would not be available).

New Zealand⁹

Particulars	Details
Name	Goods and Service Tax
Date of introduction	01.10.1986
Scope	- Supply of goods or services made in New Zealand by a registered person - Importation of goods
Standard Rate	15 %
Reduced rate	Zero rated and exempt
Threshold exemption limit	NZ\$ 60,000
Liability arises on	On raising of invoice or receipt of consideration, whichever is earlier.
Returns	Depending on the turnover it is either monthly, bi-monthly or six-monthly
Due date for returns and payment	On 28 th day following the end of the month or bi-month or six-month. However, different date for the certain periods.
Reverse charge mechanism	Reverse charge applies to supply of services made by non-residents.
Export	Exports are 'zero' rated.
Exempt services	- Real estate - Financial services - Residential rental
Innovative concept	The headline price in advertisement and stores must be always GST-inclusive except when supplies are to whole-sale clients.

Singapore¹⁰

Particulars	Details
Name	Goods and Service Tax
Date of introduction	01.04.1994
Scope	- Supplies of goods and services in Singapore by a taxable person in the course or furtherance of a business - Importation of goods
Standard Rate	7 %

⁹ Source ird.govt.nz

¹⁰ Source iras.gov.sg

Reduced rate	Zero rated and exempt
Threshold exemption limit	Singapore \$ 1 million
Liability arises on	On raising of invoice or receipt of consideration or supply (of goods or services), whichever is earlier.
Returns	Usually quarterly returns. However, business can opt for monthly returns.
Due date for returns and payment	Last day of the month following the end of the month or quarter.
Reverse charge mechanism	Reverse charge applies to supply of services
Export	Exports are 'zero' rated.
Exempt services	Real estate, Financial services, Residential rental
Innovative concept	Divisional registration wherein if an assessee has several divisions he may register the said divisions separately. Each such division should submit its own return. The supplies between the divisions are ignored for GST purposes.

European Union

Particulars	Details
Name	Value Added Tax
Territory	Of the 27 states the prominent states are: United Kingdom, France, Germany, Sweden, Spain, Italy, Ireland, Poland, Austria, Belgium, Denmark, Netherland, Portugal, Hungary. EU is a 'single market' meaning the goods and services can move freely in cross border trade between member states.
Scope	Supplies to Taxable persons: VAT is payable by the taxable person on acquisition (i.e. purchaser) at the rate applicable in his (acquirer's) country Supplies to non-taxable persons: VAT is payable by supplier (i.e. seller)
Standard Rate	Minimum 15 %
Reduced rates	5 % and 0 %
For threshold exemption limit, payment, etc	Refer specific country

4. Model CGST/SGST Act, 2016¹¹

CHAPTER I

Preliminary

1. Short title, extent and commencement

- (1) This Act may be called the Central / State Goods and Services Tax Act, 2016.
- (2) It extends to the whole of India / State's name.
- (3) It shall come into force on such date as the Central or a State Government may, by notification in the Official Gazette, appoint in this behalf:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions

In this Act, unless the context otherwise requires,-

- (1) "**actionable claim**" shall have the meaning assigned to it in section 3 of the Transfer of Property Act, 1882;
- (2) "**address of delivery**" means the address of the recipient of goods and/or services indicated on the tax invoice issued by a taxable person for delivery of such goods and/or services;
- (3) "**address on record**" means the address of the recipient as available in the records of the supplier;
- (4) "**adjudicating authority**" means any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal;
- (5) "**agent**" means a person who carries on the business of supply or receipt of goods and/or services on behalf of another, whether disclosed or not and includes a factor, broker, commission agent, *arhatia*, *del credere* agent, intermediary or an auctioneer

¹¹ This being a Model GST law, however, there could be no assurance that the final GST law shall not contain any contrary provisions

or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not;

- (6) "**aggregate turnover**" means the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be;

Explanation.- Aggregate turnover does not include the value of supplies on which tax is levied on reverse charge basis and the value of inward supplies.

- (7) "**agriculture**" with all its grammatical variations and cognate expressions, includes floriculture, horticulture, sericulture, the raising of crops, grass or garden produce and also grazing, but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forest or rearing of seedlings or plants;

Explanation.- For the purpose of this clause, the expression 'forest' means the forest to which the Indian Forest Act, 1927 applies.

- (8) "**agriculturist**" means a person who cultivates land personally, for the purpose of agriculture;
- (9) "**Appellate Tribunal**" means the National Goods and Services Tax Appellate Tribunal constituted under section 81;
- (10) "**appointed day**" means the date on which section 1 of this Act comes into effect;
- (11) "**appropriate Government**" means the Central Government in case of the IGST and the CGST, and the State Government in case of the SGST;
- (12) "**assessment**" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgement assessment;
- (13) "**associated enterprise**" shall have the meaning assigned to it in section 92A of the Income Tax Act, 1961;
- (14) "**audit**" means detailed examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia, the correctness of turnover declared, taxes paid, refund claimed and input tax credit

availed, and to assess his compliance with the provisions of this Act or rules made thereunder;

- (15) "**authorized bank**" shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable to the appropriate government under this Act;
- (16) "**Board**" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;
- (17) "**business**" includes –
 - (a) any trade, commerce, manufacture, profession, vocation or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) any transaction in connection with or incidental or ancillary to (a) above;
 - (c) any transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
 - (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
 - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
 - (f) admission, for a consideration, of persons to any premises; and
 - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (18) "**business vertical**" shall have the meaning assigned to a 'business segment' in Accounting Standard 17 issued by the Institute of Chartered Accountants of India;
- (19) "**capital assets**" shall have the meaning as assigned to it in the Income Tax Act, 1961 (43 of 1961) but the said expression shall not include jewellery held for personal use or property not connected with the business;
- (20) "capital goods" means: -
 - (A) the following goods, namely:-
 - (i) all goods falling within Chapter 82, Chapter 84, Chapter 85, Chapter 90, heading 6805, grinding wheels and the like, and parts thereof falling under heading 6804 of the Schedule to this Act;

- (ii) pollution control equipment;
- (iii) components, spares and accessories of the goods specified at (i) and (ii);
- (iv) moulds and dies, jigs and fixtures;
- (v) refractories and refractory materials;
- (vi) tubes and pipes and fittings thereof;
- (vii) storage tank; and
- (viii) motor vehicles other than those falling under tariff headings 8702, 8703, 8704, 8711 and their chassis but including dumpers and tippers used-
 - (1) at the place of business for supply of goods; or
 - (2) outside the place of business for generation of electricity for captive use at the place of business; or
 - (3) for supply of services,

(B) motor vehicle designed for transportation of goods including their chassis registered in the name of the supplier of service, when used for (i) supplying the service of renting of such motor vehicle; or
 (ii) transportation of inputs and capital goods used for supply of service;
 or (iii) supply of courier agency service;

(C) motor vehicle designed to carry passengers including their chassis, registered in the name of the supplier of service, when used for supplying the service of-
 (i) transportation of passengers; or
 (ii) renting of such motor vehicle; or
 (iii) imparting motor driving skills;

(D) Components, spares and accessories of motor vehicles which are capital goods for the taxable person.

(21) "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business;

- (22) "**CGST**" means the tax levied under the Central Goods and Services Tax Act, 2016;
- (23) "**chartered accountant**" means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949);
- (24) "**commissioner**" means the Commissioner of Central Goods and Services Tax /Commissioner of State Goods and Services Tax appointed under section 4 of the Central/State Goods and Services Tax Act, 2016;
- (25) "**common portal**" means the common GST electronic portal approved by the Central Government and State Governments, on the recommendation of the Council, for the specified purposes, as may be notified under this Act;
- (26) "**company secretary**" means a company secretary within the meaning of the Company Secretaries Act, 1980 (56 of 1980);
- (27) "**composite supply**" means a supply consisting of -
- (a) two or more goods;
 - (b) two or more services; or
 - (c) a combination of goods and services provided in the course or furtherance of business, whether or not the same can be segregated;
- (28) "**consideration**" in relation to the supply of goods and/or services to any person, includes
- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person;
 - (b) the monetary value of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods and/or services, whether by the said person or by any other person:

Provided that a deposit, whether refundable or not, given in respect of the supply of goods and/or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

- (29) "**continuous journey**" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued;

Explanation.- For the purposes of this clause, 'stopover' means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.

- (30) "**continuous supply of goods**" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis;
- (31) "**continuous supply of services**" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify;
- (32) "**conveyance**" includes a vessel, aircraft and a vehicle;
- (33) "**cost accountant**" means a cost accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959);
- (34) "**Council**" means the Goods and Services Tax Council established under Article 279A of the Constitution;
- (35) "**credit note**" means a document issued by a taxable person as referred to in sub-section (1) of section 24;
- (36) "**debit note**" means a document issued by a taxable person as referred to in sub-section (2) of section 24;
- (37) "**deemed exports**", as notified by the Central Government/State Government on the recommendation of the Council, refer to those transactions in which the goods supplied do not leave India, and payment for such supplies is received either in Indian Rupees or in convertible foreign exchange;
- (38) "**document**" includes written or printed record of any sort and electronic record as defined in the Information Technology Act, 2000 [21 of 2000];
- (39) "**earlier law**" means any of the following laws, that is to say,
 - (a) . . .
 - (b) . . .

(c) . . .

as amended from time to time and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws and also any law repealed by the earlier laws but continued in force under any provisions of the above enumerated laws;

- (40) “**electronic cash ledger**” means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;
- (41) “**electronic credit ledger**” means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;
- (42) “**exempt supply**” means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which are specified in Schedule . . . of the Act or which may be exempt from tax under section 10;
- (43) “**export of goods**” with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- (44) the supply of any service shall be treated as “**export of service**” when
 - (a) the supplier of service is located in India,
 - (b) the recipient of service is located outside India,
 - (c) the place of supply of service is outside India,
 - (d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and
 - (e) the supplier of service and recipient of service are not merely establishments of a distinct person;

Explanation.- For the purposes of clause (e), an establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

- (45) “**First Appellate Authority**” means an authority referred to in section 79;
- (46) “**fixed establishment**” means a place (other than the place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms

of human and technical resources to supply services, or to receive and use services for its own needs;

- (47) “**fund**” means the Consumer Welfare Fund established under section 40;
- (48) “**goods**” means every kind of movable property other than actionable claim and money but includes securities, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply;

Explanation.– For the purpose of this clause, the term ‘moveable property’ shall not include any intangible property.

- (49) “**government**” means Central Government and its departments, a State Government and its departments and a Union territory and its departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with Article 150 of the Constitution or the rules made thereunder;
- (50) “**IGST**” means the tax levied under the Integrated Goods and Services Tax Act, 2016;
- (51) “**import of goods**” with its grammatical variations and cognate expressions, means bringing into India from a place outside India;
- (52) the supply of any service shall be treated as an “**import of service**” if,
 - (a) the supplier of service is located outside India,
 - (b) the recipient of service is located in India,
 - (c) the place of supply of service is in India, and
 - (d) the supplier of service and the recipient of service are not merely establishments of a distinct person;

Explanation 1.- An establishment of a person in India and any of his other establishment outside India shall be treated as establishments of distinct persons.

Explanation 2.- A person carrying on a business through a branch or agency or representational office in any territory shall be treated as having an establishment in that territory.

- (53) “**India**” means,-
 - (a) the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;

- (b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);
 - (c) the seabed and the subsoil underlying the territorial waters;
 - (d) the air space above its territory and territorial waters; and
 - (e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;
- (54) **"input"** means any goods other than capital goods, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;
- (55) **"input service"** means any service, subject to exceptions as may be provided under this Act or the rules made thereunder, used or intended to be used by a supplier for making an outward supply in the course or furtherance of business;
- (56) **"Input Service Distributor"** means an office of the supplier of goods and / or services which receives tax invoices issued under section 23 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Explanation.- For the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST, Input Service Distributor shall be deemed to be a supplier of services.

- (57) **"input tax"** in relation to a taxable person, means the {IGST and CGST}/{IGST and SGST} charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under sub-section (3) of section 7;
- (58) **"input tax credit"** means credit of 'input tax' as defined in section 2(56);
- (59) **"intangible property"** means any property other than tangible property;
- (60) **"invoice"** shall have the meaning as assigned to it under section 23;

- (61) **"inward supply"** in relation to a person, shall mean receipt of goods and/or services whether by purchase, acquisition or any other means and whether or not for any consideration;
- (62) **"job work"** means undertaking any treatment or process by a person on goods belonging to another registered taxable person and the expression "job worker" shall be construed accordingly;
- (63) "local authority" means
- (a) a "Panchayat" as defined in clause (d) of Article 243 of the Constitution;
 - (b) a "Municipality" as defined in clause (e) of Article 243P of the Constitution;
 - (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central or any State Government with the control or management of a municipal or local fund;
 - (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
 - (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
 - (f) a Development Board constituted under Article 371 of the Constitution; or
 - (g) a Regional Council constituted under Article 371A of the Constitution;
- (64) **"location of recipient of service"** means:
- (i) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
 - (ii) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
 - (iii) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
 - (iv) in absence of such places, the location of the usual place of residence of the recipient;
- (65) **"location of supplier of service"** means:
- (i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ;

- (ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (iv) in absence of such places, the location of the usual place of residence of the supplier;

- (66) **"manufacturer"** shall have the meaning assigned to it by the Central Excise Act, 1944 (1 of 1944);
- (67) **"market value"** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods and/or services of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;
- (68) **"money"** means Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any such similar instrument when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;
- (69) **"non-resident taxable person"** means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;
- (70) **"non-taxable territory"** means the territory which is outside the taxable territory;
- (71) **"notification"** means notification published in the Official Gazette and the expressions 'notify' and 'notified' shall be construed accordingly;
- (72) **"output tax"** in relation to a taxable person, means the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis;
- (73) **"outward supply"** in relation to a person, shall mean supply of goods and/or services, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made by such person in the course or furtherance of

business except in case of such supplies where the tax is payable on reverse charge basis;

(74) “**person**” includes—

- (a) an individual;
- (b) a Hindu undivided family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central, State or Provincial Act or a Government company as defined in section 2(45) of the Companies Act, 2013 (18 of 2013);
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to cooperative societies;
- (j) a local authority;
- (k) government;
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860); (m) trust; and
- (n) every artificial juridical person, not falling within any of the preceding sub-clauses;

(75) “place of business” includes

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services; or
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(76) “**prescribed**” means prescribed by the rules, regulations or by any notification issued under this Act;

- (77) **"principal"** means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services;
- (78) **"principal place of business"** means the place of business specified as the principal place of business in the certificate of registration where the taxable person keeps and maintains the accounts and records as specified under section 42 ;
- (79) **"proper officer"** in relation to any function to be performed under this Act, means the officer of goods and services tax who is assigned that function by the Board/Commissioner of SGST;
- (80) **"recipient"** of supply of goods and/or services means-
- (a) where a consideration is payable for the supply of goods and/or services, the person who is liable to pay that consideration,
 - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
 - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply;

Explanation.- The expression "recipient" shall also include an agent acting as such on behalf of the recipient in relation to the goods and/or services supplied.

- (81) **"regulations"** means the regulations made by the Board/Commissioner under any provision of the Act on the recommendation of the Council;
- (82) persons shall be deemed to be **"related persons"** if only -
- (a) they are officers or directors of one another's businesses;
 - (b) they are legally recognized partners in business;
 - (c) they are employer and employee;
 - (d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
 - (e) one of them directly or indirectly controls the other;
 - (f) both of them are directly or indirectly controlled by a third person;
 - (g) together they directly or indirectly control a third person; or

- (h) they are members of the same family;

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related. (83) "**removal**", in relation to goods, means -

(a) dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier, or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(84) "**return**" means any return prescribed or otherwise required to be furnished by or under this Act or rules made thereunder;

(85) "**reverse charge**", means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and / or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify;

(86) "**rules**" means the rules made by the Central/State Government under any provision of the Act on the recommendation of the Council;

(87) "**schedule**" means a schedule appended to this Act;

(88) "**services**" means anything other than goods;

Explanation: Services include intangible property and actionable claim but does not include money.

(89) "**SGST**" means the tax levied under the State Goods and Services Tax Act;

(90) "**Special Economic Zone**" shall have the meaning assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 [28 of 2005];

(91) "**supplier**" in relation to any goods and/or services shall mean the person supplying the said goods and/or services and shall include an agent acting as such on behalf of such supplier in relation to the goods and/or services supplied;

(92) "**supply**" shall have the meaning as assigned to it in section 3;

(93) "**tangible property**" means any property that can be touched or felt;

(94) "**tax**" means goods and services tax levied on the supply of goods and/or services under this Act and includes any amount payable under section 8;

- (95) **"tax period"** means the period for which the tax return is required to be filed;
- (96) **"taxable person"** shall have the meaning as assigned to it in section 9 of this Act;
- (97) **"taxable supply"** means a supply of goods and/or services which is chargeable to tax under this Act;
- (98) **"taxable territory"** means the territory to which the provisions of this Act apply;
- (99) **"Tax Return Preparer"** means any person who has been approved to act as a Tax Return Preparer under the scheme framed under section 34;
- (100) **"telecommunication service"** means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electro-magnetic means;
- (101) **"time of supply of goods"** shall have the meaning as assigned to it in section 12;
- (102) **"time of supply of services"** shall have the meaning as assigned to it in section 13;
- (103) **"to cultivate personally"** means to carry on any agricultural operation on one's own account-
- (a) by one's own labour, or
 - (b) by the labour of one's family, or
 - (c) by servants on wages payable in cash or kind (but not in crop share) or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation 1. - A widow or a minor or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

Explanation 2. - In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.

- (104) **"turnover in a State"** means the aggregate value of all taxable and non-taxable supplies, including exempt supplies and exports of goods and / or services made within a State by a taxable person and inter-state supplies of goods and / or services made from

the State by the said taxable person excluding taxes, if any charged under the CGST Act, SGST Act and the IGST Act, as the case may be;

(105) "usual place of residence" means

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person, as defined in sub-section (74), is incorporated or otherwise legally constituted;

(106) "**valid return**" shall have the meaning assigned to it under sub-section (3) of section 27.

(107) "**works contract**" means an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property;

(108) "**year**" means the financial year; and

(109) "**zero-rated supply**" means a supply of any goods and/or services on which no tax is payable but credit of the input tax related to that supply is admissible;

Explanation.- Exports shall be treated as zero-rated supply.

3. Meaning and scope of supply

(1) Supply includes

- (a) all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business,
- (b) importation of service, whether or not for a consideration and whether or not in the course or furtherance of business, and
- (c) a supply specified in Schedule I, made or agreed to be made without a consideration.

(2) Schedule II, in respect of matters mentioned therein, shall apply for determining what is, or is to be treated as a supply of goods or a supply of services.

(2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply.

(3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—

- (i) a supply of goods and not as a supply of services; or
- (ii) a supply of services and not as a supply of goods; or (iii)
neither a supply of goods nor a supply of services.

(4) Notwithstanding anything contained in sub-section (1), the supply of any branded service by an aggregator, as defined in section 43B, under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.

CHAPTER II

Administration

4. Classes of officers under the Central Goods and Services Tax Act

(1) There shall be the following classes of officers under the Central Goods and Services Tax Act, namely;

- (a) Principal Chief Commissioners of CGST or Principal Directors General of CGST,
- (b) Chief Commissioners of CGST or
Directors General of CGST,
- (c) Principal Commissioners of CGST or
Principal Additional Directors General of CGST,
- (d) Commissioners of CGST or
Additional Directors General of CGST,
- (e) First Appellate Authority,
- (f) Additional Commissioners of CGST or
Additional Directors of CGST,
- (g) Joint Commissioners of CGST or

Joint Directors of CGST,

- (h) Deputy Commissioners of CGST or
Deputy Directors of CGST,
- (i) Assistant Commissioners of CGST or
Assistant Directors of CGST, and
- (j) such other class of officers as may be appointed for the purposes of this Act.

4. Classes of officers under the State Goods and Services Tax Act

- (1) There shall be the following classes of officers and persons under the State Goods and Services Tax Act namely.
 - a) Commissioner of SGST,
 - b) Special Commissioners of SGST,
 - c) Additional Commissioners of SGST,
 - d) Joint Commissioners of SGST,
 - e) Deputy Commissioners of SGST,
 - f) Assistant Commissioners of SGST, and
 - g) such other class of officers and persons as may be appointed for the purposes of this Act. [List is indicative]
- (2) The Commissioner shall have jurisdiction over the whole of the State of (...). All other officers shall have jurisdiction over the whole of the State or over such areas as the Commissioner may, by notification, specify.

5. Appointment of officers under the Central Goods and Services Tax Act

- (1) The Board may appoint such persons as it may think fit to be officers under the Central Goods and Services Tax Act.
- (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax

or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Central Goods and Services Tax below the rank of Assistant Commissioner of Central Goods and Services Tax.

(Note: State laws may have similar provision)

6. Powers of officers under the Central Goods and Services Tax Act

- (1) Subject to such conditions and limitations as the Board may impose, an officer of the Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (2) An officer of Central Goods and Services Tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of Central Goods and Services Tax who is subordinate to him.
- (3) The Board/Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate its powers to any other officer subordinate to him.
- (4) Notwithstanding anything contained in this section, a First Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on an officer of Central Goods and Services Tax other than those specified in section 79 of this Act.

(Note: State laws may have similar provision)

CHAPTER III

Levy of, and Exemption from, Tax

7. Levy and Collection of Central/State Goods and Services Tax

- (1) There shall be levied a tax called the Central/State Goods and Services Tax (CGST/SGST) on all intra-State supplies of goods and/or services at the rate specified in the Schedule . . . to this Act and collected in such manner as may be prescribed.
- (2) The CGST/SGST shall be paid by every taxable person in accordance with the provisions of this Act.
- (3) Notwithstanding anything contained in sub-section (2), the Central or a State Government may, on the recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.

8. Composition Levy

- (1) Notwithstanding anything to the contrary contained in the Act but subject to subsection (3) of section 7, on the recommendation of the Council, the proper officer of the Central or a State Government may, subject to such conditions and restrictions as may be prescribed, permit a registered taxable person, whose aggregate turnover in a financial year does not exceed [fifty lakh of rupees], to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not less than one percent of the turnover during the year:

Provided that no such permission shall be granted to a taxable person who effects any inter-State supplies of goods and/or services.

Provided further that no such permission shall be granted to a taxable person unless all the registered taxable persons, having the same PAN as held by the said taxable person, also opt to pay tax under the provisions of this sub-section.

- (2) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- (3) If the proper officer has reasons to believe that a taxable person was not eligible to pay tax under sub-section (1), such person shall, in addition to any tax that may be payable by him under other provisions of this Act, be liable to a penalty equivalent to the amount of tax payable as aforesaid:

Provided that no penalty shall be imposed without giving a notice to show cause and without affording a reasonable opportunity of being heard to the person proceeded against.

9. Taxable person

- (1) Taxable Person means a person who carries on any business at any place in India /State of ____ and who is registered or required to be registered under Schedule III of this Act:

Provided that an agriculturist shall not be considered as a taxable person.

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds [Rs ten lakh]

Provided further that a person who is required to be registered under paragraph 1 of Schedule III of this Act shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds [Rs five lakh]

[This threshold of 5 lacs will apply only if a taxable person conducts his business in any of the NE States including Sikkim.]

- (2) The Central Government, a State Government or any local authority shall be regarded as a taxable person in respect of activities or transactions in which they are engaged as public authorities other than the activities or transactions as specified in Schedule IV to this Act.
- (3) The following persons shall not be considered as taxable persons for the purposes of this Act –
- (a) any person who provides services as an employee to his employer in the course of, or in relation to his employment, or by any other legal ties creating the relationship of

employer and employee as regards working conditions, remunerations and employer's liability;

- (b) any person engaged in the business of exclusively supplying goods and/or services that are not liable to tax under this Act;
- (c) any person, liable to pay tax under sub-section (3) of section 7, receiving services of value not exceeding _____ rupees in a year for personal use, other than for use in the course or furtherance of his business.

10. Power to grant exemption from tax

- (1) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by notification, exempt generally either absolutely or subject to such conditions as may be specified in the notification, goods and/or services of any specified description from the whole or any part of the tax leviable thereon.

Explanation.- Where an exemption under sub-section (1) in respect of any goods and/or services from the whole of the tax leviable thereon has been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.

- (2) If the Central or a State Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendation of the Council, by special order in each case, exempt from payment of tax, under circumstances of an exceptional nature to be stated in such order, any goods and/or services on which tax is leviable.
- (3) The Central or a State Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.
- (4) Every notification issued under sub-section (1) or sub-section (3) and every order issued under sub-section (2) shall

- (a) unless otherwise provided, come into force on the date of its issue by the Central or a State Government for publication in the Official Gazette; and
- (b) be made available on the official website of the department of the Central or a State Government.

11. Remission of tax on supplies found deficient in quantity

- (1) The Central or a State Government may, by rules made under this sub-section, provide for remission of tax on such supplies which are found to be deficient in quantity due to any natural causes.
- (2) Any rules made under sub-section (1) may, having regard to the nature of the supply, fix the limit or limits of percentage beyond which no such remission shall be allowed.

CHAPTER IV

Time and Value of Supply

12. Time of supply of goods

- (1) The liability to pay CGST / SGST on the goods shall arise at the time of supply as determined in terms of the provisions of this section.
- (2) The time of supply of goods shall be the earliest of the following dates, namely,-
 - (a) (i) the date on which the goods are removed by the supplier for supply to the recipient, in a case where the goods are required to be removed or
 - (ii) the date on which the goods are made available to the recipient, in a case where the goods are not required to be removed; or
 - (b) the date on which the supplier issues the invoice with respect to the supply; or
 - (c) the date on which the supplier receives the payment with respect to the supply; or (d) the date on which the recipient shows the receipt of the goods in his books of account.

Explanation 1.- The provisions of sub-clause (ii) of clause (a) shall apply in cases where the goods

- (a) are physically not capable of being moved; or
- (b) are supplied in assembled or installed form; or
- (c) are supplied by the supplier to his agent or his principal.

Explanation 2.- For the purposes of sub-clause (ii) of clause (a), the expression 'made available to the recipient' shall mean when the goods are placed at the disposal of the recipient.

Explanation 3.- For the purposes of clauses (b) and (c) of sub-section (2), the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 4.- For the purpose of clause (c) of sub-section (2), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of accounts or the date on which the payment is credited to his bank account, whichever is earlier.

- (3) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the time of supply shall be the date of expiry of the period to which such successive statements of accounts or successive payments relate. If there are no successive statements of account, the date of issue of the invoice (or any other document) or the date of receipt of payment, whichever is earlier, shall be the time of supply.
- (4) For the purposes of sub section (3) above, the Central or a State Government may, on the recommendation of the Council, specify, by notification, the supply of goods that shall be treated as continuous supply of goods;
- (5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely—
 - (a) the date of the receipt of goods, or
 - (b) the date on which the payment is made, or
 - (c) the date of receipt of invoice, or
 - (d) the date of debit in the books of accounts.

Explanation.- For the purpose of clause (b) of sub-section (5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of

accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.

- (6) If the goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place, the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal, whichever is earlier.
- (7) In case it is not possible to determine the time of supply under the provisions of subsection (2), (3), (5) or (6), the time of supply shall
 - (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed, or
 - (b) in any other case, be the date on which the CGST/SGST is paid.

13. Time of supply of services

- (1) The liability to pay CGST/SGST on services shall arise at the time of supply, as determined in terms of the provisions of this section.
- (2) The time of supply of services shall be:-
 - (a) the date of issue of invoice or the date of receipt of payment, whichever is earlier, if the invoice is issued within the prescribed period; or
 - (b) the date of completion of the provision of service or the date of receipt of payment, whichever is earlier, if the invoice is not issued within the prescribed period; or
 - (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or (b) do not apply.

Explanation 1.- For the purposes of clauses (a) and (b), the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.- For the purpose of clause (a) and (b) of sub-section (2), "the date of receipt of payment" shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

- (3) In case of continuous supply of services, the time of supply shall be -

- (a) where the due date of payment is ascertainable from the contract, the date on which the payment is liable to be made by the recipient of service, whether or not any invoice has been issued or any payment has been received by the supplier of service;
- (b) where the due date of payment is not ascertainable from the contract, each such time when the supplier of service receives the payment, or issues an invoice, whichever is earlier;
- (c) where the payment is linked to the completion of an event, the time of completion of that event;
- (4) For the purposes of sub section (3) above, the Central or a State Government may on the recommendation of the Council, specify, by notification, the supply of services that shall be treated as continuous supply of services;
- (5) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely-
 - (a) the date of receipt of services, or
 - (b) the date on which the payment is made, or
 - (c) the date of receipt of invoice, or
 - (d) the date of debit in the books of accounts.

Explanation.- For the purpose of clause (b) of sub-section (5), "the date on which the payment is made" shall be the date on which the payment is entered in the books of accounts of the recipient or the date on which the payment is debited in his bank account, whichever is earlier.

- (6) In a case where the supply of services ceases under a contract before the completion of the supply, such services shall be deemed to have been provided at the time when the supply ceases.
- (7) Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3), (5) and (6), the time of supply shall
 - (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
 - (b) in any other case, be the date on which the CGST/SGST is paid.

14. Change in rate of tax in respect of supply of services

- (1) Notwithstanding anything contained in section 13, the time of supply, in cases where there is a change in the effective rate of tax in respect of services, shall be determined in the following manner, namely:-
- (a) in case the taxable service has been provided before the change in effective rate of tax –
 - (i) where the invoice for the same has been issued and the payment is also received after the change in effective rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
 - (ii) where the invoice has been issued prior to change in effective rate of tax but the payment is received after the change in effective rate of tax, the time of supply shall be the date of issue of invoice; or
 - (iii) where the payment is received before the change in effective rate of tax, but the invoice for the same has been issued after the change in effective rate of tax, the time of supply shall be the date of receipt of payment;
 - (b) in case the taxable service has been provided after the change in effective rate of tax –
 - (i) where the payment is received after the change in effective rate of tax but the invoice has been issued prior to the change in effective rate of tax, the time of supply shall be the date of receipt of payment; or
 - (ii) where the invoice has been issued and the payment is received before the change in effective rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
 - (iii) where the invoice has been issued after the change in effective rate of tax but the payment is received before the change in effective rate of tax, the time of supply shall be the date of issue of invoice.

Explanation.- For the purpose of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account, whichever is earlier:

Provided that the date of receipt of payment shall be the date of credit in the bank account when such credit in the bank account is after four working days from the date of change in the effective rate of tax.

15. Value of taxable supply

- (1) The value of a supply of goods and/or services shall be the transaction value, that is the price actually paid or payable for the said supply of goods and/or services where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.
- (2) The transaction value under sub-section(1) shall include:
 - (a) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods and/or services;
 - (b) the value, apportioned as appropriate, of such goods and/or services as are supplied directly or indirectly by the recipient of the supply free of charge or at reduced cost for use in connection with the supply of goods and/or services being valued, to the extent that such value has not been included in the price actually paid or payable;
 - (c) royalties and licence fees related to the supply of goods and/or services being valued that the recipient of supply must pay, either directly or indirectly, as a condition of the said supply, to the extent that such royalties and fees are not included in the price actually paid or payable;
 - (d) any taxes, duties, fees and charges levied under any statute other than the SGST Act or the CGST Act or the IGST Act;
 - (e) incidental expenses, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of the goods or, as the case may be, supply of the services;
 - (f) subsidies provided in any form or manner, linked to the supply;
 - (g) any reimbursable expenditure or cost incurred by or on behalf of the supplier and charged in relation to the supply of goods and/or services;
 - (h) any discount or incentive that may be allowed after the supply has been effected:

Provided that such post-supply discount which is established as per the agreement and is known at or before the time of supply and specifically linked to relevant invoices shall not be included in the transaction value.

- (3) The transaction value under sub-section (1) shall not include any discount allowed before or at the time of supply provided such discount is allowed in the course of

normal trade practice and has been duly recorded in the invoice issued in respect of the supply.

- (4) The value of the supply of goods and/or services in the following situations which cannot be valued under sub-section (1), shall be determined in such manner as may be prescribed in the rules.
- (i) the consideration, whether paid or payable, is not money, wholly or partly;
 - (ii) the supplier and the recipient of the supply are related;
 - (iii) there is reason to doubt the truth or accuracy of the transaction value declared by the supplier;
 - (iv) business transactions undertaken by a pure agent, money changer, insurer, air travel agent and distributor or selling agent of lottery;
 - (v) such other supplies as may be notified by the Central or a State Government in this behalf on the recommendation of the Council.

CHAPTER V

Input Tax Credit

16. Manner of taking input tax credit

- (1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed and within the time and manner specified in section 35, be entitled to take credit of input tax admissible to him and the said amount shall be credited to the electronic credit ledger of such person.
- (2) A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.
- (2A) A person, who takes registration under sub-section (3) of section 19, shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration.

- (3) Where any registered taxable person ceases to pay tax under section 8, he shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under section 7.
- (3A) A taxable person shall not be entitled to take input tax credit under sub-section (2), (2A) or sub-section (3) in respect of any supply of goods and / or services to him after the expiry of one year from the date of issue of tax invoice relating to such supply.
- (4) The amount of credit under sub-section (2), (2A) or sub-section (3) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.
- (5) Where the goods and/or services are used by the registered taxable person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
- (6) Where the goods and / or services are used by the registered taxable person partly for effecting taxable supplies and partly for effecting non-taxable supplies, including exempt supplies but excluding zero-rated supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies.
- (7) The Central or a State Government may, by notification issued in this behalf, prescribe the manner in which the credit referred to in sub-sections (5) and (6) above may be attributed.
- (8) Where there is a change in the constitution of a registered taxable person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provision for transfer of liabilities, the said registered taxable person shall be allowed to transfer the input tax credit that remains unutilized in its books of accounts to such sold, merged, demerged, amalgamated, leased or transferred business in the manner prescribed.
- (9) Notwithstanding anything contained in sub-section (1), (2), (2A) or (3) input tax credit shall not be available in respect of the following:
- (a) motor vehicles, except when they are supplied in the usual course of business or are used for providing the following taxable services— (i) transportation of passengers, or

- (ii) transportation of goods, or
 - (iii) imparting training on motor driving skills;
- (b) goods and / or services provided in relation to food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, membership of a club, health and fitness centre, life insurance, health insurance and travel benefits extended to employees on vacation such as leave or home travel concession, when such goods and/or services are used primarily for personal use or consumption of any employee;
- (c) goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than plant and machinery;
- (d) goods acquired by a principal, the property in which is not transferred (whether as goods or in some other form) to any other person, which are used in the construction of immovable property, other than plant and machinery;
- (e) goods and/or services on which tax has been paid under section 8; and
- (f) goods and/or services used for private or personal consumption, to the extent they are so consumed.
- (10) Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component.
- (11) Notwithstanding anything contained in this section, but subject to the provisions of section 28, no registered taxable person shall be entitled to the credit of any input tax in respect of any supply of goods and/or services to him unless
- (a) he is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be prescribed, issued by a supplier registered under this Act or the IGST Act;
 - (b) he has received the goods and/or services;
 - (c) the tax charged in respect of such supply has been actually paid to the credit of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
 - (d) he has furnished the return under section 27:

Provided that where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to the credit upon receipt of the last lot or instalment.

Explanation.—For the purpose of clause (b), it shall be deemed that the taxable person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such taxable person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise.

(12) Where any registered taxable person who has availed of input tax credit switches over as a taxable person for paying tax under section 8 or, where the goods and / or services supplied by him become exempt absolutely under section 10, he shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(13) The amount payable under sub-section (12) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

(14) In case of supply of capital goods on which input tax credit has been taken, the registered taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be specified in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.

(15) A taxable person shall not be entitled to take input tax credit in respect of any invoice for supply of goods and/or services, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.

(16) Where credit has been taken wrongly, the same shall be recovered from the registered taxable person in the manner as may be prescribed in this behalf.

16A. Taking input tax credit in respect of inputs sent for job work

- (1) The “principal” referred to in section 43 A shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax on inputs sent to a job-worker for job-work if the said inputs, after completion of job-work, are received back by him within one hundred and eighty days of their being sent out:

Provided that the “principal” shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of one hundred and eighty days shall be counted from the date of receipt of the inputs by the job worker.

- (2) The “principal” shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax on capital goods sent to a job-worker for job-work if the said capital goods, after completion of job-work, are received back by him within two years of their being sent out:

Provided that the “principal” shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without their being first brought to his place of business, and in such a case, the period of two years shall be counted from the date of receipt of the capital goods by the job worker.

- (3) Where the inputs or capital goods, as the case may be, are not received back by the “principal” within the time specified under sub-section (1) or under sub-section (2), as the case may be, he shall pay an amount equivalent to the input tax credit availed of on the said inputs or capital goods, as the case may be, along with interest specified under sub-section (1) of section 36:

Provided that the said “principal” may reclaim the input tax credit and interest paid earlier when the inputs or capital goods, as the case may be, are received back by him at his place of business.

17. Manner of distribution of credit by Input Service Distributor

- (1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST as IGST and IGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

- (1) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST as IGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit are located in different States.

(SGST Act)

- (2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of CGST and IGST as CGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

(CGST Act)

- (2) The Input Service Distributor may distribute, in such manner as may be prescribed, the credit of SGST and IGST as SGST, by way of issue of a prescribed document containing, inter alia, the amount of input tax credit being distributed or being reduced thereafter, where the Distributor and the recipient of credit, being a business vertical, are located in the same State.

(SGST Act)

- (3) The Input Service Distributor may distribute the credit subject to the following conditions, namely:
 - (a) the credit can be distributed against a prescribed document issued to each of the recipients of the credit so distributed, and such invoice or other document shall contain such details as may be prescribed;
 - (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
 - (c) the credit of tax paid on input services attributable to a supplier shall be distributed only to that supplier;
 - (d) the credit of tax paid on input services attributable to more than one supplier shall be distributed only amongst such supplier(s) to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State of such supplier, during the relevant period, to the aggregate of the turnover of all such

suppliers to whom such input service is attributable and which are operational in the current year, during the said relevant period.

18. Manner of recovery of credit distributed in excess

- (1) Where the credit distributed by the Input Service Distributor is in excess of the credit available for distribution by him, the excess credit so distributed shall be recovered from such distributor along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.
- (2) Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 17 resulting in excess distribution of credit to one or more suppliers, the excess credit so distributed shall be recovered from such supplier(s) along with interest, and the provisions of section 51 shall apply *mutatis mutandis* for effecting such recovery.

Explanation. –For the purposes of section 17 and this section, the relevant period shall be–

- (a) if the recipients of the credit have turnover in their States in the financial year preceding the year during which credit is to be distributed, the said financial year; or
- (b) if some or all recipients of the credit do not have any turnover in their States in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed.

CHAPTER - VI

Registration

19. Registration

- (1) Every person who is liable to be registered under Schedule III of this Act shall apply for registration in every such State in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that if the person, other than an Input Service Distributor, is registered under an earlier law, it shall not be necessary for him to apply for fresh registration under this section and he shall follow the procedure as may be prescribed in this behalf.

- (2) Notwithstanding anything contained in sub-section (1), a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.
- (3) A person, though not liable to be registered under Schedule III, may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.
- (4) Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under subsection (1), (2) or (3).
- (4A) Notwithstanding anything contained in sub-section (4), a non-resident taxable person may be granted registration under sub-section (1) on the basis of any other document as may be prescribed.
- (5) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action that is, or may be taken under this Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.
- (6) Notwithstanding anything contained in sub-section (1), any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be notified by the Board / Commissioner, shall obtain a Unique Identity Number, in the manner prescribed, for the purpose(s) notified, including refund of taxes on the notified supplies of goods and/or services received by them.
- (7) The registration or the Unique Identity Number, shall be granted or, as the case may be, rejected after due verification in the manner and within such period as may be prescribed.

- (8) The proper officer shall not reject the application for registration or the Unique Identity Number without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
- (8A) A certificate of registration shall be issued in the prescribed form, with effective date as may be prescribed.
- (9) A registration or an Unique Identity Number shall be deemed to have been granted after the period prescribed under sub-section (7), if no deficiency has been communicated to the applicant by the proper officer within that period.
- (10) Notwithstanding anything contained in sub-section (7), any rejection of application for registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a rejection of application for registration under the SGST Act / CGST Act.
- (11) The grant of registration or the Unique Identity Number under the CGST Act / SGST Act shall be deemed to be a grant of registration or the Unique Identity Number under the SGST/CGST Act provided that the application for registration or the Unique Identity Number has not been rejected under SGST/CGST Act within the time specified in subsection (7).
- (12) The Central or a State Government may, on the recommendation of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

19A. Special provisions relating to casual taxable person and non-resident taxable person

- (1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for a period of ninety days from the effective date of registration.

Provided that the proper officer may, at the request of the said taxable person, extend the aforesaid period of ninety days by a further period not exceeding ninety days.

- (2) Notwithstanding anything to the contrary contained in this Act, a casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 19, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

- (3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 35.

20. Amendment of registration

- (1) Every registered taxable person shall inform the proper officer of any changes in the information furnished at the time of registration, or that furnished subsequently, in the manner and within such period as may be prescribed.
- (2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed.

- (3) The proper officer shall not reject the request for amendment in the registration particulars without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
- (4) Any rejection or, as the case may be, approval of amendments under the CGST Act/SGST Act shall be deemed to be a rejection or approval of amendments under the SGST Act/CGST Act.

21. Cancellation of registration

- (1) The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where, -
 - (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
 - (b) there is any change in the constitution of the business; or
 - (c) the taxable person, other than the person registered under sub-section (3) of section 19, is no longer liable to be registered under Schedule III.
- (2) The proper officer may, in the manner as may be prescribed, cancel the registration of taxable person from such date, including any anterior date, as he may deem fit, where, -
 - (a) the registered taxable person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
 - (b) a person paying tax under section 8 has not furnished returns for three consecutive tax periods; or
 - (c) any taxable person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
 - (d) any person who has taken voluntary registration under sub-section (3) of section 19 has not commenced business within six months from the date of registration.
- (3) Where any registration has been obtained by means of fraud, wilful misstatement or suppression of facts, the proper officer may cancel the registration with retrospective effect, subject to the provisions of section 29.
- (4) The proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
- (5) The cancellation of registration under this section shall not affect the liability of the taxable person to pay tax and other dues under the Act for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

- (6) The cancellation of registration under the CGST Act/SGST Act shall be deemed to be a cancellation of registration under the SGST Act/CGST Act.
- (7) Every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be prescribed in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher.

- (8) The amount payable under sub-section (7) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

22. Revocation of cancellation of registration

- (1) Subject to such conditions and in such circumstances as may be prescribed, any registered taxable person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
- (2) The proper officer may, in the manner and within such period as may be prescribed in this behalf, by way of an order, either revoke cancellation of the registration or reject the application for revocation for good and sufficient reasons.
- (3) The proper officer shall not reject the application for revocation of cancellation of registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

- (4) Revocation of cancellation of registration under the CGST Act / SGST Act shall be deemed to be a revocation of cancellation of registration under the SGST Act / CGST Act.

CHAPTER- VII

Tax Invoice, Credit and Debit Notes

23. Tax invoice

A registered taxable person supplying,-

- (i) taxable goods shall issue, at the time of supply, a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed;
- (ii) taxable services shall issue a tax invoice, within the prescribed time, showing the description, the tax charged thereon and such other particulars as may be prescribed:

Provided that a registered taxable person may issue a revised invoice against the invoice already issued during the period starting from the effective date of registration till the date of issuance of certificate of registration to him:

Provided further that a registered taxable person supplying non-taxable goods and/or services or paying tax under the provisions of section 8 shall issue, instead of a tax invoice, a bill of supply containing such particulars as may be prescribed.

Explanation.- The expression "tax invoice" shall be deemed to include a document issued by an Input Service Distributor under section 17, and shall also include any supplementary or revised invoice issued by the supplier in respect of a supply made earlier.

23 A. Amount of tax to be indicated in tax invoice and other documents

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which will form part of the price at which such supply is made.

24. Credit and debit notes

- (1) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to exceed the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, may issue to the recipient a credit note containing such particulars as may be prescribed on or before the thirtieth day of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier:

Provided that no credit note shall be issued by the said person if the incidence of tax and interest on such supply has been passed by him to any other person.

- (2) Where a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to be less than the taxable value and/or tax payable in respect of such supply, the taxable person, who has supplied such goods and/or services, shall issue to the recipient a debit note containing such particulars as may be prescribed on or before the thirtieth day of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier.
- (3) Any registered taxable person who issues or receives a credit or debit note in relation to a supply of goods and/or services shall declare the details of such credit or debit note, as the case may be, in the return for the month during which such credit or debit note has been issued or received or in the return for any subsequent month but not later than September following the end of financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act.

CHAPTER- VIII

Returns

25. Furnishing details of outward supplies

- (1) Every registered taxable person, other than an input service distributor and a person paying tax under the provisions of section 8 or section 37, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of

goods and/or services effected, during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed:

Provided that the Board / Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board:

Explanation.- For the purposes of this section, the expression "details of outward supplies" shall include details relating to zero-rated supplies, inter-state supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices issued during the said tax period.

(2) Any registered taxable person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after filing of the return under section 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

26. Furnishing details of inward supplies

(1) Every registered taxable person, other than an input service distributor and a person paying tax under the provisions of section 8 or section 37, shall verify, validate, modify or, if required, delete the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 25 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 25.

- (2) Every registered taxable person shall furnish, electronically, the details of inward supplies of taxable goods and/or services, including inward supplies of services on which the tax is payable on reverse charge basis under this Act and inward supplies of goods and/or services taxable under the IGST Act, and credit or debit notes received in respect of such supplies during a tax period on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Board/Commissioner may, for valid and sufficient reasons, by notification, extend the time limit for furnishing such details:

Provided further that any extension of time limit by the Board/Commissioner of State Goods and Services Tax shall be deemed to be approved by the Commissioner of State Goods and Services Tax/Board.

- (3) Any registered taxable person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 29, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after filing of the return under section 27 for the month of September following the end of the financial year to which such details pertain, or filing of the relevant annual return, whichever is earlier.

27. Returns

- (1) Every registered taxable person shall, for every calendar month or part thereof, furnish, in such form and in such manner as may be prescribed, a return, electronically, of inward and outward supplies of goods and/or services, input tax credit availed, tax payable, tax paid and other particulars as may be prescribed within twenty days after the end of such month:

Provided that a registered taxable person paying tax under the provisions of section 8 of this Act shall furnish a return for each quarter or part thereof, electronically, in such form and in such manner as may be prescribed, within eighteen days after the end of such quarter:

Provided further that a registered taxable person shall not be allowed to furnish return for a tax period if valid return for any previous tax period has not been furnished by him.

- (2) Every registered taxable person, who is required to furnish a return under subsection (1), shall pay to the credit of the appropriate Government the tax due as per such return not later than the last date on which he is required to furnish such return.
- (3) A return furnished under sub-section (1) by a registered taxable person without payment of full tax due as per such return shall not be treated as a valid return for allowing input tax credit in respect of supplies made by such person.
- (4) Every registered taxable person shall furnish a return for every tax period under sub-section (1), whether or not any supplies of goods and/or services have been effected during such tax period.
- (5) Every registered taxable person required to deduct tax at source shall furnish a return, electronically, in such form and in such manner as may be prescribed, for the month in which such deductions have been made along with the payment of tax so deducted, within ten days after the end of such month.
- (6) Every Input Service Distributor shall, for every calendar month or part thereof, furnish a return, electronically, in such form and in such manner as may be prescribed, within thirteen days after the end of such month.
- (7) Subject to the provisions of sections 25 and 26, if any taxable person after furnishing a return under sub-section (1) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be filed for the month or quarter, as the case may be, during which such omission or incorrect particulars are noticed, subject to payment of interest, where applicable and as specified in the Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for filing of return for the month of September or second quarter, as the case may be, following the end of the financial year, or the actual date of filing of relevant annual return, whichever is earlier.

27A. First Return

- (1) Every registered taxable person paying tax under the provisions of section 7 shall furnish the first return containing the details of:

- (a) outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted;
- (b) inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted:

Provided that a registered taxable person paying tax under the provisions of section 8 shall furnish the first return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration has been granted.

- (2) Provisions of section 25, 26 and 27, other than the provision pertaining to tax period, shall apply mutatis mutandis to the said person furnishing return under subsection (1).

28. Claim of input tax credit and provisional acceptance thereof

Every taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed:

Provided that a taxable person who has not furnished a valid return under section 27 of the Act shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

29. Matching, reversal and reclaim of input tax credit

- (1) The details of every inward supply furnished by a taxable person (hereinafter referred to in this section as the 'recipient') for a tax period shall, in the manner and within the time prescribed, be matched-
 - (a) with the corresponding details of outward supply furnished by the corresponding taxable person (hereinafter referred to in this section as the 'supplier') in his valid return for the same tax period or any preceding tax period,
 - (b) with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and (c) for duplication of claims of input tax credit.
- (2) The claim of input tax credit in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply or with the additional duty of customs paid shall, subject to the provisions of section 16, be finally

accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.

- (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.
- (4) The duplication of claims of input tax credit shall be communicated to the recipient in the manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
- (7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the supplier declares the details of the invoice and/or debit note in his valid return within the time specified in sub-section (7) of section 27.
- (8) A recipient in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

29A. Matching, reversal and reclaim of reduction in output tax liability

- (1) The details of every credit note relating to outward supply furnished by a taxable person (hereinafter referred to in this section as the 'supplier') for a tax period shall, in the manner and within the time prescribed, be matched -
- (a) with the corresponding reduction in the claim for input tax credit by the corresponding taxable person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and (b) for duplication of claims for reduction in output tax liability.
- (2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in the manner as may be prescribed, to the supplier.
- (3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in the manner as may be prescribed.

- (4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in the manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in the manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (7) of section 27.
- (8) A supplier in whose output tax liability any amount has been added under subsection (5) or, as the case may be, under sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 36 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in the manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) The amount reduced from output tax liability in contravention of the provision of sub-section (7) shall be added to the output tax liability of the supplier in his return for

the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 36.

30. Annual return

- (1) Every registered taxable person, other than an input service distributor, a deductor under section 37, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and in such manner as may be prescribed on or before the thirty first day of December following the end of such financial year.
- (2) Every taxable person who is required to get his accounts audited under subsection (4) of section 42 shall furnish, electronically, the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed.

31. Final return

Every registered taxable person who applies for cancellation of registration shall furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in such form and in such manner as may be prescribed.

32. Notice to return defaulters

Where a registered taxable person fails to furnish a return under section 27 or section 31, a notice shall be issued requiring him to furnish such return within such time and in such form and manner as may be prescribed.

33. Levy of late fee

- (1) Any registered taxable person who fails to furnish the details of outward or inward supplies required under section 25 or section 26, as the case may be, or returns required under section 27 or section 31 by the due date shall be liable to a late fee of rupees one hundred for every day during which such failure continues subject to a maximum of rupees five thousand.
- (2) Any registered taxable person who fails to furnish the return required under section 30 by the due date shall be liable to a late fee of rupees one hundred for every day

during which such failure continues subject to a maximum of an amount calculated at a quarter percent of his aggregate turnover.

34. Tax Return Preparers

- (1) The appropriate Government may, by rules, prescribe the manner of approval of Tax Return Preparers, their eligibility conditions, duties and obligations, manner of removal and such other conditions as may be relevant for their functioning as a Tax Return Preparer.
- (2) A registered taxable person may, in the manner prescribed, authorise an approved Tax Return Preparer to furnish the details of outward supplies under section 25, the details of inward supplies under section 26 and the return under section 27, 30 or section 31, as the case may be, and such other tasks as may be prescribed.
- (3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return and/or other details filed by the Tax Return Preparer shall continue to rest with the registered taxable person on whose behalf such return and details are filed.

CHAPTER-IX

Payment of Tax

35. Payment of tax, interest, penalty and other amounts

- (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf, shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

- (2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.
- (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

- (4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.
- (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.
- (c) The input tax credit on account of CGST shall not be utilized towards payment of SGST.

Note: This provision is to be incorporated in CGST Act.

- (b) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.
- (c) The input tax credit on account of SGST shall not be utilized towards payment of CGST.

Note: This provision is to be incorporated in SGST Act.

- (6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder may be refunded in accordance with the provisions of section 38 and the amount collected as CGST/SGST shall stand reduced to that extent.
- (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:
- (a) self-assessed tax, and other dues related to returns of previous tax periods;
 - (b) self-assessed tax, and other dues related to return of current tax period;
 - (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51.

- (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

Explanation.— For the purposes of this section, the expression “tax dues” means the tax payable under this Act and does not include interest, fee and penalty.

36. Interest on delayed payment of tax

- (1) Every person liable to pay tax in accordance with the provisions of the Act or rules made thereunder, who fails to pay the tax or any part thereof to the account of the Central or a State Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central or a State Government.
- (2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.
- (3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29, he shall be liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.

37. Tax deduction at source

- (1) Notwithstanding anything contained to the contrary in this Act, the Central or a State Government may mandate, -
 - (a) a department or establishment of the Central or State Government, or
 - (b) Local authority, or
 - (c) Governmental agencies, or
 - (d) such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council,

[hereinafter referred to in this section as “the deductor”], to deduct tax at the rate of one percent from the payment made or credited to the supplier [hereinafter referred to in this section as “the deductee”] of taxable goods and/or services, notified by the Central or a State Government on the recommendations of the Council, where the total value of such supply, under a contract, exceeds rupees ten lakh.

Explanation. – For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the tax indicated in the invoice.

- (2) The amount deducted as tax under this section shall be paid to the credit of the appropriate Government by the deductor within ten days after the end of the month in which such deduction is made, in the manner prescribed.
- (3) The deductor shall, in the manner prescribed, furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the appropriate Government and such particulars as may be prescribed in this behalf.
- (4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the appropriate Government, the deductor shall be liable to pay, by way of a late fee, a sum of rupees one hundred per day from the day after the expiry of the five day period until the failure is rectified:

Provided that the amount of fee payable under this sub-section shall not exceed rupees five thousand.

- (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor filed under sub-section (5) of section 27, in the manner prescribed.
- (6) If any deductor fails to pay to the credit of the appropriate Government the amount deducted as tax under sub-section (1), he shall be liable to pay interest in accordance with the provisions of section 36, in addition to the amount of tax deducted.
- (7) Determination of the amount in default under this section shall be made in the manner specified in section 51.
- (8) Refund to the deductor or the deductee, as the case may be, arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 38:

Provided that no refund to deductor shall be granted if the amount deducted has been credited to the electronic cash ledger of the deductee.

CHAPTER-IXA

Transfer of Input Tax Credit

37A. Transfer of input tax credit

On utilization of input tax credit availed under the CGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as CGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the CGST account to the IGST account in the manner and time as may be prescribed.

Note: This provision is to be incorporated in the CGST Act.

On utilization of input tax credit availed under the SGST Act for payment of tax dues under the IGST Act as per sub-section (5) of section 35, the amount collected as SGST shall stand reduced by an amount equal to the credit so utilized and the State Government shall transfer an amount equal to the amount so reduced from the SGST account to the IGST account in the manner and time as may be prescribed.

Note. This provision is to be incorporated in SGST Act.

CHAPTER-X

Refunds

38. Refund of tax

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application in that regard to the proper officer of IGST/CGST/SGST before the expiry of two years from the relevant date in such form and in such manner as may be prescribed:

Provided that the limitation of two years shall not apply where such tax or interest or the amount referred to above has been paid under protest.

(2) Subject to the provisions of sub-section (8), a taxable person may claim refund of any unutilized input tax credit at the end of any tax period:

Provided that no refund of unutilized input tax credit shall be allowed in cases other than exports or in cases where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on outputs:

Provided further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty.

(3) The application shall be accompanied by—

- (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant, and
- (b) such documentary or other evidence (including the documents referred to in section 23A) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on by him to any other person:

Provided that where the amount claimed as refund is less than five lac rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences and instead, he may file a declaration, based on the documentary or other evidences with him, certifying that the incidence of such tax and interest had not been passed on by him to any other person.

- (4) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund.

(4A) Notwithstanding anything contained in sub-section (4), the proper officer may, in the case of any claim for refund on account of export of goods and/or services made by such category of registered taxable persons as may be notified in this behalf, refund eighty percent of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, on a provisional basis, in the manner and subject to such conditions, limitations and safeguards as may be prescribed and the remaining twenty percent may be refunded after due verification of documents furnished by the applicant.

- (5) The proper officer shall issue the order under sub-section (4) within ninety days from the date of receipt of application.

Explanation.- The “application” for the purpose of this sub-section shall mean complete application containing all information as may be prescribed.

- (6) Notwithstanding anything contained in sub-section (4) or sub-section (4A), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to –

- (a) refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India;
 - (b) refund of unutilized input tax credit under sub-section (2);
 - (c) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
 - (d) the tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.
- (7) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any Court or in any other provision of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except as provided in sub-section (6).
- (8) Notwithstanding anything contained in sub-section (2), where any refund is due under the said sub-section to a registered taxable person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any Court, Tribunal or Appellate Authority by the specified date, the proper officer may—
- (a) withhold payment of refund due until the said person has submitted the return or paid the tax, interest or penalty, as the case may be;
 - (b) deduct from the refund due, any tax, interest or penalty which the taxable person is liable to pay but which remains unpaid.

Explanation.- For the purposes of this sub-section the expression "specified date" shall mean—

- (a) the last date for filing an appeal under this Act, in a case where no appeal has been filed
 - (b) thirty days after the last date for filing an appeal under this Act, in a case where an appeal has been filed.
- (9) Notwithstanding anything contained in sub-section (4) or sub-section (4A), where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the Commissioner / Board is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the taxpayer an opportunity of being heard, withhold the refund till such time as he may determine.

(10) Where a refund is withheld under sub-section (9), the taxable person shall be entitled to interest as provided under section 39, if as a result of the appeal or further proceeding he becomes entitled to refund.

(11) Notwithstanding anything contained in this section, no refund under sub-section (4) or sub-section (4A) shall be paid to an applicant if the amount is less than rupees one thousand.

Explanation. — For the purposes of this section -

(A) “refund” includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under sub-section (2).

(B) “relevant date” means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of the goods themselves or, as the case may be, the inputs or input services used in such goods, -

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India, or

(ii) if the goods are exported by land, the date on which such goods pass the frontier, or

(iii) if the goods are exported by post, the date of despatch of goods by Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is filed;

(c) in the case of goods returned for being remade, refined, reconditioned, or subjected to any other similar process in any place of business, the date of entry into the place of business for the purposes aforesaid;

(d) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of -

(i) receipt of payment in convertible foreign exchange, where the supply of service had been completed prior to the receipt of such payment; or

- (ii) issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice;
- (e) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of Appellate Authority, Appellate Tribunal or any Court, the date of communication of such judgment, decree, order or direction;
- (f) in the case of refund of unutilized input tax credit under sub-section (2), the end of the financial year in which such claim for refund arises; and
- (g) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof.

39. Interest on delayed refunds

If any tax refundable under section 38 to any applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, interest at such rate as may be specified in the notification issued by the Central or a State Government on the recommendation of the Council shall be payable in respect of such refund from the date immediately after the expiry of the due date for sanction of refund under section 38 till the date of refund of such tax.

Explanation.- Where any order of refund is made by an Appellate Authority, Tribunal or any Court against an order of the proper officer under sub-section (4) or sub-section (4A) of section 38, the order passed by the Appellate Authority, Tribunal or, as the case may be, by the Court shall be deemed to be an order passed under the said sub-section (4) or sub-section (4A) for the purposes of this section.

40. Consumer Welfare Fund

- (1) There shall be established by the Central or a State Government a fund, to be called the Consumer Welfare Fund.
- (2) There shall be credited to the Fund, in such manner as may be prescribed, -
 - (a) the amount of tax referred to in sub-section (4) or sub-section (4A) of section 38; and
 - (b) any income from investment of the amount credited to the Fund and any other monies received by the Central or a State Government for the purposes of this Fund.

41. Utilization of the Fund

- (1) Any money credited to the Fund shall be utilised by the Central/State Government for the welfare of the consumers in accordance with such rules as that Government may make in this behalf.
- (2) The Central/State Government shall maintain or, if it thinks fit, specify the authority which shall maintain, proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

CHAPTER-XI

Accounts and Records

42. Accounts and Other Records

- (1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of production or manufacture of goods, of inward or outward supply of goods and/or services, of stock of goods, of input tax credit availed, of output tax payable and paid, and such other particulars as may be prescribed in this behalf:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business concerned:

Provided further that the registered person may keep and maintain such accounts and other particulars in the electronic form in the manner as may be prescribed.

- (2) The [Commissioner/Chief Commissioner] may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified.
- (3) Where the [Commissioner/ Chief Commissioner] considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing,

permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

- (4) Every registered taxable person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit to the proper officer a copy of the audited statement of accounts, the reconciliation statement under sub-section (2) of section 30 and such other documents in the form and manner as may be prescribed in this behalf.

43. Period of retention of accounts

- (1) Every registered taxable person required to keep and maintain books of account or other records under sub-section (1) of section 42 shall retain them until the expiry of sixty months from the last date of filing of Annual Return for the year pertaining to such accounts and records:

Provided that a taxable person, who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Tribunal or Court, whether filed by him or by the department, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified under sub-section (1), whichever is later.

CHAPTER - XIA

Job Work

43A. Special procedure for removal of goods for certain purposes

- (1) The Commissioner may, by special order and subject to conditions as may be specified by him, permit a registered taxable person (hereinafter referred to in this section as the "principal") to send taxable goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise, and may, after completion of job-work, allow to-

- (a) bring back such goods to any of his place of business, without payment of tax, for supply therefrom on payment of tax within India, or with or without payment of tax for export, as the case may be, or
- (b) supply such goods from the place of business of a job-worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the goods shall not be permitted to be supplied from the place of business of a job worker in terms of clause (b) unless the "principal" declares the place of business of the job-worker as his additional place of business except in a case-

- (i) where the job worker is registered under section 19; or
 - (ii) where the "principal" is engaged in the supply of such goods as may be notified in this behalf.
- (2) The responsibility for accountability of the goods including payment of tax thereon shall lie with the "principal".

CHAPTER - XIB

Electronic Commerce

43B. Definitions

In this Chapter, unless the context otherwise requires, -

- (a) '**aggregator**' means a person, who owns and manages an electronic platform, and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator;
- (b) '**brand name or trade name**' means, a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person;
- (c) '**branded Services**' means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not;
- (d) '**electronic commerce**' shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal

Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator;

- (e) '**electronic commerce operator**' shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf.

43C. Collection of tax at source

- (1) Notwithstanding anything to the contrary contained in the Act or in any contract, arrangement or memorandum of understanding, every electronic commerce operator (hereinafter referred to in this section as the "operator") shall, at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier, collect an amount, out of the amount payable or paid to the supplier, representing consideration towards the supply of goods and /or services made through it, calculated at such rate as may be notified in this behalf by the Central/State Government on the recommendation of the Council.
- (2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- (3) The amount collected under sub-section (1) shall be paid to the credit of the appropriate Government by the operator within ten days after the end of the month in which such collection is made, in the manner prescribed.
- (4)(a) Every operator shall, furnish a statement, electronically, of all amounts collected under sub-section (1), towards outward supplies of goods and/or services effected through it, during a calendar month, in such form and manner as may be prescribed, within ten days after the end of such calendar month.
- (b) The statement under clause (a) shall contain, *inter alia*, the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month.

- (5) Any amount collected in accordance with the provisions of this section and paid to the credit of the appropriate Government shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit, in his electronic cash ledger, of the tax collected and reflected in the statement of the operator filed under sub-section (4), in the manner prescribed.
- (6) The details of supplies and the amount collected under sub-section (1) during a calendar month, and furnished by every operator under sub-section (4), shall, in the manner and within the period prescribed, be matched with the corresponding details of outward supplies furnished by the concerned supplier in his valid return for the same calendar month or any preceding calendar month.
- (7) Where the details of outward supply, on which the tax has been collected, as declared by the operator under sub-section (4) do not match with the corresponding details declared by the supplier under section 25, the discrepancy shall be communicated to both persons in the manner and within the time as may be prescribed.
- (8) The value of a supply relating to any payment in respect of which any discrepancy is communicated under sub-section (7) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier, in the manner as may be prescribed, for the calendar month succeeding the calendar month in which the discrepancy is communicated.
- (9) The concerned supplier shall, in whose output tax liability any amount has been added under sub-section (8), be liable to pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 36 on the amount so added from the date such tax was due till the date of its payment.
- (10) Any authority not below the rank of Joint Commissioner may, by notice, either before or during the course of any proceeding under this Act, require the operator to furnish such details relating to—
 - (a) supplies of goods and/or services effected through such operator during any period, or
 - (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operators

and declared as additional places of business by such suppliers - as may be specified in the notice.

(11) Every operator on whom a notice has been served under sub-section (10) shall furnish the required information within five working days of the date of service of such notice.

(12) Any person who fails to furnish the information required by the notice served under sub-section (10) shall, without prejudice to any action that is or may be taken under section 66, be liable to a penalty which may extend to rupees twenty-five thousand.

Explanation— For the purposes of this section, the expression 'concerned supplier' shall mean the supplier of goods and/or services making supplies through the operator."

CHAPTER- XII

Assessment

44. Self-Assessment

Every registered taxable person shall himself assess the taxes payable under this Act and furnish a return for each tax period as specified under section 27.

Explanation.— For the purposes of this section, where goods received in pursuance of an inward supply are returned by the recipient to the supplier within a period of six months from the date of the relevant invoice, the tax payable on such return supply shall be equal to the input tax credit availed of earlier in respect of such inward supply.

44A. Provisional Assessment

- (1) Where the taxable person is unable to determine the value of goods and/or services or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer may pass an order allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.
- (2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed in this behalf, and with such surety or security as the proper officer may deem fit, binding the taxable person

for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

- (3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint/Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period as he may deem fit.

- (4) The taxable person shall be liable to pay interest on any amount payable to the Central/State Government, consequent to the order for final assessment under subsection (3), at the rate specified under sub-section (1) of section 36, from the first day after the due date of payment of tax in respect of the said goods and/or services till the date of actual payment, whether such amount is paid before or after the issue of order for final assessment.
- (5) Where the taxable person is entitled to a refund consequent to the order for final assessment under sub-section (3), subject to sub-section (6) of section 38, interest shall be paid on such refund as provided in section 39.

45. Scrutiny of returns

- (1) The proper officer may scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return in such manner as may be prescribed.
- (2) The proper officer shall inform the taxable person of the discrepancies noticed, if any, after such scrutiny in such manner as may be prescribed and seek his explanation thereto.
- (3) In case the explanation is found acceptable, the taxable person shall be informed accordingly and no further action shall be taken in this regard.
- (4) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the taxable person, after accepting the discrepancies, fails to take the corrective measure within a reasonable period, the proper officer may initiate appropriate action including those under section 49, 50 or section 60, or proceed

to determine the tax and other dues under sub-section (6) of section 51 A or under subsection (6) of section 51 B.

46. Assessment of non-filers of returns

- (1) Where a registered taxable person fails to furnish the return required under section 27 or section 31, even after the service of a notice under section 32, the proper officer may, after allowing a period of fifteen days from the date of service of the notice, proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within the time limit specified in sub-section (7) of section 51A or sub-section (7) of section 51B, as the case may be.
- (2) Where the taxable person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn.

Explanation.— For removal of doubts it is clarified that nothing in this section shall preclude the payment of interest under section 36 or payment of late fee under section 33.

47. Assessment of unregistered persons

Where a taxable person fails to obtain registration even though liable to do so, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order within a period of five years from the due date for filing of the annual return for the year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

48. Summary assessment in certain special cases

- (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of [Additional/Joint Commissioner], proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so will adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and pay tax and amount due under this section.

- (2) On any application made within thirty days from the date of receipt of order passed under sub-section (1) by the taxable person or on his own motion, if the Additional/Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 51.

CHAPTER-XIII

Audit

49. Audit by tax authorities

- (1) The [Commissioner of CGST/Commissioner of SGST] or any officer authorised by him, by way of a general or a specific order, may undertake audit of the business transactions of any taxable person for such period, at such frequency and in such manner as may be prescribed.
- (2) The tax authorities referred to in sub-section (1) may conduct audit at the place of business of the taxable person and/or in their office.
- (3) The taxable person shall be informed, by way of a notice, sufficiently in advance, not less than fifteen working days, prior to the conduct of audit in the manner prescribed.
- (4) The audit under sub-section (1) shall be carried out in a transparent manner and completed within a period of three months from the date of commencement of audit:

Provided that where the [Commissioner] is satisfied that audit in respect of such taxable person cannot be completed within three months from the date of commencement of audit, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.- For the purposes of this sub-section, 'commencement of audit' shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or the actual institution of audit at the place of business, whichever is later.

- (5) During the course of audit, the authorised officer may require the taxable person,

(i) to afford him the necessary facility to verify the books of account or other documents as he may require and which may be available at such place,

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall without delay inform the taxable person, whose records are audited, of the findings, the taxable person's rights and obligations and the reasons for the findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

50. Special audit

(1) If at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of [Deputy/Assistant Commissioner] having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner], direct such taxable person by notice in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the [Commissioner] in this behalf.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said [Deputy/Assistant Commissioner] mentioning therein such other particulars as may be specified:

Provided that the proper officer may, on an application made to him in this behalf by the taxable person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by another ninety days.

(3) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the taxable person have been audited under any other provision of this Act or any other law for the time being in force or otherwise.

(4) The taxable person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings under this Act or rules made thereunder.

- (5) The expenses of, and incidental to, the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the [Commissioner] and that such determination shall be final.
- (6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit erroneously availed, the proper officer may initiate action under section 51.

CHAPTER – XIV

Demands and Recovery

51. Determination of tax not paid or short paid or erroneously refunded

A. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful misstatement or suppression of facts

- (1) Where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit, requiring him to show cause why he should not pay the amount specified in the notice along with interest payable thereon under section 36 and penalty leviable under the provisions of this Act or the rules made thereunder.
- (2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under subsection(1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax

along with interest payable thereon under section 36 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.

- (4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said tax shall be deemed to be concluded.
- (6) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty not exceeding ten percent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.
- (7) The proper officer shall issue the order under sub-section (6) within three years from the due date or the actual date, whichever is earlier, for filing of annual return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within three years from the date of erroneous refund.

B. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts

- (1) Where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any willfulmisstatement or suppression of facts to evade tax, the proper officer shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilized input tax credit requiring him to show cause why he

should not pay the amount specified in the notice along with interest payable thereon under section 36 and a penalty equivalent to the tax specified in the notice.

- (2) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for such periods other than those covered under sub-section (1), on the person chargeable with tax. The service of such statement shall be deemed to be service of notice on such person under the aforesaid sub-section (1), subject to the condition that the grounds relied upon for such periods other than those covered under sub-section(1) are the same as are mentioned in the earlier notice.
- (3) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (2), pay the amount of tax along with interest payable under section 36 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment. The proper officer, on receipt of such information, shall not serve any notice under subsection (1) or, as the case may be, the statement under sub-section (2), in respect of the tax so paid or any penalty leviable under the provisions of this Act or the rules made there under.
- (4) Where the proper officer is of the opinion that the amount paid under sub-section (3) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (5) Where any person chargeable with tax under sub-section (1) or under sub-section (2) pays the said tax along with interest payable under section 36 and a penalty equivalent to twenty five per cent of such tax within thirty days of communication of the notice, all proceedings in respect of the said tax shall be deemed to be concluded.
- (6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.
- (7) The proper officer shall issue the order under sub-section (6) within a period of five years from the due date or the actual date, whichever is earlier, for filing of annual

return for the year to which the tax not paid or short paid or input tax credit wrongly availed or utilized relates or, as the case may be, within five years from the date of erroneous refund.

- (8) Where any person served with an order issued under sub-section (6) pays the tax along with interest payable thereon under section 36 and a penalty equivalent to fifty percent of such tax within thirty days of the communication of order, all proceedings in respect of the said tax shall be deemed to be concluded.

C. General provisions relating to demand of tax

- (1) Where the service of notice or issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years or five years, as the case may be.
- (2) Where any Appellate Authority or Tribunal or Court concludes that the notice issued under sub-section B (1) or B (2) is not sustainable for the reason that the charges of fraud or any wilful mis-statement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person for the period of three years, deeming as if the notice were issued under sub-section A (1) or A (2).
- (3) An opportunity of personal hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
- (4) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time, from time to time, to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a person during the proceeding.

- (5) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

- (6) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on grounds other than the grounds specified in the notice.
- (7) Where the Appellate Authority or Tribunal or Court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.
- (8) Interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.
- (9) The adjudication proceedings shall be deemed to be concluded if the order is not issued within three years as provided for in sub-section A (7) or within five years as provided for in sub-section B (7).
- (10) An issue on which the First Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the First Appellate Authority or the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the First Appellate Authority and the date of decision of the Appellate Tribunal or the date of decision of the Appellate Tribunal and the date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in sub-section A (7) or sub-section B (7), as the case may be, where proceedings are initiated by way of issue of a show cause notice under this section.

D (1) The provisions of sub-section A, B, C above shall apply, *mutatis mutandis*, to the recovery of interest where interest payable has not been paid or part paid or erroneously refunded.

52. Tax collected but not deposited with the Central or a State Government

- (1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Tribunal or Court or in any other provision of this Act or the rules made thereunder or any other law, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Central or a State Government, shall forthwith deposit the said amount to the credit of the Central or a State Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.
- (2) Where any amount is required to be paid to the credit of the Central or a State Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause why the said amount as specified in the notice, should not be paid by him to the credit of the Central or a State Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.
- (3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.
- (4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or (3), as the case may be, also be liable to pay interest thereon at the rate specified under section 36 from the date such amount was collected by him to the date such amount is paid by him to the credit of the Central or a State Government.
- (5) An opportunity for personal hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.
- (6) The proper officer shall issue an order within one year from the date of issue of the notice.
- (7) Where the issuance of order is stayed by an order of the Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

- (8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (9) The amount paid to the credit of the Central Government or a State Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any by the person in relation to the supplies referred to in sub-section (1).
- (10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.
- (11) The person who has borne the incidence of the amount referred to in sub-section (10), may apply for the refund of the same and for such refund, the provisions of section 38 shall apply *mutatis mutandis*.

53. Tax wrongfully collected and deposited with the Central or a State Government

- (1) A taxable person who has paid CGST/SGST (in SGST Act) on a transaction considered by him to be an intra-state supply, but which is subsequently held to be an inter-state supply, shall, upon payment of IGST, be allowed to take the amount of CGST /SGST (in SGST Act) so paid as refund subject to the provisions of section 38 and subject to such other conditions as may be prescribed.

(CGST Act)

54. Recovery of tax

- (1) Where any amount payable by a person to the credit of the Central or a State Government under any of the provisions of this Act or of the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the modes mentioned below: -
 - (a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer.
 - (b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging

to such person which are under the control of the proper officer or such other specified officer.

- (c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government either forthwith upon the money becoming due or being held, or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;
- (ii) every person to whom the notice is issued under this section shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;
- (iii) in case the person to whom a notice under this section has been issued, fails to make the payment in pursuance thereof to the Central or a State Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;
- (iv) the officer issuing a notice under sub-clause (i) may, at any time or from time to time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;
- (v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the appropriate Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;
- (vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Central or a State Government to the extent of the liability discharged or to the

extent of the liability of the person in default for tax, interest and penalty, whichever is less.

- (vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the credit of the appropriate Government any such money or part thereof, as the case may be.
- (d) the proper officer may, on an authorisation by the competent authority and in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;
- (e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue;
- (f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.
- (2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1),

the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

- (3) Where any amount of tax, interest or penalty is payable by a person to the credit of the Central Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of SGST, during the course of recovery of SGST arrears, may recover the amount from the said person as if it were an arrear of SGST and credit the amount so recovered to the account of the Central Government.

(CGST ACT)

- (3) Where any amount of tax, interest or penalty is payable by a person to the credit of the State Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of CGST, during the course of recovery of CGST arrears, may recover the amount from the said person as if it were an arrear of CGST and credit the amount so recovered to the account of the State Government.

(SGST ACT) 55. Payment of tax and other amount in installments.

On an application filed by a taxable person, the [Commissioner/Chief Commissioner] may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under the Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly installments not exceeding twenty four, subject to payment of interest under section 36 with such restrictions and conditions as may be prescribed:

Provided that where there is default in payment of any one installment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

56. Transfer of property to be void in certain cases

Where a person, after any tax has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration and without notice of the pendency of such proceeding under this Act or, as the case may be, without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

57. Tax to be first charge on property

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Central or a State Government shall be a first charge on the property of such taxable person, or as the case may be, such person.

58. Provisional attachment to protect revenue in certain cases

- (1) Where during the pendency of any proceedings under section 46, section 47, section 48 or section 51, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the taxable person in such a manner as may be prescribed.
- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

59. Continuation of certain recovery proceedings

- (1) Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereinafter in this section referred to as "Government dues"), is served upon any taxable person and any appeal, revision application is filed or other proceedings is initiated in respect of such Government dues, then -
 - (a) Where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the taxable person another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal.

- (b) Where such Government dues are reduced in such appeal, revision or in other proceeding –
- (i) It shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;
 - (ii) The Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;
 - (iii) Any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

CHAPTER- XV

Inspection, Search, Seizure and Arrest

60. Power of inspection, search and seizure

- (1) Where the CGST/SGST officer, not below the rank of Joint Commissioner, has reasons to believe that –
- (a) a taxable person has suppressed any transaction relating to supply of goods and/or services or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under the Act or has indulged in contravention of any of the provisions of this Act or rules made thereunder to evade tax under this Act; or
 - (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorize in writing any other officer of CGST/SGST to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

- (2) Where the CGST/SGST officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorize in writing any other CGST/SGST officer to

search and seize or may himself search and seize such goods, documents or books or things:

Provided that the goods, documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act.

- (3) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any *almirah*, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah*, box or receptacle is denied.
- (4) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of CGST/SGST.
- (5) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within sixty days of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the aforesaid period of sixty days may, on sufficient cause being shown, be extended by the [competent authority] for a further period not exceeding sixty days at a time subject to a maximum of six months.

- (6) The Central or a State Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as the Central or a State Government may prescribe.
- (7) Where any goods, being goods specified under sub-section (6), have been seized by a proper officer under sub-section (2), he shall prepare an inventory of such goods in the manner as may be prescribed in this behalf.
- (8) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the words [Principal Commissioner/Commissioner of CGST/Commissioner of SGST] were substituted.

61. Inspection of goods in movement

- (1) The Central or a State Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding fifty thousand rupees to carry with him such documents as may be prescribed in this behalf.
- (2) Where any vehicle referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said vehicle to produce such documents for verification and the said person shall be liable to produce the documents.

62. Power to arrest

- (1) If the [Commissioner of CGST or the Commissioner of SGST] has reason to believe that any person has committed an offence punishable under clause (i) or (ii) of sub-section (1) or under sub-section (2) of section 73, he may, by order, authorise any CGST/SGST officer to arrest such person.
- (2) Where a person is arrested for any cognizable offence, every officer authorised to arrest a person shall inform such person of the grounds of arrest and produce him before a magistrate within twenty four hours.
- (3) In the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner of CGST/SGST, as the case may be, shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station has, and is subject to, under section 436 of the Code of Criminal Procedure, 1973 (2 of 1974).
- (4) All arrests made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to arrest.

63. Power to summon persons to give evidence and produce documents

- (1) Any [CGST/SGST officer], duly authorised by the competent authority in this behalf, shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act.

- (2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.
- (3) All persons so summoned shall be bound to attend, either in person or by an authorised representative, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements and produce such documents and other things as may be required:

Provided that the exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to requisitions for attendance under this section.

- (4) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

64. Access to business premises

- (1) Any CGST/SGST officer authorized by the [Additional/Joint Commissioner of CGST or SGST] shall have access to any business premises to inspect books of account, documents, computers, computer programs, computer software (whether installed in a computer or otherwise) and such other things as he may require and which may be available at such premises, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.
- (2) Every person in charge of premises referred to in sub-section (1) shall, on demand, make available to the officer authorized under sub-section (1) or the audit party deputed by the Additional/Joint Commissioner of CGST or SGST or the Comptroller and Auditor General of India or a cost accountant or chartered accountant nominated under section 50, as the case may be,-
 - (i) the records as prepared or maintained by the registered taxable person and declared to the CGST/SGST officer as may be prescribed;
 - (ii) trial balance or its equivalent;
 - (iii) Statements of annual financial accounts, duly audited, wherever required;
 - (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
 - (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
 - (vi) any other relevant record,

for the scrutiny of the officer or audit party or the cost accountant or chartered accountant, as the case may be, within a reasonable time, not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the cost accountant or chartered accountant, as the case may be.

65. Officers required to assist CGST/SGST officers

- (1) All officers of Police, Customs and those of State/Central Government engaged in collection of goods and services tax and all officers of State/Central Government engaged in the collection of land revenue, and all village officers are hereby empowered and required to assist the CGST/SGST officers in the execution of this Act.
- (2) The Central/State Government may, by notification, empower and require any other class of officers to assist the CGST/SGST officers in the execution of this Act when called upon to do so by the Commissioner of CGST/SGST.

CHAPTER – XVI

Offences and Penalties

66. Offences and penalties

- (1) Where a taxable person who -
 - (i) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
 - (ii) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;
 - (iii) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
 - (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
 - (v) fails to deduct the tax in terms of sub-section (1) of section 37, or deducts an amount which is less than the amount required to be deducted under the said subsection, or where he fails to pay to the credit of the appropriate Government under subsection (2) thereof, the amount deducted as tax;

- (va) fails to collect tax in terms of sub-section (1) of section 43C, or collects an amount which is less than the amount required to be collected under the said sub-section, or where he fails to pay to the credit of the appropriate Government under sub-section (4) thereof, the amount collected as tax;
- (vi) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;
- (vii) fraudulently obtains refund of any CGST/SGST under this Act;
- (viii) takes or distributes input tax credit in violation of section 17, or the rules made thereunder;
- (ix) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;
- (x) is liable to be registered under this Act but fails to obtain registration;
- (xi) furnishes any false information with regard to particulars specified as mandatory, either at the time of applying for registration, or subsequently;
- (xii) obstructs or prevents any officer in discharge of his duties under the Act;
- (xiii) transports any taxable goods without the cover of documents as may be specified in this behalf;
- (xiv) suppresses his turnover leading to evasion of tax under this Act;
- (xv) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
- (xvi) fails to furnish information and/or documents called for by a CGST/SGST officer in accordance with the provisions of this Act or rules made thereunder or furnishes false information and/or documents during any proceedings under this Act;
- (xvii) supplies, transports or stores any goods which he has reason to believe are liable to confiscation under this Act;

(xviii) issues any invoice or document by using the identification number of another taxable person;

(xix) tampers with, or destroys any material evidence;

(xx) disposes off or tampers with any goods that have been detained, seized, or attached under this Act; shall be liable to a penalty of rupees ten thousand or an amount equivalent to the tax evaded or the tax not deducted or short deducted or deducted but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, as the case may be, whichever is higher.

(2) Any registered taxable person who repeatedly makes short payment of tax shall be liable to a penalty of rupees ten thousand or ten percent of the tax short paid, whichever is higher.

Explanation.- For the purposes of this sub-section, a taxable person shall be deemed to have made short payments 'repeatedly', if there were short payments in three returns during any six consecutive tax periods.

(3) Any person who

(a) aids or abets any of the offences specified in clauses (i) to (xx) of sub-section (1) above;

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the CGST/SGST officer, when issued with a summon for appearance to give evidence or produce a document in an enquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or rules made thereunder, or fails to account for an invoice in his books of account; shall be liable to a penalty which may extend to rupees twenty five thousand.

67. General penalty

Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to rupees twenty five thousand.

68. General disciplines related to penalty

- (1) No tax authority shall impose substantial penalties for minor breaches of tax regulations or procedural requirements. In particular, no penalty in respect of any omission or mistake in documentation which is easily rectifiable and obviously made without fraudulent intent or gross negligence shall be greater than necessary to serve merely as a warning.

Explanation.- For the purpose of this sub-section –

- (a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than rupees five thousand.
 - (b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on record.
- (2) The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.
 - (3) No penalty shall be imposed on any taxable person without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
 - (4) The tax authority shall ensure that when a penalty is imposed in an order for a breach of the laws, regulations or procedural requirements, an explanation is provided therein to the persons upon whom the penalty is imposed, specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.
 - (5) When a person voluntarily discloses to a tax authority the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the tax authority, the tax authority may consider this fact as a potential mitigating factor when establishing a penalty for that person.
 - (6) The provisions of this section will not apply in such cases where the penalty prescribed under the Act is either a fixed sum or expressed as a fixed percentage.

69. Detention of goods and conveyances, and levy of penalty

- (1) Where any person –
 - (i) transports any goods or stores such goods while they are in transit in violation of the provisions of this Act; or
 - (ii) stores or keeps in stock goods or supplies goods which have not been accounted for in the books or records maintained by him in the manner required by this Act; all such goods and the conveyance used as a means of transport for carrying the said goods shall be liable to detention, in the manner prescribed, by the proper officer and shall be released only after payment of applicable tax, interest and penalty leviable thereon or upon furnishing a security, in such form as may be prescribed, equivalent to the amount of the applicable tax, interest and penalty.
- (2) No tax, interest or penalty shall be determined under sub-section (1) without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

70. Confiscation of goods and levy of penalty

- (1) If any person –
 - (i) supplies any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax; or
 - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
 - (iii) supplies any goods liable to tax under this Act without having applied for the registration; or
 - (iv) contravenes any of the provisions of this Act or rules made thereunder with intent to evade payment of tax, then, all such goods shall be liable to confiscation and the person shall be liable to penalty under section 66.
- (2) Whenever confiscation of any goods is authorized by this Act, the CGST/SGST officer adjudging it shall give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that such fine shall not exceed the market price of the goods confiscated, less the tax chargeable thereon.

- (3) Where any fine in lieu of confiscation of goods is imposed under sub-section (2), the owner of such goods or the person referred to in sub-section (1), shall, in addition, be liable to any tax and charges payable in respect of such goods.
- (4) No order of confiscation of goods and/or imposition of penalty shall be issued without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.
- (5) Where any goods are confiscated under this Act, the title of such goods shall thereupon vest in the appropriate Government.
- (6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every Officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

71. Confiscation of conveyances

Any conveyance used as a means of transport for carriage of taxable goods without the cover of documents as may be prescribed in this behalf shall be liable to confiscation, unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance:

Provided that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

72. Confiscation or penalty not to interfere with other punishments

No confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

CHAPTER – XVII

Prosecution and Compounding Of Offences

73. Prosecution

(1) Whoever commits any of the following offences, namely—

- (a) supplies any goods and/or services without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
- (b) issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder;
- (c) collects any amount as tax but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
- (d) collects any tax in contravention of the provisions of this Act but fails to pay the same to the credit of the appropriate Government beyond a period of three months from the date on which such payment becomes due;
- (e) takes and/or utilizes input tax credit without actual receipt of goods and/or services either fully or partially, in violation of the provisions of this Act, or the rules made thereunder;
- (f) fraudulently obtains refund of any CGST/SGST;
- (g) falsifies or substitutes financial records or produces fake accounts and/or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
- (h) obstructs or prevents any officer in the discharge of his duties under this Act;
- (i) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reason to believe are liable to confiscation under this Act or the rules made thereunder;
- (j) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving

which shall be upon him, that the information supplied by him is true) supplies false information; or

- (l) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) to (k) of this section; shall be punishable –
 - (i) in cases where the amount of tax evaded exceeds two hundred and fifty lakh rupees, with imprisonment for a term which may extend to five years and with fine;
 - (ii) in cases where the amount of tax evaded exceeds fifty lakh rupees but does not exceed two hundred and fifty lakh rupees, with imprisonment for a term which may extend to three years and with fine;
 - (iii) in the case of any other offence where the amount of tax evaded exceeds twenty five lakh rupees but does not exceed fifty lakh rupees, with imprisonment for a term which may extend to one year and with fine.
- (2) If any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine:

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, the imprisonment referred to in sub-sections (1) and (2) shall not be for a term of less than six months.

- (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act, except the offences referred to in sub-section (4) shall be non-cognizable and bailable.
- (4) The offences relating to taxable goods and/or services where the amount of tax evaded exceeds two hundred and fifty lakh rupees shall be cognizable and non-bailable.
- (5) A person shall not be prosecuted for any offence under this section except with the previous sanction of the designated authority.

74. Cognizance of offences

No Court shall take cognizance of any offence punishable except with the previous sanction of the designated authority, and no Court inferior to that of a Magistrate of the First Class, shall try any such offence.

75. Presumption of culpable mental state

- (1) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.— In this section, “culpable mental state” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact.

- (2) For the purposes of this section, a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

76. Relevancy of statements under certain circumstances

- (1) A statement made and signed by a person before any gazetted officer of CGST/IGST/SGST during the course of any inquiry or proceeding under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,-
 - (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable; or
 - (b) when the person who made the statement is examined as a witness in the case before the Court and the Court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interests of justice.
- (2) The provisions of sub-section (1) shall, so far as may be, apply in relation to any proceeding under this Act, other than a proceeding before a Court, as they apply in relation to a proceeding before a Court.

77. Offences by Companies and certain other persons

- (1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, -

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.
- (3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee, as the case may be, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall apply *mutatis mutandis* to such persons.
- (4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

78. Compounding of offences

- (1) Any offence under the Act may, either before or after the institution of prosecution, be compounded by the Competent Authority on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to -

- (a) a person who has been allowed to compound once in respect of any of the offences described under clause (a) to (g) of sub-section (1) of section 73 and the offences described under clause (l) which are relatable to offences described under clause (a) to (g) of the said sub-section;
- (b) a person who has been allowed to compound once in respect of any offence (other than those in clause (a)) under the Act or under the provisions of any other SGST Act or IGST Act in relation to supplies of value exceeding rupees one crore;
- (c) a person who has been accused of committing an offence under the Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985), the Foreign Exchange Management Act, 1999 (42 of 1999) or any other Act other than the CGST/SGST Act;
- (d) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provision of this section shall not affect the proceedings if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

- (2) The amount for compounding of offences under this section shall be as may be prescribed under the rules to be made under sub-section (1), subject to the minimum amount not being less than rupees ten thousand or fifty per cent of the tax involved, whichever is greater, and the maximum amount not being more than rupees thirty thousand or one hundred and fifty per cent of the tax, whichever is greater.
- (3) On payment of such compounding amount as may be determined by the competent authority, no further proceedings shall be initiated under the Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

CHAPTER–XVIII

Appeals

(Sections 79, 81, 82 and 83 shall be applicable for appeals under CGST Law. Sections 84 to 93 are common for CGST and SGST law)

79. Appeals to First Appellate Authority

- (1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.
- (2) The Commissioner of GST may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority has passed any decision or order under this Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any GST Officer subordinate to him to apply to the First Appellate Authority for the determination of such points arising out of the said decision or order as may be specified by the Commissioner of GST in his order.
- (3) Where, in pursuance of an order under sub-section (2), the authorized officer makes an application to the First Appellate Authority, such application shall be dealt with by the First Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and the provisions of this Act relating to appeals shall, so far as may be, apply to such application.
- (4) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

- (5) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.
- (6) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

- i. amount determined under section 46 or 47 or 48 or 51; ii.
amount payable under rule-----of the GST Credit Rules 201...; and
 - iii. amount of fee levied or penalty imposed.
- (7) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.
- (8) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (9) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.
- (10) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

- (11) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

- (12) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

- (13) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.
- (14) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.
- (15) Every order passed under this section shall, subject to the provisions of section 83, 87 or 88, be final.

80. Left Blank

81. Constitution of the National Appellate Tribunal

- (1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).
- (2) The Appellate Tribunal shall be headed by a National President.
- (3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.
- (4) Every State GST Tribunal will be headed by a State President.
- (5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.
- (6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.
- (7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

- (8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

82. Appeals to the Appellate Tribunal

- (1) Any person aggrieved by an order passed against him under section 79 may appeal to the Appellate Tribunal against such order.
- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.
- (3) The Board may by order constitute such Committees as may be necessary for the purposes of filing appeals against the orders of the First Appellate Authority. Every such Committee shall consist of two designated officers of GST.
- (4) The Committee of designated officers of GST may, if it is of the opinion that an order passed by the First Appellate Authority under sub-section (10) of section 79, is not legal or proper, direct any GST Officer authorized by it in this behalf to apply to the Appellate Tribunal for the determination of such points arising out of the order passed by the First Appellate Authority as may be specified by the Committee in its order:

Provided that where the Committee of designated officers of GST differs in its opinion, it shall be deemed that the Committee has formed the opinion that the order under review is not legal or proper.

- (5) Where in pursuance of an order under sub-section (4) the authorized officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order of the First Appellate Authority and the provisions of this Act shall, so far as may be, apply to such application, as they apply in relation to appeals filed under sub-section (1).
- (6) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Commissioner of GST, or, as the case may be, the person preferring the appeal.
- (7) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the

prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (6).

- (8) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (6) or sub-section (7) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.
- (9) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner referred to in sub-section (5) or a memorandum of cross-objections referred to in sub-section (7).

- (10) No appeal shall be filed under sub-section (1) unless the appellant has deposited a sum equal to ten percent of the amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute" shall include –

- i. amount determined under section 46 or 47 or 48 or 51; ii.
amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed.

- (11) Every application made before the Appellate Tribunal, — (a) in an appeal for rectification of mistake or for any other purpose; or
(b) for restoration of an appeal or an application, shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST under sub-section (5).

83. Orders of Appellate Tribunal

- (1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority or to the original adjudicating authority, with such directions

as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

- (2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

- (4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.
- (5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority, or to the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.
- (6) Every order passed under this section shall, subject to the provisions of section 87 or 88, be final.

CHAPTER–XVIII

Appeals and Revision

(Sections 79, 80, 81, 82 and 83 shall be applicable for appeals under SGST Law. Sections 84 to 93 are common for CGST and SGST law)

79. Appeals to First Appellate Authority

- (1) Any person aggrieved by any decision or order passed against him under this Act by an adjudicating authority, may appeal to the prescribed First Appellate Authority.
- (2) Every appeal under this section shall be filed within three months from the date on which the decision or order sought to be appealed against is communicated to the person preferring the appeal:

Provided that the First Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

- (3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.
- (4) No appeal shall be filed under sub-section (1) unless the appellant has deposited –
 - (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
 - (b) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression “amount in dispute” shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- ii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the First Appellate Authority for ordering a higher amount of predeposit, not exceeding fifty percent of the amount in the dispute, in a case which is considered by the Commissioner of GST to be a “serious case”.

Explanation .- For the purpose of this proviso, the expression “serious case” shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

- (5) The First Appellate Authority shall give an opportunity to the appellant of being heard, if he so desires.

- (6) The First Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (7) The First Appellate Authority may, at the hearing of an appeal, allow an appellant to go into any ground of appeal not specified in the grounds of appeal, if he is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

- (8) The First Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the First Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 51.

- (9) The order of the First Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.
- (10) The First Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

- (11) On disposal of the appeal, the First Appellate Authority shall communicate the order passed by him to the appellant and to the adjudicating authority.
- (12) A copy of the order passed by the First Appellate Authority shall also be sent to the jurisdictional Commissioner of CGST or the authority designated by him in this

behalf and the jurisdictional Commissioner of SGST or the authority designated by him in this behalf.

- (13) Every order passed under this section shall, subject to the provisions of sections 80, 83, 87 or 88, be final.

80. Revisional powers of Commissioner

- (1) Subject to the provisions of section 93 and any rules made thereunder, the Commissioner may on his own motion or upon information received by him, call for and examine the record of any proceeding under this Act, and if he considers that any decision or order passed under this Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of the revenue, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.
- (2) The Commissioner shall not exercise any power under sub-section (1), if.-
- (a) the order has been subject to an appeal under section 79 or under section 82 or under section 87 or under section 88; or
 - (b) more than three years have expired after the passing of the decision or order sought to be revised.
- (3) Notwithstanding anything contained in sub-section (2), the Commissioner may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.
- (4) Every order passed in revision under sub-section (1) shall, subject to the provisions of sections 83, 87 or 88, be final.
- (5) If the decision or order passed under this Act by an officer subordinate to the Commissioner involves an issue on which the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or as the case may be, the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the

date of the decision of the High Court or as the case may be, the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period referred to in clause (b) of sub-section (2).

- (6) Where the issuance of an order under sub-section (1) is stayed by the order of a Court or Tribunal, the period of such stay shall be excluded in computing the period of three years under sub-section (2).
- (7) For the purposes of this section, 'record' shall include all records relating to any proceedings under this Act available at the time of examination by the Commissioner.
- (8) For the purposes of this section, 'decision' shall include intimation given by any officer subordinate to the Commissioner.

81. Constitution of the National Appellate Tribunal

- (1) The Central Government shall on the recommendation of the GST Council constitute a National Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal).
- (2) The Appellate Tribunal shall be headed by a National President.
- (3) The Appellate Tribunal shall have one branch for each state, which shall be called as the State GST Tribunal.
- (4) Every State GST Tribunal will be headed by a State President.
- (5) Every State GST Tribunal shall consist of as many Members (Judicial), Members (Technical - CGST) and Members (Technical - SGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.
- (6) The qualifications, eligibility conditions and the manner of selection and appointment of the National President, the State Presidents, and the Members shall be such as may be prescribed on the recommendations of the Council.
- (7) The National President and the State Presidents shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

- (8) On ceasing to hold office, the National President, the State Presidents or other Members of the Appellate Tribunal shall not be entitled to appear, act or plead before the Appellate Tribunal.

82. Appeals to the Appellate Tribunal

- (1) Any person aggrieved by an order passed against him under section 79 or under section 80 may appeal to the Appellate Tribunal against such order.
- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed one lakh rupees.
- (3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.
- (4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).
- (5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the period referred to in sub-section (3) or sub-section (4) respectively, if it is satisfied that there was sufficient cause for not presenting it within that period.
- (6) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a prescribed fee:

Provided that no such fee shall be payable in the case of an appeal filed by the Commissioner or a memorandum of cross-objections referred to in sub-section (4).

- (7) (a) No appeal shall be filed under sub-section (1) unless the appellant has deposited –
- (i) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

- (ii) a sum equal to ten percent of the remaining amount in dispute arising from the said order, in relation to which the appeal has been filed.

Explanation.- For the purposes of this sub-section, the expression "amount in dispute"

shall include –

- i. amount determined under section 46 or 47 or 48 or 51;
- ii. amount payable under rule-----of the GST Credit Rules 201...; and
- iii. amount of fee levied or penalty imposed:

Provided that nothing in this sub-section shall affect the right of the departmental authorities to apply to the Appellate Tribunal for ordering a higher amount of predeposit, not exceeding fifty percent of the amount in the dispute after taking into account the amount deposited in the first appeal, in a case which is considered by the Commissioner of GST to be a "serious case".

Explanation. - For the purpose of this proviso, the expression "serious case" shall mean a case involving a disputed tax liability of not less than Rupees Twenty Five Crores and where the Commissioner of GST is of the opinion (for reasons to be recorded in writing) that the department has a very good case against the taxpayer.

(b) The provisions of clause (a) shall also apply mutatis mutandis to cross objections filed under sub-section (4).

(8) Every application made before the Appellate Tribunal, —

(a) in an appeal for rectification of mistake or for any other purpose; or

(b) for restoration of an appeal or an application, shall be accompanied by a prescribed fee :

Provided that no such fee shall be payable in the case of an application filed by or on behalf of the Commissioner of GST.

83. Orders of Appellate Tribunal

- (1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the First Appellate Authority, or the

revisional authority, as the case may be, or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary.

- (2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any mistake apparent from the record, if such mistake is noticed by it on its own accord, or is brought to its notice by the Commissioner of GST or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

- (4) The Appellate Tribunal shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed.
- (5) The Appellate Tribunal shall send a copy of every order passed under this section to the First Appellate Authority or the revisional authority, or the original adjudicating authority, as the case may be, the appellant, the jurisdictional Commissioner of CGST and the jurisdictional Commissioner of SGST.
- (6) Save as provided in section 87 or section 88, orders passed by the Appellate Tribunal on an appeal shall be final.

84. Procedure of Appellate Tribunal

- (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the National President or the State Presidents from amongst the members thereof.
- (2) Subject to the provisions contained in sub-section (3), a Bench shall consist of one Member (Judicial), one Member (Technical - CGST) and one Member (Technical - SGST).
- (3) The National President or a State President, or any other member of the Appellate Tribunal authorized in this behalf by the National President or a State President, may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member, where in any disputed case, the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty involved, does not exceed ten lakh rupees.
- (4) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the National President or the State President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.
- (5) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.
- (6) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit in respect of the following matters, namely :- a) discovery and inspection;

- b) enforcing the attendance of any person and examining him on oath;
- c) compelling the production of books of account and other documents; and
- d) issuing commissions.

(7) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code (45 of 1860), and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

85. Interest on delayed refund of pre-deposit

Where an amount deposited by the appellant under sub-section (6)/(4) of section 79 or under sub-section (10)/(7) of section 82 is required to be refunded consequent to any order of the First Appellate Authority or of the Appellate Tribunal, as the case may be, interest at the rate specified under section 39 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

86. Appearance by authorised representative

- (1) Any person who is entitled or required to appear before a GST Officer appointed under this Act, or the First Appellate Authority or the Appellate Tribunal in connection with any proceedings under the Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorized representative.
- (2) For the purposes of this section, "authorised representative" means a person authorised by the person referred to in sub-section (1) to appear on his behalf, being —
 - (a) his relative or regular employee; or
 - (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or
 - (c) any chartered accountant, a cost accountant or a company secretary, who holds a valid certificate of practice and who has not been debarred from practice; or

(d) any person who has acquired such qualifications as the Central Government (or the State Government) may, on the recommendation of the Council, prescribe for this purpose.

(3) Notwithstanding anything contained in this section, no person who was serving in the indirect tax departments of the Government of India or of any State Government, and has retired or resigned from such service after having served for not less than two years as a Gazetted officer in that department shall be entitled to appear as an authorised representative in any proceedings before a GST Officer for a period of one year from the date of his retirement or resignation, as the case may be.

(4) No person, —

a) who has been dismissed or removed from government service; or
b) who is convicted of an offence connected with any proceeding under this Act, the Customs Act, 1962 (52 of 1962), the Central Excise Act, 1944 (1 of 1944) or Chapter V of the Finance Act 1994 (25 of 2014) or under any of the Acts passed by a state legislature dealing with the imposition of taxes on sale of goods or supply of goods and/or services, or

c) who has become an insolvent, shall be qualified to represent any person under sub-section (1) -- (i) for all times in the case of a person referred to in clause (a),

(ii) for such time as the Commissioner of GST or the competent authority under the Acts referred to in clause (b) may, by order, determine in the case of a person referred to in clause (b), and

(iii) for the period during which the insolvency continues in the case of a person referred to in clause (c).

(5) If any person is found guilty of misconduct by the prescribed authority in connection with any proceedings under this Act or under any of the Acts referred to in clause (b) of sub-section (4), the prescribed authority may direct that he shall thenceforth be disqualified to represent any person under sub-section (1).

(6) Any order or direction under clause (b) of sub-section (4) or sub-section (5) shall be subject to the following conditions, namely:—

- a) no such order or direction shall be made in respect of any person unless he has been given a reasonable opportunity of being heard;
- b) any person against whom any such order or direction is made may, within one month of the making of the order or direction, appeal to the competent authority [Central/State Government] to have the order or direction cancelled; and
- c) no such order or direction shall take effect until the expiration of one month from the making thereof, or, where an appeal has been preferred, until the disposal of the appeal.

87. Appeal to the High Court

- (1) The Commissioner of GST or the other party aggrieved by any order passed by the Appellate Tribunal under section 83 may file an appeal to the High Court and the High Court may admit such appeal if it is satisfied that the case involves a substantial question of law.
- (2) Notwithstanding the provisions of sub section (1), no appeal shall lie to High Court against an order passed by the Appellate Tribunal under section 83 if such order relates, among other things, to:-
 - i) a matter where two or more States, or a State and Center, have a difference of views regarding the treatment of a transaction(s) being intra-State or inter-State; or ii) a matter where two or more States, or a State and Center, have a difference of views regarding place of supply.
- (3) An appeal under sub-section (1) shall be -
 - a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of GST or the other party; b) accompanied by a prescribed fee ;
 - c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.
- (4) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period.
- (5) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

- (6) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

- (7) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.
- (8) The High Court may determine any issue which -
- a) has not been determined by the Appellate Tribunal; or
 - b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as herein referred to above.
- (9) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.
- (10) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.
- (11) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.
- (12) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

88. Appeal to the Supreme Court

- (1) An appeal shall lie to the Supreme Court from any judgment or order passed by the High Court in an appeal made under section 87, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.
- (2) An appeal shall lie to the Supreme Court from any order passed by the Appellate Tribunal under section 83 where such order is of the nature referred to in sub section (2) of section 87.

89. Hearing before Supreme Court

- (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under section 88 as they apply in the case of appeals from decrees of a High Court :

Provided that nothing in this sub-section shall be deemed to affect the provisions of section 90.

- (2) The costs of the appeal shall be at the discretion of the Supreme Court.
- (3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 87 in the case of a judgment of the High Court.

90. Sums due to be paid notwithstanding appeal etc.

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the Appellate Tribunal under sub-section (1) of section 83 or an order passed by the High Court under section 87, as the case may be, shall be payable in accordance with the order so passed.

91. Exclusion of time taken for copy

In computing the period of limitation prescribed for an appeal or application under this Chapter, the day on which the order complained of was served, and

if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time required for obtaining a copy of such order, shall be excluded.

92. Appeal not to be filed in certain cases

- (1) The Board or the State Government may, on the recommendation of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the GST officer under the provisions of this Chapter.
- (2) Where, in pursuance of the orders or instructions or directions, issued under subsection (1), the GST officer has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such GST officer from filing appeal or application in any other case involving the same or similar issues or questions of law.
- (3) Notwithstanding the fact that no appeal or application has been filed by the GST Officer pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the GST officer has acquiesced in the decision on the disputed issue by not filing an appeal or application.
- (4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the GST Officer in pursuance of the orders or instructions or directions issued under sub-section (1).

93. Non Appealable decisions and orders

Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by a GST officer if such decision taken or order passed relates to any one or more of the following matters:-

- (a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer;

- (b) An order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) An order sanctioning prosecution under the Act; or (d) An order passed under section 55.

CHAPTER– XIX

Advance Ruling

94. Definitions

In this Chapter, unless the context otherwise requires, -

- (a) "advance ruling" means a written decision provided by the Authority or, as the case may be, the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 99, as the case may be, in relation to the supply of goods and/or services proposed to be undertaken or being undertaken by the applicant;
- (b) "applicant" means any person registered or desirous of obtaining registration under the Act.
- (c) "application" means an application made to the Authority under sub-section (1) of section 97;
- (d) "Authority" means the Authority for Advance Ruling, constituted under section 95;
- (e) "Appellate Authority" means the Appellate Authority for Advance Ruling constituted under section 96.

95. Authority for Advance Ruling

- (1) The Authority shall be located in each State.
- (2) The Authority shall comprise one member CGST and one member SGST to be appointed respectively by the Central Government and the State Government.
- (3) The qualifications, eligibility conditions, method and the process of appointment of the members shall be as may be prescribed.

96. Appellate Authority for Advance Ruling

- (1) The Appellate Authority shall be located in each State.
- (2) The Appellate Authority shall comprise the Chief Commissioner of CGST as designated by the Board and the Commissioner of SGST having jurisdiction over the applicant.

97. Application for advance ruling

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.
- (2) The question on which the advance ruling is sought shall be in respect of,
 - (a) classification of any goods and/or services under the Act;
 - (b) applicability of a notification issued under provisions of the Act having a bearing on the rate of tax;
 - (c) the principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act;
 - (d) admissibility of input tax credit of tax paid or deemed to have been paid;
 - (e) determination of the liability to pay tax on any goods and/or services under the Act;
 - (f) whether applicant is required to be registered under the Act;
 - (g) whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.
- (3) The application shall be accompanied by a fee as may be prescribed.

98. Procedure on receipt of application

- (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the officers as may be prescribed and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said prescribed officers.

- (2) The Authority may, after examining the application and the records called for and after hearing the applicant or authorized representative of the applicant as well as the authorized representative of the prescribed officers, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is, -

- (a) already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;
- (b) the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;
- (c) the same as in a matter already pending in any proceedings in the applicant's case under any of the provisions of the Act;
- (d) the same as in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the prescribed officers.
- (4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or the authorized representative of the applicant as well as to the authorized representative of the prescribed or the jurisdictional CGST/SGST officer, pronounce its advance ruling on the question specified in the application.

Explanation. - For the purposes of this sub-section, "authorized representative" shall have the meaning assigned to it in section 86.

- (5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

- (6) The Authority or, as the case may be, the Appellate Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application or, as the case may be, reference made under sub-section (5).
- (7) Where the members of the Appellate Authority differ on any point or points referred to it under sub-section (5), it shall be deemed that no advance ruling can be issued in respect of the question covered by the reference application.
- (8) A copy of the advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and the jurisdictional CGST / SGST officer and, as the case may be, to the Authority, as soon as may be, after such pronouncement.

99. Appeal to the Appellate Authority

- (1) The prescribed or jurisdictional CGST/SGST officer or, as the case may be, an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.
- (2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the prescribed or the jurisdictional CGST/SGST officer or, as the case may be, the applicant.
- (3) Every appeal under this section shall be in the prescribed form and shall be verified in the prescribed manner.

100. Orders of the Appellate Authority

- (1) The Appellate Authority may, after giving the parties to the appeal, an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against.
- (2) The order referred to in sub-section (1) shall be passed within a period of ninety days from the date of filing appeal under section 99.
- (3) Where the members of the Appellate Authority differ on any point or points referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question covered under the appeal.

- (4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in the prescribed manner shall be sent to the applicant, the prescribed or the jurisdictional CGST / SGST officer and to the Authority, as soon as may be, after such pronouncement.

101. Rectification of advance ruling

The Authority or, as the case may be, the Appellate Authority may amend any order passed by it under section 98 or section 100, as the case may be, so as to rectify any mistake apparent from the record, if such mistake is noticed by the Authority or, as the case may be, the Appellate Authority on its own accord, or is brought to its notice by the prescribed or the jurisdictional CGST / SGST officer or the applicant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the Authority or, as the case may be, the Appellate Authority has given notice to the applicant or, as the case may be, the appellant of its intention to do so and has allowed him a reasonable opportunity of being heard.

Explanation.— For the removal of doubts, it is hereby clarified that the Authority or, as the case may be, the Appellate Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order.

102. Applicability of advance ruling

- (1) The advance ruling pronounced by the Authority or, as the case may be, the Appellate Authority under this chapter shall be binding only -
- (a) on the applicant who had sought it in respect of any matter referred to in subsection (2) of section 97 of the application for advance ruling; (b) on the jurisdictional tax authorities in respect of the applicant.
- (2) The advance ruling referred to in sub-section (1) shall be binding as aforesaid unless the law, facts or circumstances supporting the original advance ruling have changed.

103. Advance ruling to be void in certain circumstances

- (1) Where the Authority or, as the case may be, the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 100 has been obtained by the applicant or, as the case may be, the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of the Act shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity has been given to the applicant of being heard.

- (2) A copy of the order made under sub-section (1) shall be sent to the applicant and the prescribed officers.

104. Powers of the Authority and Appellate Authority

- (1) The Authority or, as the case may be, the Appellate Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).
- (2) The Authority or, as the case may be, the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

105. Procedure of the Authority and the Appellate Authority

The Authority or, as the case may be, the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

Settlement of Cases

At present, the provisions for settlement of cases are incorporated under Chapter VIIA of the IGST Act.

CHAPTER– XXI

Presumption as to Documents

106. Presumption as to documents in certain cases

Where any document-

- (i) is produced by any person under the Act or any other law, or
- (ii) has been seized from the custody or control of any person under the Act or any other law, or
- (iii) has been received from any place within or outside India in the course of any proceedings under the Act or any other law and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall- (a) unless the contrary is proved by such person, presume —
 - (i) the truth of the contents of such document;
 - (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

107. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence

- (1) Notwithstanding anything contained in any other law for the time being in force, —
 - a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or b) a facsimile copy of a document; or

- c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question; or
- d) any information stored electronically in any device or media, including any hard copies made of such information

shall be deemed to be also a document for the purposes of the Act and the rules made thereunder and shall be admissible in any proceedings there under, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:—

- a) the computer printout containing the statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;
- b) during the said period, there was regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;
- c) throughout the material part of the said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and
- d) the information contained in the statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by

computers, whether — a) by a combination of computers operating over that period; or

b) by different computers operating in succession over that period; or

c) by different combinations of computers operating in succession over that period; or

d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings under this Act and the rules made thereunder where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, —

a) identifying the document containing the statement and describing the manner in which it was produced;

b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer;

c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, —

a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of

those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

- c) a document shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation. — For the purposes of this section, —

- a) “computer” means any device that receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and includes the hard disc thereof or a mirror image of hard disc thereof; and
- b) any reference to information being derived from other information shall be a reference to its being derived there from by calculation, comparison or any other process.

CHAPTER– XXII

Liability to Pay in Certain Cases

108. Liability in case of transfer of business

- (1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall jointly and severally be liable wholly or, as the case may be, to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person up to the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.
- (2) Where the transferee or the lessee of a business referred to in subsection (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods and/or services effected by him with effect from the date of such transfer and shall, if he is an

existing taxable person, apply within the prescribed time for amendment of his certificate of registration.

109. Liability in case of amalgamation /merger of companies

- (1) When two or more companies are amalgamated or merged by the order of court or of Tribunal or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods and/or services to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and shall be liable to tax accordingly.
- (2) Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled, where necessary, with effect from the date of the said order.

Explanation - Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 2013 (18 of 2013).

110. Liability in case of company in liquidation

- (1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner
- (2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is not attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.- For the purposes of this section, the expressions "company" shall have the meaning respectively assigned to them under clause (20) and clause (68) of section 2 respectively of the Companies Act, 2013 (18 of 2013).

111. Liability of partners of firm to pay tax

Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

112. Liability of guardians, trustees etc.

Where the business in respect of which any tax, is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from

such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

113. Liability of Court of Wards etc.

Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager, as the case may be, in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

114. Special provision regarding liability to pay tax in certain cases

(1) Where a person, liable to pay tax under this Act, dies, then-

- (a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, and
- (b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such person under this Act,- whether such tax interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

- (2) Where a taxable person, liable to pay tax under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons, as the case may be, is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty due from the taxable person under this Act upto the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.
- (3) Where a taxable person, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay the tax, interest or penalty due from the firm under this Act, up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.
- (4) Where a taxable person liable to pay tax under this Act,-
 - (c) is the guardian of a ward on whose behalf the business is carried on by the guardian, or
 - (d) is a trustee who carries on the business under a trust for a beneficiary. then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

115. Liability in other cases

- (1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business-
 - (a) the tax payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and
 - (b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such

discontinuance, be liable jointly and severally for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

- (2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 111, jointly and severally be liable to pay tax, interest and penalty due from such firm or association for any period before its reconstitution.
- (3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

11. Explanation.- For the purpose of this chapter, a limited liability partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2012 (743 of 2012) shall also be considered as a firm.

CHAPTER– XXIII

Miscellaneous Provisions

116. GST compliance rating

- (1) Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act.
- (2) The GST compliance rating score shall be determined on the basis of parameters to be prescribed in this behalf.
- (3) The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain in the manner prescribed.

117. Obligation to furnish information return

- (1) Any person,
being— (a) a taxable
person; or
(b) a local authority or other public body or association; or
(c) any authority of the State Government responsible for the collection of value added tax or sales tax or state excise duty or an authority of the Central Government responsible for the collection of Excise duty or Customs duty; or
(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961 (43 of 1961); or
(e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or
(f) a State Electricity Board; or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted, as the case may be, with such functions by the Central Government or the State Government; or
(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or
(h) a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or
(i) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988); or

- (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or
- (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or
- (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or
- (m) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or
- (n) Goods and Service Tax Network

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property, under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form (including electronic form) and manner, to such authority or agency as may be prescribed.

- (2) Where the prescribed authority considers that the information submitted in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the prescribed authority may allow and if the defect is not rectified within the said period of thirty days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such information return shall be treated as not submitted and the provisions of this Act shall apply.
- (3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the prescribed authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety

days from the date of service of the notice and such person shall furnish the information return.

118. Penalty for failure to furnish information return

If a person who is required to furnish an information return under section 117 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the prescribed authority may direct that such person shall pay, by way of penalty, a sum of one hundred rupees for each day of the period during which the failure to furnish such return continues.

119. Power to collect statistics

- (1) The Board/Commissioner, if it considers that for the purposes of the better administration of the Act, it is necessary so to do, may by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with the Act.
- (2) Upon such notification being issued, the Commissioner, or any person authorised by the Commissioner in this behalf may call upon all concerned persons to furnish such information or returns as may be specified therein relating to any matter in respect of which statistics is to be collected.
- (3) The form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be as may be prescribed.

120. Disclosure of information required under section 119

- (1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 119 shall, without the previous consent in writing of the taxpayer or person or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular taxpayer and no such information shall be used for the purpose of any proceedings under the provisions of the Act.

- (2) Except for the purposes of prosecution under the Act, or any other Act, no person who is not engaged in the collection of statistics under the Act or of compilation or computerization thereof for the purposes of the Act, shall be permitted to see or have access to any information or any individual return referred to in that section.
- (3) If any person required to furnish any information or return under section 119,-
- (a) without reasonable cause fails to furnish such information or return as may by that section be required, or
 - (b) willfully furnishes or causes to furnish any information or return which he knows to be false,

he shall, on conviction, be punished with fine which may extend to one hundred rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of one thousand rupees.

- (4) If any person engaged in connection with the collection of statistics under section 119 or compilation or computerization thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under the Act or under any other Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both:

Provided that, no prosecution shall be instituted under the subsection, except with the previous sanction of the Central Government or State Government.

- (5) Nothing in this section shall apply to the publication of any information relating to a class of dealers or class of transactions, if in the opinion of the competent authority, it is desirable in the public interest, to publish such information.

121. Test purchase of goods and/or services

The [Commissioner] of CGST/SGST or an officer authorized by him may cause purchase of any goods and/or services by any person authorized by him

from the business premises of any taxable person, to check issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount paid towards the goods after cancelling any tax invoice or bill of supply issued.

122. Drawal of samples

The [Commissioner] of CGST/SGST or an officer authorized by him may take samples of goods from the possession of any taxable persons, where he considers it necessary, and provide a receipt for any samples so taken. **123.**

Burden of Proof

If any person claims that he is not liable to pay tax under the Act in respect of any supply of goods and/or services, or that he is eligible for input tax credit under section 16, the burden of proving such claim or claims shall lie on him.

124. Persons discharging functions under the Act shall be deemed to be public servants

All persons discharging functions under the Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

125. Indemnity

No legal proceedings shall lie against any goods and services tax officer, for anything which is done or intended to be done in good faith under the Act or the rules.

126. Disclosure of information by a public servant

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the Act, or in any record of evidence given in the course of any proceedings under the Act (other than proceeding before a Criminal Court), or in any record of any proceedings under the Act shall, save as provided in subsection (4), be treated as confidential;

- (2) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no Court shall save as aforesaid, be entitled to require any GST officer to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).
- (3) Save as provided in sub-section (4), if any GST officer discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both:

Provided that, no prosecution shall be instituted under this section except with the previous sanction of the Central Government or the State Government, as the case may be.

- (4) Nothing contained in this section shall apply to the disclosure of,-
 - (a) any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code (45 of 1860) or the Prevention of Corruption Act, 1988 (49 of 1988), or the Act, or any other law for the time being in force; or
 - (b) any such particulars to the Central Government or the State Government or to any person acting in the execution of this Act, for verification of such particulars or for the purpose of carrying out the object of the Act; or
 - (c) any such particulars when such disclosure is occasioned by the lawful employment under the Act of any process for the service of any notice or the recovery of any demand; or
 - (d) any such particulars to a Civil Court or Tribunal constituted under any Central law in any suit or proceeding, to which the Government or any authority under the Act is a party, which relates to any matter arising out of any proceeding under the Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or
 - (e) any such particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by the Act; or
 - (f) any such particulars where such particulars are relevant the purposes of any inquiry into the conduct of any GST officer, to any person or persons appointed as an inquiry officer under any relevant law; or

- (g) such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or
- (h) any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
- (i) any such particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under the Act against a practising advocate, tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, cost accountant, chartered accountant or company secretary, as the case may be; or
- (j) any such particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- (k) any such particulars to an officer of the Central Government or any State Government as may be necessary for the purposes of any other law in force in India; and
- (l) any information relating to any class of taxpayers or class of transactions for publication, if, in the opinion of the Competent authority, it is desirable in the public interest, to publish such information.

127. Publication of information respecting persons in certain cases

- (1) If the Competent Authority is of opinion that it is necessary or expedient in the public interest to publish the names of any person and any other particulars relating to any proceedings or prosecutions under the Act in respect of such person, it may cause to be published such names and particulars in such manner as it thinks fit.
- (2) No publication under this section shall be made in relation to any penalty imposed under the Act until the time for presenting an appeal to the First

Appellate Authority under section 79 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation. – In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasures or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Competent Authority, circumstances of the case justify it.

128. Assessment proceedings, etc. not to be invalid on certain grounds

- (1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of the Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings is/are in substance and effect in conformity with or according to the intents, purposes and requirements of the Act or any earlier law.
- (2) The service of any notice, order or communication shall not be called in question if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

129. Rectification of mistakes or errors apparent from record

Without prejudice to the provisions of section 128, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or summons or notice or certificate or any other document, may rectify any error or mistake which is apparent from record in such decision or order or summons or notice or certificate or any other document, either on its own motion or where such error or mistake is brought to its notice by any CGST / SGST officer or by the affected person

within a period of three months from the date of issue of such decision or order or summons or notice or certificate or other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or summons or notice or certificate or any other document:

Provided further that the period of six months referred to in the first proviso shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission:

Provided also that the principles of natural justice shall be followed by the authority carrying out such rectification if it adversely affects any person.

Explanation.— For the removal of doubts, it is hereby clarified that the authority shall not, while rectifying any mistake apparent from record, amend substantive part of its decision or order or summons or notice or certificate or any other document passed or, as the case may be, issued under the provisions of this Act.

130. Bar of jurisdiction of civil courts

Save as provided by section 87 and 88, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under the Act;

131. Levy of fees

Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed, which may include a fee for such application also.

132. Power of Central (or State) Government to make rules

- (1) The Central Government (or the State Government) may, on the recommendation of the Council, make rules, including rules conferring the power to issue notifications with retrospective effect under those rules, to carry into effect the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may —

- (i) provide for the date for determination of rate of tax and the place of supply of goods or services or both;
- (ii) having regard to the normal practice in the supply of goods or services, define or specify the kinds of trade discount to be excluded from the value under section 15 including the circumstances in which and the conditions subject to which such discount is to be so excluded;
- (iii) provide for determining the value of taxable supplies in the situations mentioned under section 15;
- (iv) provide, subject to such conditions as may be prescribed, for the grant of input tax credit of tax paid on the input supplies of goods or services used in or in relation to the providing of the output taxable supplies of goods or services, and the manner of utilization of such credit;
- (v) provide for the lapsing of input tax credit lying unutilized, in the circumstances as may be specified in the rules;
- (vi) provide for withdrawal of facilities or imposition of restrictions (including restrictions on utilisation of input tax credit) on taxable person or suspension or revocation of registration of taxable person, for dealing with evasion of tax or misuse of input tax credit;
- (vii) provide, subject to such conditions as may be prescribed, for the carrying forward of the unutilized balances of cenvat credit of the duties of excise and the service tax, under the Cenvat Credit Rules 2004, (or of VAT credit under the state VAT credit rules) lying with the taxable persons on the date of their switching over to GST;
- (viii) provide for the remission of tax leviable on any taxable supplies, which due to any natural causes are found to be deficient in quantity, the limit or limits of percentage beyond which no such remission shall be allowed and the different limit or limits of percentage for different varieties of the same taxable supply or for different areas or for different seasons;
- (ix) specify the persons who shall get themselves registered under section 19 and the time, manner and form in which application for registration shall be made;

- (x) provide for the manner of verification of application and issue of registration under the Act and the fees, if any, to be charged therefor;
- (xi) provide for the situations and manner of grant of deemed registration under the Act;
- (xii) provide for the manner of migration, amendment, surrender, revocation, suspension, cancellation of registration under the Act;
- (xiii) provide for the assessment and collection of tax, the authorities by whom functions under the Act are to be discharged, the issue of notices requiring payment, the manner in which tax shall be payable, and the recovery of tax not paid;
- (xiv) impose on taxable persons or other persons as may be specified, the duty of furnishing information, maintaining records and filing returns, and may also prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified;
- (xv) provide for the form, manner and frequency of the returns to be furnished and the late fee for delayed furnishing of return under relevant section;
- (xvi) provide for charging or payment of interest under the various provisions of the Act;
- (xvii) provide for the detention or attachment of goods, plant, machinery or material and other movable or immovable properties for the purpose of exacting the tax on taxable supplies in respect of which breaches of the Act or rules made thereunder have been committed and the disposal of things so detained or attached or confiscated;
- (xviii) authorise and regulate the composition of offences against, or liabilities incurred under the Act or the rules made thereunder;
- (xix) provide for the amount to be paid for compounding and the manner of compounding of offences under section 78;
- (xx) provide for publication, subject to such conditions as may be specified, the names and other particulars of persons found guilty of contravention of any provision of the Act or of any rule made thereunder;

- (xxi) provide for the manner of recovery of any amount due to the Central Government (or state government) under section 54;
- (xxii) authorise and regulate the inspection and audit of business premises and provide for the taking of samples, and for the making of tests, of any substance produced therein, and for the inspection or search of any place or conveyance used for the production, storage, sale, supply or transport of goods, and so far as such inspection or search is essential for the proper levy and collection of the tax imposed by the Act, of any other taxable supply of goods or services;
- (xxiii) specify the form and manner in which application for refund shall be made under section 38;
- (xxiv) provide for the manner in which amounts shall be credited to the Consumer Welfare Fund, their utilization, and the form in which the accounts and records relating to the Fund shall be maintained;
- (xxv) specify the forms in which appeals, applications and memoranda of cross objections shall be filed and verified under Chapter XVIII of the Act;
- (xxvi) provide for the qualifications and the manner of appointment of the National President, the State President, and the Members of the Appellate Tribunal under section 81 of the Act, and other matters related or incidental thereto;
- (xxvii) ~~provide for the settlement of cases, in accordance with Chapter of this Act;~~
- (xxviii) regulate in such manner as the Central Government / State Government thinks fit, the movement of supplies from any part of India to any other part thereof;
- (xxix) regulate the removal of taxable supplies of goods from the place where produced, stored or manufactured or subjected to any process of production or manufacture and their transport to or from the premises of a registered person, or a bonded warehouse, or to a market;
- (xxx) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be

followed for entry of goods into such warehouses and clearance of goods therefrom;

- (xxxi) provide for the distinguishing of supply of goods which have been manufactured after registration, of materials which have been imported, and of supply of goods on which tax has been paid, or which are exempt from tax under this Act, or any other class of goods as may be specified in such rules;
- (xxxii) require that taxable supplies of specified goods shall not be made except in prescribed containers, bearing a banderol, stamp or label of such nature and affixed in such manner as may be prescribed;
- (xxxiii) provide for the grant of a rebate of the tax paid on supply of goods or services which are exported out of India or shipped for consumption on a voyage to any port outside India including interest thereon;
- (xxxiv) provide for rebate of tax paid or payable on the taxable supply of services used as input services in the supply of goods or services exported out of India under section 38;
- (xxxv) provide for the charging of fees for the examination of goods intended for export out of India and for rendering any other service by a GST Officer under this Act or the rules made thereunder;
- (xxxvi) authorise the Board (or competent authority) or officers of GST, as the case may be, appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government (or the State Government) under this section;
- (xxxvii) provide for the manner of provisional attachment of property under section 58;
- (xxxviii) make provisions for determining export of taxable supply of services;
- (xxxix) provide for grant of exemption to, or rebate of tax paid on, taxable supply of services which are exported out of India;
- (xl) provide for manner of administering of payment of taxes under the compounding of tax;
- (xli) provide for dealing with situations where goods are returned;

- (xlii) provide for specifying the details to be given in the invoices, the maintenance of accounts, the furnishing of audit reports, and matters related thereto;
 - (xliii) provide for the qualifications and the manner of appointment of the Advance Ruling authority under section 95 of the Act, and other matters related to functioning of the authority;
 - (xliv) provide for the qualifications of tax return preparers, tax practitioners and authorized representatives under various provisions of the Act, the manner of their selection or appointment or nomination, their codes of conduct, and other matters related or incidental thereto;
 - (xlv) provide for matters relating to tax deducted at source;
 - (xlvi) provide for matters covered by Chapter XXV;
 - (xlvii) provide for the suspension of certain facilities admissible under this Act or the rules made thereunder in case of repeat violations of conditions and restrictions as may be prescribed; and
 - (xlviii) any other matter related to administering or enforcing the provisions of the Act.
- (3) The power to make rules conferred by this section shall on the first occasion of the exercise thereof include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Chapter come into force.
- (4) In making rules under this section, the Central Government (or State Government) may provide that any person committing a breach of any rule shall, where no other penalty is provided by the Act, be liable to a penalty not exceeding ten thousand rupees.

132A. General power to make Regulations

- (1) The Board or the Commissioner SGST may make regulations consistent with this Act and rules, generally to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters namely-
- (a)

- (b)
- (c)

133. Delegation of powers

The Competent Authority may, by notification in the Gazette direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under the Act may be exercisable also by another authority or officer as may be specified in such notification.

134. Instructions to GST Officers

The Competent Authority may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of the Act, issue such orders, instructions or directions to the GST Officers as it may deem fit, and thereupon all GST officers and all other persons employed in the execution of the Act shall observe and follow such orders, instructions or directions:

Provided that no such orders, instructions or directions shall be issued—

- a) so as to require any GST Officer to make a particular assessment or to dispose of a particular case in a particular manner; or
- b) so as to interfere with the discretion of the First Appellate Authority in the exercise of his appellate functions.

135. Removal of difficulties

- (1) If any difficulty arises in giving effect to any provision of the Act, the Central Government / State Government may, by general or special order published in the Gazette, do anything not inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of effect of the provision giving rise to the difficulty.

- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before Parliament / State Legislature.

136. Service of notice in certain circumstances

(1) Any decision, order, summons, notice or other communication under the Act or the rules made thereunder shall be served by any one of the following methods, namely: -

- (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxpayer or to his manager or to agent duly authorized or an advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the taxpayer or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxpayer, or
- (b) by post or courier with acknowledgement due, to the person for whom it is intended or his authorised agent, if any at his last known place of business or residence, or
- (c) by facsimile message, if such address is furnished, or
- (d) by sending a communication to his e-mail address, or
- (e) on dashboard of the taxpayer if available on the web-site, or
- (f) by sending a message on his registered mobile number, or
- (g) by publication in a newspaper circulating in the locality in which the taxpayer or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain, or
- (h) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence, or
- (i) if the mode prescribed under (h) is also not practicable for any reason, then by affixing a copy thereof on the notice board of the officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by a registered letter in transit unless the contrary is proved.

137. Rounding off of tax etc.

The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of the Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

138. Effect of amendments, etc., of rules, notifications or orders

Where any rule, notification or order made or issued under the Act or any notification or order issued under such rule, is amended, repealed, superseded or rescinded, then, unless a different intention appears, such amendment, repeal, supersession or rescinding shall not -

- (a) revive anything not in force or existing at the time at which the amendment, repeal, supersession or rescinding takes effect; or
- (b) affect the previous operation of any rule, notification or order so amended, repealed, superseded or rescinded or anything duly done or suffered thereunder; or (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any rule, notification or order so amended, repealed, superseded or rescinded; or (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed under or in violation of any rule, notification or order so amended, repealed, superseded or rescinded; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the rule, notification or order, as the case may be, had not been amended, repealed, superseded or rescinded.

139. Publication of rules and notifications and laying of rules before Parliament / State Legislature

- (1) All rules made and notifications issued under the Act shall be published in the Official Gazette.

- (2) Every rule made under the Act, every notification issued under section ----, section ----, section ----- and section ----- (*depending on the final full draft*) and every order made under section -----, section ----, section ----- and section ----- (*depending on the final full draft*), other than an order relating to goods or services or both of strategic, secret, individual or personal nature, shall be laid, as soon as may be after it is made or issued, before Parliament / State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament / State Legislature agree in making any modification in the rule or notification or order, or Parliament / State Legislature agree that the rule should not be made or notification or order should not be issued or made, the rule or notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification or order.

CHAPTER– XXIV

Repeal and Saving

140. Repeal and saving

- (1) From the date of commencement of the Act, the (State) General Sales Tax/Value Added Tax Act, the Central Excise Act 1944, and the Central Excise Tariff Act 1985 shall apply only in respect of goods included in the entry 84 and entry 54 of the Union List and the State List respectively, of the Schedule VII to the Constitution of India.

Provided that the aforesaid restriction of the application of the statutes referred above shall not—

- (a) Revive anything not in force or existing at the time at which the restriction takes effect; or
- (b) Affect the previous operation of the unrestricted Acts or anything duly done or suffered thereunder; or

- (c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the unrestricted Acts; or
- (d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the unrestricted Acts; or
- (e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so restricted.
- (f) Affect any proceeding including that relating to an appeal, revision, review or reference, instituted before the appointed day under the earlier law and such proceeding shall be continued under the earlier law as if this Act had not come into force and the said law had not been repealed.

(2) The following Acts are hereby repealed, to the extent mentioned hereunder, namely:- (*as per the taxes subsumed under GST*)

- (a) The Entry Tax Act,.....
- (b) The Entertainment Tax, ...
- (c) The Luxury Tax Act, ...
- (d) Duty of Excise on Medicinal and Toilet Preparation Act, ... (e) Chapter V of the Finance Act, 1994.

(3) The repeals referred to in sub-section (2) shall not—

- (a) Revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) Affect the previous operation of the repealed Acts or anything duly done or suffered thereunder; or

- (c) Affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts; or
- (d) Affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Acts; or
- (e) Affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been enacted.

CHAPTER XXV

Transitional Provisions

141. General provisions

Notwithstanding anything contained elsewhere in the Act and until specifically so or otherwise prescribed or notified or done in accordance with the provisions of the Act,

- (a) All persons appointed by the respective Governments for discharging various functions under the Central/State laws relating to taxes on goods or services (which are being subsumed in GST) and continuing in office on the appointed day, shall be deemed to have been appointed as GST officers/Competent Authorities under the respective provisions of the Act.
- (b) The Central Government (or the State Government) may issue orders or make rules consistent with the need for smooth transition to GST including the need to take care of matters not specifically covered hereinbefore so long as such matters are not in conflict with the purposes of the Act.

142. Migration of existing taxpayers to GST

- (1) On the appointed day, every person registered under any of the earlier laws shall be issued a certificate of registration on a provisional basis in such form and manner as may be prescribed.

- (2) The certificate of registration issued under sub-section (1) shall be valid for a period of six months from the date of its issue:
- Provided that the said validity period may be extended for such further period as the Central/State Government may, on the recommendation of the Council, notify.
- (3) Every person to whom a certificate of registration has been issued under subsection (1) shall, within the period specified under sub-section (2), furnish such information as may be prescribed.
- (4) On furnishing of such information, the certificate of registration issued under subsection (1) shall, subject to the provisions of section 19, be granted on a final basis by the Central/State Government.
- (5) The certificate of registration issued to a person under sub-section (1) may be cancelled if such person fails to furnish, within the time specified under sub-section (2), the information prescribed under sub-section (3).
- (6) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 19.

143. Amount of CENVAT credit carried forward in a return to be allowed as input tax credit

- (1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of cenvat credit carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act.

- (2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted,

whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

- (1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the amount of Value Added Tax carried forward in a return, furnished under the earlier law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said amount was admissible as credit of input tax under the earlier law and is so admissible under this Act.

- (2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

144. Unavailed cenvat credit on capital goods, not carried forward in a return, to be allowed in certain situations

- (1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed cenvat credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as cenvat credit under the earlier law and is also admissible as input tax credit under this Act:

Explanation 1.- For the purposes of this section, the expression "unavailed cenvat credit" means the amount that remains after subtracting the amount of cenvat credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of cenvat credit to which the said person was entitled in respect of the said capital goods under the earlier law.

Explanation 2.- Capital goods means the goods as defined under clause (a) of rule 2 of CENVAT Credit Rules, 2004.

- (2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

- (1) A registered taxable person shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the earlier law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed :

Provided that the taxable person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the earlier law and is so admissible under this Act:

Explanation.- For the purposes of this section, the expression “unavailed input tax credit” means the amount that remains after subtracting the amount of input tax credit already availed in respect of capital goods by the taxable person under the earlier law from the aggregate amount of input tax credit to which the said person was entitled in respect of the said capital goods under the earlier law.

- (2) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

145. Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations

- (1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the manufacture of exempted goods under the earlier law but which are liable to tax under this Act, shall be

entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions:

- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
 - (ii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;
 - (iii) the said taxable person is eligible for input tax credit under this Act;
 - (iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and
 - (v) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.
- (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

Explanation.— For the purpose of this section and section 146, the expression “eligible duties and taxes” means-

- (i) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985(5 of 1986);
- (ii) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985(5 of 1986);

- (iii) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978);
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957(58 of 1957);
- (v) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001(14 of 2001);
- (vi) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975);
- (vii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975 (51 of 1975); and
- (viii) the service tax leviable under section 66B of the Finance Act, 1994 (32 of 1994);—

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

(CGST Law)

- (1) A registered taxable person, who was not liable to be registered under the earlier law or who was engaged in the sale of exempted goods under the earlier law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, credit of the Value Added Tax in respect of inputs held in stock and inputs contained in semifinished or finished goods held in stock on the appointed day subject to the following conditions:
- (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
 - (ii) the said taxable person was eligible for input tax credit on purchase of such inputs and/or goods under the earlier law but for his not being liable for registration or the goods remaining exempt under the said law;
 - (iii) the said taxable person is eligible for input tax credit under this Act;
 - (iv) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day; and

- (v) such invoice and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.
- (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

146. Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme

- (1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:
 - (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
 - (ii) the said person is not paying tax under section 8;
 - (iii) the said taxable person was eligible for cenvat credit on receipt of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;
 - (iv) the said taxable person is eligible for input tax credit under this Act;
 - (v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of duty / tax under the earlier law in respect of

inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and

- (vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.
- (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(CGST Law)

- (1) A registered taxable person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the earlier law (hereinafter referred to in this section as a "composition taxpayer"), shall be entitled to take, in his electronic credit ledger, credit of Value Added Tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed date subject to the following conditions:
 - (i) such inputs and / or goods are used or intended to be used for making taxable supplies under this Act;
 - (ii) the said person is not paying tax under section 8;
 - (iii) the said taxable person was eligible to claim input tax credit on purchase of such inputs and/or goods under the earlier law but for his being a composition taxpayer under the said law;
 - (iv) the said taxable person is eligible for input tax credit under this Act;
 - (v) the said taxable person is in possession of invoice and/or other prescribed documents evidencing payment of tax under the earlier law in respect of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the appointed day; and

- (vi) such invoices and /or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (2) The amount of credit under sub-section (1) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.
- (3) The amount taken as credit under sub-section (1) shall be recovered as an arrear of tax under this Act from the taxable person if the said amount is found to be recoverable as a result of any proceeding instituted, whether before or after the appointed day, against such person under the earlier law.

(SGST Law)

147. Amount payable in the event of a taxable person switching over to composition scheme

- (1) Where a taxable person who has carried forward the amount of eligible credit in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

(CGST Law)

- (1) Where a taxable person who has carried forward the amount of eligible credit on account of Value Added Tax in a return, furnished under the earlier law, in respect of the period ending with the day immediately preceding the appointed day, switches over to the composition scheme under section 8, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such switch over:

Provided that after payment of such amount, the balance of input tax credit, if any lying in his electronic credit ledger shall lapse.

(SGST Law)

148. Exempted goods returned to the place of business on or after the appointed day

Where any goods on which duty had been exempt under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

(CGST Law)

Where any goods on which tax had been exempt under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

149. Duty paid goods returned to the place of business on or after the appointed day

(1) Where any goods on which duty had been paid under the earlier law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the

appointed day, no tax shall be payable thereon if such goods are returned to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the taxable person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

- (2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the duty paid earlier at the time of removal.

(CGST Law)

- (1) Where any goods on which tax had been paid under the earlier law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to the supplier thereof on or after the appointed day, no tax shall be payable thereon if such goods are returned to the said supplier within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that tax shall be payable by the person returning the goods if the said goods are liable to tax under this Act and are returned after a period of six months from the appointed day.

- (2) Every taxable person who receives such goods within a period of six months shall be entitled to take credit of the tax paid earlier at the time of sale.

(SGST Law)

150. Inputs removed for job work and returned on or after the appointed day

- (1) Where any inputs received in a factory had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said factory on or after the appointed day, no tax shall be payable if such inputs are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period , as the case may be, from the appointed day.

- (2) The provisions of sub-section (1) shall apply only if the manufacturer and the job worker declare the details of the inputs held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

(CGST Law)

- (1) Where any inputs received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of earlier law prior to the appointed day and such inputs, after completion of the job work, are returned to the said place of business on or after the appointed day, no tax shall be payable if such inputs are returned to the said place of business within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the job worker if such inputs are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the inputs if such inputs are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day.

- (2) The provisions of sub-section (1) shall apply only if the person despatching the inputs and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

(SGST Law)

151. Semi-finished goods removed for job work and returned on or after the appointed day

- (1) Where any semi-finished goods had been removed from the factory to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as "the said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the manufacturer if such goods are liable to tax under this Act, and are not returned within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the manufacturer and the job-worker declare the details of the goods held in stock by the job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

(CGST Law)

(1) Where any semi-finished goods had been despatched from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of earlier law prior to the appointed day and such goods after undergoing manufacturing processes (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that tax shall be payable by the person despatching the goods if such goods are liable to tax under this Act, and are not returned to him within a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods to the premises of any registered taxable person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(2) The provisions of sub-section (1) shall apply only if the person despatching the goods and the job worker declare the details of the goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

(SGST Law)

152. Finished goods removed for carrying out certain processes and returned on or after the appointed day

Where any excisable goods manufactured in a factory had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said factory on or after the appointed day, no tax shall be payable if the said goods are returned to the said factory within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period of two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a

period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the manufacturer may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(CGST Law)

Where any goods had been despatched from the place of business without payment of tax for carrying out tests or any other process, to any other premises, whether registered or not, in accordance with the provisions of earlier law prior to the appointed day and such goods, after undergoing tests or any other process (herein after referred to as the "said goods") are returned to the said place of business on or after the appointed day, no tax shall be payable if the said goods are returned to such place within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that tax shall be payable by the person returning the said goods if such goods are liable to tax under this Act and are returned after a period of six months or the extended period, as the case may be, from the appointed day:

Provided also that the person despatching the goods may, in accordance with the provisions of the earlier law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

(SGST Law)

153. Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract

- (1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised upwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(CGST Law)

- (1) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.

(SGST Law)

- (2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods and/or services is revised downwards on or after the appointed day, the taxable person who had removed / provided such goods and/or services may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(CGST Law)

(2) Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the taxable person who had sold such goods may issue to the recipient a supplementary invoice or credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the taxable person shall be allowed to reduce his tax liability on account of issue of the said invoice or credit note only if the recipient of the invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(SGST Law)

154. Pending refund claims to be disposed of under earlier law

Every claim for refund of any duty/tax and interest, if any, paid on such duty/tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 (1 of 1944):

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

(CGST Law)

Every claim for refund of any tax and interest, if any, paid on such tax or any other amount, filed by any person before the appointed day, shall be disposed of in accordance with the provisions of earlier law and any amount eventually accruing to him shall be refunded to him in accordance with the provisions of the said law:

Provided that where any claim for refund is fully or partially rejected, the amount so rejected shall lapse.

(SGST Law) 155. Claim of cenvat credit to be disposed of under the earlier law

(1) Every proceeding of appeal, revision, review or reference relating to a claim for CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act.

(CGST Law)

(2) Every proceeding of appeal, revision, review or reference relating to recovery of CENVAT credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

(1) Every proceeding of appeal, revision, review or reference relating to a claim for input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and any amount of credit found to be admissible to the claimant shall be refunded to him in accordance with the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

(SGST Law)

(2) Every proceeding of appeal, revision, review or reference relating to recovery of input tax credit under the earlier law shall be disposed of in accordance with the provisions of earlier law, and if any amount of credit becomes recoverable as a result of appeal, revision, review or reference,

the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

156. Finalization of proceedings relating to output duty liability

- (1) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Every proceeding of appeal, revision, review or reference relating to any output duty liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of earlier law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and shall not be admissible as input tax credit under this Act.

(CGST Law)

- (1) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.
- (2) Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated before the appointed day, shall be disposed of in accordance with the provisions of the earlier law, and any amount found to be admissible to the claimant shall be refunded to him in accordance with

the provisions of the earlier law and shall not be admissible as input tax credit under this Act.

(SGST Law)

157. Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings

- (1) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

- (1) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

- (2) Where in pursuance of an assessment or adjudication proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

(CGST Law)

- (2) Where in pursuance of an assessment proceedings instituted, whether before or after the appointed day, under the earlier law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in accordance with the provisions of earlier law.

**(SGST
Law)**

158. Treatment of the amount recovered or refunded pursuant to revision of returns

- (1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(CGST Law)

- (1) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be recoverable from the taxable person, the same shall be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(SGST Law)

- (2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the same shall be refunded to him in cash under the earlier law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

(CGST Law)

- (2) Where any return, furnished under the earlier law, is revised and if, pursuant to such revision, any amount is found to be refundable to any taxable person, the amount shall be refunded to the said person in accordance with the provisions of the earlier law.

**(SGST Law) 159. Treatment of long term construction / works
contracts**

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(CGST Law)

The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

**(SGST
Law)**

160. Progressive or periodic supply of goods or services

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

(CGST Law)

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the appointed day and the duty or tax payable thereon has already been paid under the earlier law.

(SGST Law)

161. Treatment of retention payments

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

(CGST Law)

Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made before the appointed

day where a part consideration for the said supply is received on or after the appointed day, but the full duty or tax payable on such supply has already been paid under the earlier law.

(SGST Law)

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162. Credit distribution of service tax by ISD

Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoice(s) relating to such services is received on or after the appointed day.

(CGST Law)

162A. Tax paid on goods lying with agents to be allowed as credit

Where any goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of the tax paid on such goods subject to fulfilment of the following conditions:

- (i) the agent is a registered taxable person under this Act;
- (ii) both the principal and the agent declare the details of stock of goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- (iii) the invoices for such goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- (iv) the principal has either reversed or not availed of the input tax credit in respect of such goods.

(Only in SGST Law)

162B. Tax paid on capital goods lying with agents to be allowed as credit

Where any capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit of

the tax paid on such capital goods subject to fulfillment of the following conditions:

- (i) the agent is a registered taxable person under this Act;
- (ii) both the principal and the agent declare the details of the stock of capital goods lying with such agent on the date immediately preceding the appointed day in such form and manner and within such time as may be prescribed in this behalf;
- (iii) the invoices for such capital goods had been issued not earlier than twelve months immediately preceding the appointed day; and
- (iv) the principal has either not availed of the input tax credit in respect of such capital goods or, having availed of such credit, has reversed the said credit, to the extent availed of by him.

(Only in SGST Law)

162C. Treatment of branch transfers

Notwithstanding anything to the contrary contained in this Act, any amount of input tax credit reversed prior to the appointed day shall not be admissible as credit of input tax under this Act.

(Only in SGST Law)

162D. Goods sent on approval basis returned on or after the appointed day

Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the aforesaid period of six months may, on sufficient cause being shown, be extended by the competent authority for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period of six months or the extended period, as the case may be, from the appointed day: Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act,

and are not returned within a period of six months or the extended period , as the case may be, from the appointed day.

(SGST Law)

162 E. Deduction of tax source

Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under the earlier law and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 37 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

SCHEDULE I

Matters to be treated as Supply without Consideration

1. Permanent transfer/disposal of business assets.
2. Temporary application of business assets to a private or non-business use.
3. Services put to a private or non-business use.
4. Assets retained after deregistration.
5. Supply of goods and / or services by a taxable person to another taxable or nontaxable person in the course or furtherance of business.

Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods.

SCHEDULE II

Matters to be treated as Supply of Goods or Services

1. Transfer
 - (1) Any transfer of the title in goods is a supply of goods.
 - (2) Any transfer of goods or of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services.
 - (3) Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed, is a supply of goods.
2. Land and Building
 - (1) Any lease, tenancy, easement, licence to occupy land is a supply of services.
 - (2) Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is being applied to another person's goods is a supply of services.

4. Transfer of business assets

- (1) Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person.
- (2) Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services.
- (3) Where any goods, forming part of the business assets of a taxable person, are sold by any other person who has the power to do so to recover any debt owed by the taxable person, the goods shall be deemed to be supplied by the taxable person in the course or furtherance of his business.
- (4) Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
 - (a) the business is transferred as a going concern to another person; or
 - (b) the business is carried on by a personal representative who is deemed to be a taxable person.

5. The following shall be treated as "supply of service"

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where

required, by the competent authority or before its first occupation, whichever is earlier.

Explanation.- For the purposes of this clause-

- (1) the expression "competent authority" means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:–
 - (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- (2) the expression "construction" includes additions, alterations, replacements or remodeling of any existing civil structure;
- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
- (f) works contract including transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (g) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and
- (h) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

6. The following shall be treated as supply of goods

- (a) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III

Liability to be Registered

1. Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds [Rs nine lakh]:
1. Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds [Rs. four lakh]:

[This threshold of four lakh will apply only if the taxable person conducts his business in any of the NE States including Sikkim.]

Provided that the supplier shall not be liable to registration if his aggregate turnover consists of only goods and/or services which are not liable to tax under this Act.

Explanation 1.- The taxable threshold shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Explanation 2.- The supply of goods, after completion of job-work, by a registered jobworker shall be treated as the supply of goods by the "principal" referred to in section 43A, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.

2. Subject to the provisions of paragraph 1, every person who, on the day immediately preceding the appointed day, is registered or holds a license under an earlier law, shall be liable to be registered under this Act with effect from the appointed day.
3. Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee, or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
4. Notwithstanding anything contained in paragraph 1 and 2 above, in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies

by an order of a High Court, the transferee shall be liable to be registered, where required, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court.

5. Notwithstanding anything contained in paragraph 1 and 2 above, the following categories of persons shall be required to be registered under this Act:
- (i) persons making any inter-State taxable supply, irrespective of the threshold specified under paragraph 1;
 - (ii) casual taxable persons, irrespective of the threshold specified under paragraph 1;
 - (iii) persons who are required to pay tax under reverse charge, irrespective of the threshold specified under paragraph 1;
 - (iv) non-resident taxable persons, irrespective of the threshold specified under paragraph 1;
 - (v) persons who are required to deduct tax under section 37;
 - (vi) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise, irrespective of the threshold specified under paragraph 1;
 - (vii) input service distributor;
 - (viii) persons who supply goods and/or services, other than branded services, through electronic commerce operator, irrespective of the threshold specified in paragraph 1;
 - (ix) every electronic commerce operator, irrespective of the threshold specified in paragraph 1;
 - (x) an aggregator who supplies services under his brand name or his trade name, irrespective of the threshold specified in paragraph 1; and
 - (xi) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.

SCHEDULE IV

Activities or transactions in respect of which the Central Government, a State Government or any Local Authority shall not be regarded as a taxable person
(Indicative List)

1. Services provided by a Government or local authority to another Government or local authority excluding the following services:
 - (i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services;
 - (ii) services in relation to an aircraft or a vessel , inside or outside the precincts of a port or an aircraft; or (iii) transport of goods or passengers.
2. Services provided by a Government or local authority to individuals in discharge of its statutory powers or functions such as-
 - (i) issuance of passport, visa, driving licence, birth certificate or death certificate; and
 - (ii) assignment of right to use natural resources to an individual farmer for the purpose of agriculture.
3. Services provided by a Government or local authority or a governmental authority by way of:
 - (i) any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution;
 - (ii) any activity in relation to any function entrusted to a Panchayat under article 243 G of the Constitution; (iii) health care; and (iv) education.
4. Services provided by Government towards-

- (i) diplomatic or consular activities;
- (ii) citizenship, naturalization and aliens;
- (iii) admission into , and emigration and expulsion from India;
- (iv) currency , coinage and legal tender , foreign exchange;
- (v) trade and commerce with foreign countries , import and export across customs frontiers , interstate trade and commerce; or (vi) maintenance of public order.

5. Any services provided by a Government or a local authority in the course of discharging any liability on account of any tax levied by such Government or authority.

6. Services provided by a Government or a local authority by way of -

- (i) tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Government or the local authority under such contract; or
- (ii) assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016:

Provided that the exemption shall apply only to service tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource:

Explanation.- Periodic payment required to be made not exempt.

7. Services provided by Government by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import or export of cargo on payment of Merchant Overtime Charges (MOT).

8. Services provided by Government or a local authority by way of-

- (i) registration required under any law for the time being in force; or

- (ii) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force.

Definitions:

1. Governmental Authority means a board, or an authority or any other body established with 90% or more participation by way of equity or control by Government and set up by an Act of the Parliament or a State Legislature to carry out any function entrusted to a municipality under article 243W or a Panchayat under article 243G of the Constitution.
2. Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
3. Education services means services by way of—
 - i) pre-school education and education up to higher secondary school or equivalent;
 - ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; or iii) education as a part of an approved vocational education course.

5. GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016

1. Short title, commencement and application.

- (1) These rules may be called the GST Valuation (Determination of Value of Supply of Goods and Services) Rules, 2016.
- (2) These Rules shall come into force on the day the Act comes into force.
- (3) They shall apply to the supply of goods and/or services under the IGST/CGST/SGST Act.

2. Definitions

- (1) In these rules, unless the context otherwise requires:
 - (a) "Act" means the IGST Act or the CGST Act or, as the case may be, the SGST Act;
 - (b) "goods of like kind and quality" means goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued and supplied by the same person or by a different person;
 - (c) "services of like kind and quality" means services which are identical or similar in nature, quality and reputation as the services being valued and supplied by the same person or by a different person; and
 - (d) "transaction value" means the value of goods and/or services within the meaning of section 15 of the CGST Act.
- (2) Words, expressions and terms not defined in these Rules shall have the same meaning as is assigned to them in the Act.

3. Methods of determination of value

- (1) Subject to rule 7, the value of goods and/or services shall be the transaction value.
- (2) The "transaction value" shall be the value determined in monetary terms.
- (3) Where the supply consists of both taxable and non-taxable supply, the taxable supply shall be deemed to be for such part of the monetary consideration as is attributable thereto.

- (4) The transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.
- (5) Where goods are transferred from—
 - (a) one place of business to another place of the same business,
 - (b) the principal to an agent or from an agent to the principal,whether or not situated in the same State, the value of such supply shall be the transaction value.
- (6) The value of supplies specified in sub-section (4) of section 15 of the Act shall be determined by proceeding sequentially through rules 4 to 6.

4. Determination of value of supply by comparison

- (1) Where the value of a supply cannot be determined under rule 3, the value shall be determined on the basis of the transaction value of goods and/or services of like kind and quality supplied at or about the same time to other customers, adjusted in accordance with the provisions of sub-rule (2).
- (2) In determining the value of goods and/or services under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-
 - (a) difference in the dates of supply,
 - (b) difference in commercial levels and quantity levels,
 - (c) difference in composition, quality and design between the goods and/or services being valued and the goods and/or services with which they are compared,
 - (d) difference in freight and insurance charges depending on the place of supply.

5. Computed Value Method

If the value cannot be determined under rule 4, it shall be based on a computed value which shall include the following:-

- (a) the cost of production, manufacture or processing of the goods or, the cost of provision of the services;
- (b) charges, if any, for the design or brand;

- (c) an amount towards profit and general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.

6. Residual Method

Where the value of the goods and/or services cannot be determined under the provisions of rule 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

7. Rejection of declared value

- (1)(a) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any goods and/or services, he may ask the supplier to furnish further information, including documents or other evidence and if, after receiving such further information, or in the absence of any response from such supplier, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such goods and/or services cannot be determined under the provisions of sub-rule (1) of rule 3.
- (b) The reasons to doubt the truth or accuracy of the value of the supply declared by the supplier shall include, but not be limited to the following:
 - (i) the significantly higher value at which goods and/or services of like kind or quality supplied at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
 - (ii) the significantly lower or higher value of the supply of goods and/or services compared to the market value of goods and/or services of like kind and quality at the time of supply; or
 - (iii) any mis-declaration of goods and/or services in parameters such as description, quality, quantity, year of manufacture or production.
- (2) The proper officer shall intimate the supplier in writing the grounds for doubting the truth or accuracy of the value declared in relation to the supply of goods and/or services by such supplier and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

(3) If after hearing the supplier as aforesaid, the proper officer is, for reasons to be recorded in writing, not satisfied with the value declared, he shall proceed to determine the value in accordance with the provisions of rule 4 or rule 5 or rule 6, proceeding sequentially.

Explanation.- For removal of doubts, it is hereby declared that this rule by itself does not provide a method for determination of value. It provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value.

8. Valuation in certain cases

(1) Pure Agent

- (a) Notwithstanding anything contained in these rules, the expenditure or costs incurred by the service provider as a pure agent of the recipient of service, shall be excluded from the value of the taxable service if all the following conditions are satisfied, namely:-
- (i) the service provider acts as a pure agent of the recipient of service when he makes payment to third party for the goods and/or services procured;
 - (ii) the recipient of service receives and uses the goods and/or services so procured by the service provider in his capacity as pure agent of the recipient of service;
 - (iii) the recipient of service is liable to make payment to the third party;
 - (iv) the recipient of service authorises the service provider to make payment on his behalf;
 - (v) the recipient of service knows that the goods and/or services for which payment has been made by the service provider shall be provided by the third party;
 - (vi) the payment made by the service provider on behalf of the recipient of service has been separately indicated in the invoice issued by the service provider to the recipient of service;
 - (vii) the service provider recovers from the recipient of service only such amount as has been paid by him to the third party; and

(viii) the goods and/or services procured by the service provider from the third party as a pure agent of the recipient of service are in addition to the services he provides on his own account.

Explanation.- For the purposes of this sub-rule, "pure agent" means a person who-

- (a) enters into a contractual agreement with the recipient of service to act as his pure agent to incur expenditure or costs in the course of providing taxable service;
- (b) neither intends to hold nor holds any title to the goods and/or services so procured or provided as pure agent of the recipient of service;
- (c) does not use such goods and/or services so procured; and
- (d) receives only the actual amount incurred to procure such goods and/or services.

(2) Money Changer

The value of taxable service provided for the services in so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner:-

For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

6. Integrated Goods And Services Tax Act, 2016

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2016

CHAPTER– I

PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Integrated Goods and Services Tax Act, 2016.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions

- (1) In this Act, unless the context otherwise requires,-

- (a) **“appropriate State”**, in relation to a taxable person, means that State where he is registered or liable to be registered under section 19 of the Central Goods and Services Tax Act, 2016.

Explanation: For the purpose of this Act, “State” includes Union Territory with Legislature.

- (b) **“Government”** means the Central Government;

- (c) **“Integrated Goods and Services Tax” (IGST)** means tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce.

Explanation 1.- A supply of goods and/or services in the course of import into the territory of India shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

Explanation 2.- An export of goods and/or services shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce.

- (d) **"input tax"** in relation to a taxable person, means the Integrated Goods and Services Tax, Central Goods and Services Tax or State Goods and Services Tax, as the case may be, charged on any supply of goods and/or services to him which are used, or are intended to be used, in the course or furtherance of his business and includes the tax payable under subsection (3) of section 4;
 - (e) **"input tax credit"** means credit of 'input tax' as defined in clause (d) of subsection (1) of section 2;
 - (f) **"supply"** has the same meaning as assigned to it in section 3 of the CGST Act, 2016;
 - (g) **"output tax"** in relation to a taxable person, means the IGST chargeable under the Act on taxable supply of goods and/or services by him or his agent and excludes tax payable by him on reverse charge basis;
- (2) Words and expressions not defined in this Act shall have the meaning assigned to them in the Central Goods and Service Tax Act, 2016.

CHAPTER- II

PRINCIPLES FOR DETERMINING SUPPLY OF GOODS AND/OR SERVICES IN THE COURSE OF INTER-STATE TRADE OR COMMERCE

3. Supplies of goods and/or services in the course of inter-State trade or commerce
- (1) Subject to the provisions of section 5, supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States.
 - (2) Subject to the provisions of section 6, supply of services in the course of interState trade or commerce means any supply where the location of the supplier and the place of supply are in different States.

3A. Supplies of goods and/or services in the course of intra-State trade or commerce

- (1) Subject to the provisions of section 5, intra-state supply of goods means any supply where the location of the supplier and the place of supply are in the same State.
- (2) Subject to the provisions of section 6, intra-state supply of services means any supply where the location of the supplier and the place of supply are in the same State.

CHAPTER– III

LEVY AND COLLECTION OF TAX

4. Levy and collection of Integrated Goods and Services Tax

- (1) There shall be levied a tax called the Integrated Goods and Services Tax on all supplies of goods and/or services made in the course of inter-State trade or commerce at the rate specified in the Schedule to this Act and collected in such manner as may be prescribed.
- (2) The Integrated Goods and Services Tax shall be paid by every taxable person in accordance with the provisions of this Act.
- (3) Notwithstanding anything contained in sub-section (2), the Central Government may, on recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the person receiving such goods and/or services and all the provisions of this Act shall apply to such person as if he is the person liable for paying the tax in relation to such goods and/or services.
- (4) Notwithstanding anything contained in sub-section (1) but subject to such conditions as may be notified in this behalf, no tax under this Act shall be

payable by any taxable person in respect of such supplies of goods and/or services as are specified in Schedule . . . to the Act.

CHAPTER– IV

PLACE OF SUPPLY OF GOODS AND/OR SERVICES

5. Place of supply of goods

- (1) The provisions of this section shall apply to determine the place of supply of goods.
- (2) Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.
- (2A) Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.
- (3) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.
- (4) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly.
- (5) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
- (6) Where the place of supply of goods cannot be determined in terms of sub-section (2), (3), (4) and (5), the same shall be determined by law made by the Parliament in accordance with the recommendation of the Council.

6. Place of supply of services

- (1) The provisions of this section shall apply to determine the place of supply of services.

- (2) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person.
- (3) The place of supply of services, except the services specified in sub-sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be
 - (i) the location of the recipient where the address on record exists, and (ii) the location of the supplier of services in other cases.
- (4) The place of supply of services, -
 - (a) in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or
 - (b) by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or
 - (c) by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or (d) any services ancillary to the services referred to in clause (a), (b) and (c), shall be the location at which the immovable property or boat or vessel is located or intended to be located.

Explanation.- Where the immovable property or boat or vessel is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

- (5) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

- (6) The place of supply of services in relation to training and performance appraisal to
 - (a) a registered person, shall be the location of such person;
 - (b) a person other than a registered person, shall be the location where the services are actually performed.
- (7) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.
- (8) The place of supply of services provided by way of—
 - (a) organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or
 - (b) services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events, to
 - (i) a registered person, shall be the location of such person;
 - (ii) a person other than a registered person, shall be the place where the event is actually held.

Explanation.- Where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

- (9) The place of supply of services by way of transportation of goods, including by mail or courier to,
 - (a) a registered person, shall be the location of such person;
 - (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.
- (10) The place of supply of passenger transportation service to

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be.

Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.

- (11) The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.
- (12) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall—
 - (a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
 - (b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on record of the supplier of services;
 - (c) in cases where mobile connection for telecommunication and internet service are provided on pre-payment through a voucher or any other means, be the location where such pre-payment is received or such vouchers are sold:

Provided that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.

- (13) The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services.

- (14) The place of supply of insurance services shall:

- (a) to a registered person, be the location of such person;
- (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

- (15) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States, shall be taken as located in each of such States and the value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

CHAPTER-V

PAYMENT OF TAX

7. Payment of tax, interest, penalty and other amounts

- (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a taxable person by internet banking or by using credit/debit

cards or National Electronic Fund Transfer or Real Time Gross Settlement or by any other mode, subject to such conditions and restrictions as may be prescribed in this behalf, shall be credited to the electronic cash ledger of such person to be maintained in the manner as may be prescribed.

Explanation.- The date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

- (2) The input tax credit as self-assessed in the return of a taxable person shall be credited to his electronic credit ledger to be maintained in the manner as may be prescribed.
- (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the electronic credit ledger may be used for making any payment towards tax payable under the provisions of the Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (5)(a) The amount of input tax credit on account of IGST available in the electronic credit ledger shall first be utilized towards payment of IGST and the amount remaining, if any, may be utilized towards the payment of CGST and SGST, in that order.
- (b) The amount of input tax credit on account of CGST available in the electronic credit ledger shall first be utilized towards payment of CGST and the amount remaining, if any, may be utilized towards the payment of IGST.
- (c) The amount of input tax credit on account of SGST available in the electronic credit ledger shall first be utilized towards payment of SGST and the amount remaining, if any, may be utilized towards the payment of IGST.
- (6) The balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made

thereunder may be refunded in accordance with the provisions of section 38 of the CGST Act and the amount collected as IGST shall stand reduced to that extent.

- (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic register as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order:
 - (a) self-assessed tax, and other dues related to returns of previous tax periods;
 - (b) self-assessed tax, and other dues related to the return of the current tax period;
 - (c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 51 of the CGST Act.
- (9) Every person who has paid the tax on goods and/or services under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods and/or services.

CHAPTER– VI

INPUT TAX CREDIT

8. Claim of input tax credit, provisional acceptance, matching, reversal and reclaim thereof

- (1) Every registered taxable person shall, subject to such conditions and restrictions as may be prescribed in this behalf, be entitled to take credit of input tax, as selfassessed, in his return and such amount shall be credited, on a provisional basis, to his electronic credit ledger to be maintained in the manner as may be prescribed.
- (2) The provisions of section 29 of the CGST Act, 2016 relating to matching, reversal and reclaim of input tax credit shall apply *mutatis mutandis* to the matching, reversal and reclaim of input tax credit under this section.

9. Transfer of input tax credit

- (1) On utilization of input tax credit availed under this Act for payment of tax dues under the CGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the CGST account in the manner and time as may be prescribed.
- (2) On utilization of input tax credit availed under this Act for payment of tax dues under the SGST Act as per sub-section (5) of section 7, the amount collected as IGST shall stand reduced by an amount equal to the credit so utilized and the Central Government shall transfer an amount equal to the amount so reduced from the IGST account to the SGST account of the appropriate State Government in the manner and time as may be prescribed.

CHAPTER- VII

APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS

10. Apportionment of tax collected under the Act and settlement of funds
 - (1) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services to an unregistered person or to a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.
 - (2) Out of the IGST paid to the Central Government in respect of inter-State supply of goods and/or services made in a year to a registered taxable person, where such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was made, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.

- (3) Out of the IGST paid to the Central Government in respect of import of goods and / or services by an unregistered person or by a taxable person paying tax under section 8 of the CGST Act, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.
- (4) Out of the IGST paid to the Central Government in respect of import of goods and / or services made in a year by a registered taxable person, where the such taxable person is either not eligible for input tax credit or where he does not avail of the said credit within the specified period and thus remains in the IGST account after expiry of the due date for filing of annual return for such year in which the supply was received, the amount of tax calculated at the rate equivalent to the CGST on similar intra-state supply shall be apportioned to the Central Government.
- (5) The balance amount of tax remaining in the IGST account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1), (2) or (3) shall be apportioned, in the manner and time as may be prescribed, to the State where such supply takes place as per section 9 5 or 6.
- (6) The provisions of sub-sections (1), (2), (3), (4) and (5) relating to apportionment of tax shall *mutatis mutandis* apply to the apportionment of interest and penalty realized in connection with the tax so apportioned.
- (7) Where an amount has been apportioned to the Central Government or a State Government under sub-sections (1), (2), (3), (4), (5) and (6), the amount collected as IGST shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the CGST account an amount equal to an amount apportioned to the Central Government and shall transfer to the SGST account of the State an amount equal to an amount apportioned to that State, in the manner and time as may be prescribed.

CHAPTER - VIII SETTLEMENT OF CASES 11. Definitions

- (a) "Bench" means a Bench of the Settlement Commission;
- (b) "case" means any proceeding under this Act for the levy, assessment and collection of IGST before an IGST officer, or before a First Appellate Authority in connection with such levy, assessment or collection of IGST pending on the date on which an application under sub-section (1) of section 15 is made:

Provided that where an order is passed by an adjudicating authority and for which the appeal period has not expired shall also be deemed to be a proceeding pending within the meaning of this clause:

Provided further that where any appeal has been preferred after expiry of the period specified for filing such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause:

Provided also that where any Court or Appellate Tribunal or the First Appellate Authority refers a case back to the original adjudicating authority or the First Appellate Authority, as the case may be, for a fresh adjudication or decision, such proceeding shall not be deemed to be a proceeding pending within the meaning of this clause;

- (c) "Designated Officer" means an officer of the IGST appointed in the Settlement Commission to conduct inquiry or investigation for the purpose of this Chapter;
- (d) "Member" means a Member of the Settlement Commission and includes the National/State Chairman;
- (e) "Settlement Commission" means the National Goods and Services Tax Settlement Commission constituted under section 12.

12. Constitution of National Goods and Services Tax Settlement Commission

- (1) The Central Government shall on the recommendation of the Council constitute a National Goods and Services Tax Settlement Commission for settlement of cases under this Act.
- (2) The Settlement Commission shall be headed by a National Chairman.
- (3) The Settlement Commission shall have one bench for one or more states, which shall be called the State Settlement Commission.
- (4) Every State Settlement Commission shall be headed by a State Chairman.

- (5) Every State Settlement Commission shall consist of a Chairman and as many Members (Technical –IGST) as may be prescribed, to exercise the powers and discharge the functions conferred on the Settlement Commission by this Act.
- (6) The National Chairman/State Chairman shall be a person who is or has been a judge of the High Court.
- (7) The qualifications, eligibility conditions and the manner of selection and appointment of the National Chairman, the State Chairman, and the Members shall be such as may be prescribed on the recommendations of the Council.
- (8) The National Chairman and the State Chairman shall exercise such powers and discharge such functions as may be prescribed on the recommendations of the Council.

13. Jurisdiction and powers of Settlement Commission

- (1) The jurisdiction of the State Settlement Commission constituted under this Act shall extend to the (name(s) of States).
- (2) Each Bench shall be presided over by the State Chairman and shall consist of two other Members.
- (3) Notwithstanding anything contained in the foregoing provisions of this section, and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person is the presiding officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the presiding officer or in the office of one or the other Members of the Bench, the remaining Members may function as the Bench and if the presiding officer of the Bench is not one of the remaining Members, the senior among the remaining Members shall act as the presiding officer of the Bench.

14. Decisions to be by majority

- (1) If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority.
- (2) In a case where the decision is taken by a two member Bench as provided under sub-section (3) of section 13 and Members are equally divided, the

matter will be referred to the third Member and the decision will be according to the opinion of the majority.

15. Application for settlement of cases

- (1) A taxable person may, in respect of a case or identical cases involving periodical show cause notices relating to him and pending before the adjudicating authority or the First Appellate Authority under the Act, make an application, in such form and in such manner as may be prescribed, containing a full and true disclosure of his tax liability which has not been disclosed before the jurisdictional IGST officer, the manner in which such liability has been derived, the additional amount of tax accepted to be payable by him and such other particulars as may be prescribed, to the Settlement Commission to have the case(s) settled and any such application shall be disposed of in the manner hereinafter provided:

Provided that no such application shall be made unless,-

- (a) the applicant has furnished the return(s), which he is or was required to furnish under the provisions of this Act;
- (b) a show cause notice for demand of tax issued by the IGST officer has been received by the applicant or an order confirming the demand of tax has been issued by the IGST officer and the same is pending before the First Appellate Authority;
- (c) the additional amount of tax accepted by the applicant in his application exceeds five lakh rupees; and
- (d) the applicant has paid the additional amount of tax accepted by him along with interest due thereon under section 36 of the CGST Act:

Provided further that the Settlement Commission, if it is satisfied that the circumstances exist for not filing the return(s) referred to in clause (a) of the first proviso to subsection (1), may, after recording the reasons thereof, allow the applicant to make such application.

- (2) No application shall be entertained by the Settlement Commission under sub-section (1) in cases which are pending with the Appellate Tribunal or any Court.

- (3) No application under sub-section (1) shall be made for determination of any question having a bearing on the rate of tax or determination of liability to pay tax on goods and/or services under the Act.
- (4) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.
- (5) An application made under sub-section (1) shall not be allowed to be withdrawn by the applicant.

16. Procedure for settlement on receipt of an application under section 15

- (1) On receipt of an application under sub-section (1) of section 15, the Settlement Commission shall, within seven days from the date of receipt of the application, issue a notice to the applicant to explain in writing as to why the application made by him should be allowed to be proceeded with, and after taking into consideration the explanation provided by the applicant, it shall, within a period of forty five days from the date of the notice, by an order, allow the application to be proceeded with, or reject the application as the case may be, and the proceedings before the Settlement Commission shall abate on the date of rejection :

Provided that an application shall not be rejected unless an opportunity has been given to the applicant of being heard;

Provided further that where no notice has been issued or no order has been passed within the aforesaid period by the Settlement Commission, the application shall be deemed to have been allowed to be proceeded with.

- (2) A copy of every order under sub-section (1), shall be sent to the applicant and to the jurisdictional IGST officer.
- (3) Where an application is allowed under sub-section (1), the Settlement Commission shall, within seven days from the date of order under sub-section (1), call for a report along with the relevant records from the jurisdictional IGST officer and such officer shall furnish the report within a period of sixty days of the receipt of communication from the Settlement Commission:

Provided that where the jurisdictional IGST officer does not furnish the report within the aforesaid period of sixty days, the Settlement Commission shall proceed further in the matter without the report of the said officer.

- (4) After examination of the report of the jurisdictional IGST officer received under subsection (3), if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may, within 15 days of the receipt of the report, direct, for reasons to be recorded in writing, the Designated Officer to make such further enquiry or investigation and furnish a report within a period of ninety days of the receipt of such direction, on the matters covered by the application and any other matter relating to the case :

Provided that where the Designated Officer does not furnish the report within the aforesaid period, the Settlement Commission shall proceed to pass an order under subsection (5) without such report.

- (5) After examination of the records and the report of the jurisdictional IGST officer received under sub-section (3), and the report, if any, of the Designated Officer under sub-section (4), and after giving an opportunity to the applicant and to the jurisdictional IGST officer to be heard, either in person or through an authorised representative, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may pass such order as it thinks fit on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the jurisdictional IGST officer and Designated Officer under sub-section (3) or sub-section (4), as the case may be.

Explanation.- For the purposes of this sub-section, "authorised representative" shall have the meaning assigned to it in section 86 of the CGST Act.

- (6) An order under sub-section (5) shall not be passed in respect of an application after twelve months from the last day of the month in which the application was made, failing which the settlement proceedings shall abate, and the adjudicating authority or the First Appellate Authority, as the case may be, before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

Provided that the period specified under this sub-section may, for reasons to be recorded in writing, be extended by the Settlement Commission for a further period not exceeding three months.

- (7) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1) or sub-section (6), as the case may be, the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of abatement, shall be excluded.
- (8) The order passed under sub-section (5) shall provide for the terms of settlement including any demand by way of tax, interest, fine or penalty, the manner in which any sums due under the settlement shall be paid and all other matters to make the settlement effective and in case of rejection contain the reasons therefor:

Provided that the amount of settlement ordered by the Settlement Commission shall not be less than the tax liability admitted by the applicant under section 15.

- (9) Settlement arrived under sub-section (5) shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.
- (10) Where any tax, interest, fine and penalty payable in pursuance of an order under sub-section (5) is not paid by the taxpayer within thirty days of receipt of a copy of the order by him, or within such period as extended by the Settlement Commission not exceeding three months, the amount which remains unpaid, shall be recovered along with interest due thereon at the rate prescribed under section 36 of the CGST Act, as the sums due to the Central/ State Government by the jurisdictional IGST officer in accordance with the provisions of section 54 of the CGST Act.
- (11) Where a settlement becomes void as provided under sub-section (9), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the jurisdictional IGST officer or the First Appellate Authority, as the case may be, may, notwithstanding anything contained in any other provision of this Act, complete such proceedings before the expiry of two years from the date of the receipt of communication that the settlement became void.

17. Power of Settlement Commission to order provisional attachment to protect revenue

- (1) Where during the pendency of any proceeding before it, the Settlement Commission is of the opinion that for the purpose of protecting the interests of revenue it is necessary so to do, it may, by order, attach provisionally any property belonging to the applicant in the manner as may be prescribed.
- (2) Every provisional attachment made by the Settlement Commission under subsection (1) shall cease to have effect from the date, the sums due to the Central Government / the State Government for which such attachment is made are discharged by the applicant and evidence to that effect is submitted to the Settlement Commission.

18. Power of Settlement Commission to reopen completed

proceedings If the Settlement Commission is of the opinion (the reasons for such opinion to be recorded by it in writing) that, for the proper disposal of the case pending before it, it is necessary or expedient to reopen any proceeding connected with the case but which has been completed under this Act before application for settlement under section 15 was made, it may, with the concurrence of the applicant, reopen such proceeding and pass such order thereon as it thinks fit, as if the case in relation to which the application for settlement had been made by the applicant under that section covered such proceeding also :

Provided that no proceeding shall be reopened by the Settlement Commission under this section after the expiry of five years from the date of application.

19. Inspection, etc. of reports

The Settlement Commission shall, on an application made in this behalf, and on payment of the prescribed fee by the applicant, for the purpose of rebutting any evidence brought on record against him in any report made by any IGST Officer or Designated officer, furnish to him a certified copy of any such report or part thereof relevant for the purpose.

20. Power of Settlement Commission to grant immunity from prosecution and penalty

- (1) The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 15 has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his tax liability, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act and also either wholly or in part from the imposition of any penalty and fine under this Act, with respect to the case covered by the settlement :

Provided that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 15.

- (2) An immunity granted to a person under sub-section (1) shall stand withdrawn if such person fails to pay any sum specified in the order of the settlement passed under subsection (5) of section 16 within the time specified in such order or within such extended period as permitted by the Settlement Commission or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.
- (3) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particular material to the settlement or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

21. Power of Settlement Commission to send a case back to the IGST officer (1) The Settlement Commission may, if it is of opinion that any person who made an application for settlement under section 15 has not

co-operated with the Settlement Commission in the proceedings before it, send the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, who shall thereupon dispose of the case in accordance with the provisions of this Act as if no application under section 15 had been made.

- (2) For the purpose of sub-section (1), the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, shall be entitled to use all the materials and other information produced by the taxable person before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before such IGST Officer or the First Appellate Authority, as the case may be, or held or recorded by him in the course of the proceedings before him.
- (3) For the purposes of the time limit under section 51 or section 79, as the case may be, of the CGST Act and for the purposes of interest under section 36 of the said Act, in a case referred to in sub-section (1), the period commencing on and from the date of the application to the Settlement Commission under section 15 and ending with the date of receipt by the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, of the order of the Settlement Commission sending the case back to the jurisdictional IGST officer or the First Appellate Authority, as the case may be, shall be excluded.

22. Order of settlement to be conclusive

Every order of settlement passed under sub-section (5) of section 16 shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

23. Bar on subsequent application for settlement in certain cases

- (1) Where-

- (i) after the passing of an order of settlement under sub- section (5) of section 16, in relation to a case, such person is convicted of any offence under this Act in relation to that case; or
 - (ii) the case of such person is sent back to the jurisdictional IGST Officer or the First Appellate Authority, as the case may be, by the Settlement Commission under section 21; then, he shall not be entitled to apply for settlement under section 15 in relation to any other matter.
- (2) No person shall be allowed to avail of the facility of settlement under this Chapter more than twice.

24. Rectification of mistakes by Settlement Commission

The Settlement Commission may amend any order passed by it under section 16 so as to rectify any mistake apparent from the record, if such mistake is noticed by the Settlement Commission on its own accord, or is brought to its notice by the jurisdictional IGST officer or the applicant within a period of three months from the date of the order:

Provided that no rectification, which has the effect of enhancing the liability of the applicant, shall be made under this section, unless the Settlement Commission has given notice to the applicant and the jurisdictional IGST officer of its intention to do so and has allowed the applicant and the jurisdictional IGST officer a reasonable opportunity of being heard.

25. Powers of Settlement Commission

- (1) The Settlement Commission shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908 (5 of 1908).
- (2) The Settlement Commission shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974), and every proceeding before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code (45 of 1860).

26. Procedure of Settlement Commission

The Settlement Commission shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under the Act.

CHAPTER– IX MISCELLANEOUS

27. Application of certain provisions of the CGST Act, 2016

The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of services, exemption from payment of tax, input tax credit and utilization thereof, accounts and records, payment, return, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016.

28. Power to make rules

- (1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may
 - (i) provide for settlement of cases in accordance with Chapter VIIA of this Act;
 - (ii) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

29. Interest on delayed payment of tax

- (1) Every person liable to pay tax in accordance with the provisions of this Act or rules made there under, who fails to pay the tax or any part thereof to the account of the Central Government within the period prescribed, shall, on his own, for the period for which the tax or any part thereof remains unpaid, pay interest at such rate as may be notified, on the recommendation of the Council, by the Central Government.
- (2) The interest under sub-section (1) shall be calculated from the first day such tax was due to be paid.
- (3) In case a taxable person makes an undue or excess claim of input tax credit under sub-section (10) of section 29 of the CGST Act, he shall be

liable to pay interest on such undue or excess claim at the prescribed rate for the period computed in the manner prescribed.

30. Tax wrongfully collected and deposited with the Central or a State Government

A taxable person who has paid IGST on a transaction considered by him to be an interstate supply, but which is subsequently held to be an intra-state supply, shall, upon payment of CGST and SGST in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.

CHAPTER– X

TRANSITIONAL PROVISIONS

31. Import of services or inter-state supply of goods and/or services made on or after the appointed day

Notwithstanding anything contained in section 12 and 13 of the CGST Act, import of services or inter-state supply of goods and/or services made after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services or inter-state supply had been initiated before the appointed day:

Provided that if the tax on such import or inter-state supply had been paid in full under the earlier law, no tax shall be payable on such import or inter-state supply under this Act:

Provided further that if the tax on such import of services had been paid in part under the earlier law, balance amount of tax shall be payable on such import or inter-state supply under this Act.

Explanation.- For the purpose of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

CHAPTER- XI

ADMINISTRATION

32. Classes of officers under the Integrated Goods and Services Tax Act, 2016

(1) There shall be the following classes of officers under the Integrated Goods and Services Tax Act, 2016 namely;

- (a) Principal Chief Commissioners of IGST or Principal Directors General of IGST,
- (b) Chief Commissioners of IGST or Directors General of IGST,
- (c) Principal Commissioners of IGST or Principal Additional Directors General of IGST,
- (d) Commissioners of IGST or Additional Directors General of IGST,
- (e) First Appellate Authority
- (f) Additional Commissioners of IGST or Additional Directors of IGST,
- (g) Joint Commissioners of IGST or Joint Directors of IGST,
- (h) Deputy Commissioners of IGST or Deputy Directors of IGST,

- (i) Assistant Commissioners of IGST or Assistant Directors of IGST, and
- (j) such other class of officers as may be appointed for the purposes of this Act.

33. Appointment of officers under the Integrated Goods and Services Tax Act, 2016

- (1) The Board may appoint such persons as it may think fit to be officers under the Integrated Goods and Services Tax Act, 2016.
- (2) Without prejudice to the provisions of sub-section (1), the Board may authorize a Principal Chief Commissioner/Chief Commissioner of Central Goods and Services Tax or a Principal Commissioner/Commissioner of Central Goods and Services Tax or an Additional/Joint or Deputy/Assistant Commissioner of Central Goods and Service Tax to appoint officers of Integrated Goods and Services Tax below the rank of Assistant Commissioner of Integrated Goods and Services Tax Act, 2016.

7. Reports

7.1 Report on Registration

REPORT OF

THE JOINT COMMITTEE ON BUSINESS PROCESS FOR GST

ON

GST REGISTRATION

July 2015

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Report of the Joint Committee on Business Processes for GST on Registration Processes in GST Regime

1.0 Introduction

During the Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also keep in view the Registration and Return requirements necessary for IGST Model. Accordingly, a Joint Committee, in consultation with the Government of India, was constituted on 7th April, 2014 (Annexure-I).

1.1. The Committee held its deliberations on 28th October, 2014, 12th November, 2014, 25th November, 2014, 22nd December, 2014, 2nd and 3rd February, 2015, 19th and 20th February, 2015, 16th and 17th April, 2015 and 7th and 8th July, 2015. The Report of the Joint Committee on Business Processes on Registration was accordingly circulated to all the States. However, this Report was further discussed in the meeting of the Joint Committee on Business Processes held on 22nd and 23rd July, 2015. Some changes were made as per the discussions in the meeting of the Joint Committee on Business Processes held on 22nd and 23rd July, 2015. The report of the Joint Committee on Business Processes on Registration was accordingly finalized. The list of the participants of the meeting of the Joint Committee on Business Processes held on 22nd and 23rd July, 2015 is appended at Annexure-II.

1.2. Registration of a business with the tax authorities implies obtaining a

unique identification code from the concerned tax authorities so that all the operations of and data relating to the business can be agglomerated and correlated. In any tax system this is the most fundamental requirement for identification of the business for tax purposes or for having any compliance verification program. Registration under Goods and Service Tax (GST) regime will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.

2.0 Assumptions

2.1 The business process proposed in this document is based on the following assumptions:

- (1) A legal person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him.
- (2) There will be a threshold of Gross Annual Turnover including exports and exempted supplies (to be calculated on all-India basis¹) below which any person engaged in supply of Goods or Services or both will not be required to take registration. Once a dealer crosses the required threshold or he starts a new business, registration application must be filed within 30 days from the date of the dealer's liability for obtaining such registration. Effective date of registration would be the date of application in all cases i.e. whether the application has been filed within prescribed time limit of 30 days or otherwise. The taxpayer would be eligible for ITC in respect of all his purchases from the date of

¹ Please refer Para 7 of the **Report of the Committee on the Problem of Dual Control, Threshold and Exemptions in GST Regime (Annexure-VIII)**

application in case application for registration has been filed within 30 days. The taxpayer would, however, not be eligible for ITC in respect of his purchases prior to the date of registration in case the registration application is not filed within the prescribed time limit of 30 days, although Centre is of the view that such a provision may not stand the test of judicial scrutiny. On the other hand States, based on their experience under VAT, were of the view that having relevant provision in the GST law has helped them contest cases in courts. **GST Law Drafting Committee to make provision relating to eligibility for ITC accordingly as well as for levying penalty in case of a dealer failing to register within the stipulated time period.**

(3) However, such person with all-India gross annual turnover below the threshold turnover would be allowed to take registration, if he wants to. By taking such voluntary registration he can enter the credit chain even prior to crossing the threshold limit, provided he does not opt for the Compounding scheme (as defined below).

(4) There will be another relatively higher threshold of Gross Annual Turnover (to be calculated on all-India basis) to be called Compounding turnover up to which the registered person can opt to pay tax at a specified percentage of the turnover, without entering the credit chain. Such registered person will neither be allowed to collect tax from his customers nor claim any input tax credit. Compounding dealers shall remain under compounding scheme till their turnover crosses threshold or they opt for out of the scheme. Such dealers don't have to apply every year to remain under the compounding scheme. However, if the compounding dealer opts out of compounding in a financial year, for any reason, but eligible and wish to avail compounding in the next financial year, such dealer will have to apply afresh for compounding in the beginning of the financial year in which he wishes to claim compounding scheme.

(5) All other taxable persons will be required to take GST registration. Such persons will be able to take the credit of taxes paid on inputs / input services

/ capital goods and pass on the credit of GST to his customers / recipients of goods or services or both.

(6) The registered person eligible for the Compounding scheme but opting against the Compounding can pay regular taxes and file tax returns on monthly basis, and thereby make his supplies eligible for input tax credit in the hands of the purchasers/recipients.

(7) Irrespective of turnover, if a taxable person carries out any inter-state supply and / or is liable to pay GST under reverse charge, he will be compulsorily required to take registration. Such person shall neither be eligible for exemption threshold nor for Compounding scheme. **However, an individual importing services for personal consumption will not be liable to pay GST under reverse charge or register under GST if the GST law so provides.**

(8) All UN bodies seeking to claim refund of taxes paid by them would be required to obtain a unique identification number (ID) from the GST portal. The structure of the said ID would be uniform across the States in uniformity with GSTIN structure and the same will be common for the Centre and the States. The supplier supplying to these organizations is expected to mention the UID on the invoices and treat such supplies as B2B supplies and the invoices of the same will be uploaded by the supplier.

(9) A unique identification number (ID) would be given by the respective state tax authorities through GST portal to Government authorities / PSUs **not making outwards supplies of GST goods (and thus not liable to obtain GST registration)** but are making inter-state purchases. The structure of the said ID would be uniform across the States in uniformity with GSTIN structure. The supplier supplying to these organizations is expected to mention the UID on the invoices and treat such supplies as B2B supplies and the invoices of the same will be uploaded by the supplier.

(10) **The concept of Input Service Distributor (ISD) presently being followed in Centre's Law may continue if the GST Law so provides.** They would be required to obtain GSTIN for distributing the credit of GST paid on services proposed to be used at multiple locations which are separately registered. This would be an exception/ deviation in case of services only. **GST Law Drafting Committee to make appropriate provisions for the same.**[While, at this stage it has been decided to make exception only for services, it is worth mentioning here that the Cenvat Credit Rules provide for a mechanism to allow distribution of inputs, which is basically a mechanism to distribute credit on inputs. Such mechanism is necessary for service provider as the location of payment of GST may be distinct from the location where goods are received. Therefore, drafting Committee may look into this issue.]

(11) All existing registered persons, whether with the Centre or State under any of the tax statutes being subsumed in GST, would be allotted a GST registration number called Goods and Services Tax Identification Number (GSTIN) on voluntary basis. Dealers who are below the GST threshold will have option to remain in GST chain. **GST Law Drafting Committee to make appropriate provision.**

(12) Tax authorities, in case of enforcement cases, may grant suo-moto registration. If such person does not have PAN, the registration would be initially temporary and later converted into a PAN based registration. [GSTN to develop temporary registration numbering system]

2.2 For each State the taxable person will have to take a separate registration, even though the taxable person may be supplying goods or services or both from more than one State as a single legal entity.

2.3 Multiple registrations within one State to business verticals [as defined in Accounting Standard (AS) 17 issued by ICAI] of a taxable person may also be permitted, subject to all the verticals being on the same scheme of tax treatment **if the GST Law so provides.**

2.4 A supplier who is not registered on regular basis, whether on mandatory or voluntary basis, in other State (s) and desires to conduct business in a particular State for a limited period, will have to obtain registration in that State for that limited period. Such suppliers are known as casual dealers and shall not be allowed to opt for composition scheme. However, the supplier would be eligible to claim ITC on purchases / inward supplies. The period of registration would be mentioned in the registration certificate also. The format of Registration Certificate for such taxpayers is different from the regular taxpayers. Even the application form for registration will have field for ascertaining estimated supplies. Return for such taxpayers would also be different. Such taxpayers would be required to self-assess their likely liability and deposit the same as an Advance Tax. Such amount would be deposited by way of two Demand Drafts (one for Centre and other for State) which would be returned to the taxpayer after he has discharged his final liability. **The GST Law Drafting Committee may provide for conditions for registration and tax payment.**

2.5 A Non-resident Supplier is a person who, in the course of business, makes an intra-state supply of goods or services or both, but is not a resident in the state in which he has applied for registration, but is already registered in any other state. Since the Non-Resident Supplier is already registered in another State, there would be an easy way of registering such entities in the State in which registration is applied as Non-Resident Supplier. The provisions applicable on casual dealers (as detailed in para 2.4 above) may apply to them except that no security deposit

or advance tax collection may be made in their case.

3.0 Structure of registration number

3.1 Each taxpayer will be allotted a State wise PAN-based 15-digit Goods and Services Taxpayer Identification Number (GSTIN).

3.2 Various digits in GSTIN will denote the following:

State Code		PAN										Entity Code	BLANK	Check Digit
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

3.3 In the GSTIN, the State Code as defined under the Indian Census 2011 would be adopted. In terms of the Indian Census 2011, each State has been allotted a unique two digit code e.g. „09“ for the State of Uttar Pradesh and „27“ for the State of Maharashtra.

3.4 13th digit would be alpha-numeric (1-9 and then A-Z) and would be assigned depending on the number of registrations a legal entity (having the same PAN) has within one State. For example, a legal entity with single registration within a State would have „1“ as 13th digit of the GSTIN. If the same legal entity goes for a second registration for a second business vertical in the same State, the 13th digit of GSTIN assigned to this second entity would be „2“. This way 35 business verticals of the same legal entity can be registered within a State.

3.5 14th digit of GSTIN would be kept BLANK for future use.

3.6 In GST regime, multiple registrations within a State for business verticals of a taxable person would be allowed. This provision should be subject to following specific stipulations –

(1) Input Tax Credit across the business verticals of such taxable persons shall not be allowed unless the goods or services are actually supplied across the verticals.

(2) For the purpose of recovery of dues, all business verticals, though separately registered, will be considered as a single legal entity. **(Final view needs to be taken by the GST Law drafting committee)**

3.7 Switching over from Compounding scheme to Normal scheme and *vice-versa* would be dealt in the manner described below –

(1) Any existing taxpayer not under Compounding scheme may opt for Compounding scheme, if eligible, only from the beginning of the next Financial Year. The application will have to be filed on or before 31st March of the previous year so that Returns can be filed accordingly.

(2) Compounding dealer may be allowed to switch over to Normal scheme even during the year if they so want, with a condition that they cannot switch over to Compounding scheme again during the same financial year.

(3) Any existing taxpayer under the Compounding scheme upon crossing the Compounding threshold will be switched over to the Normal scheme automatically from the day following the day of crossing the Compounding threshold. **GST Law drafting committee should provide for a suitable time-period of inputs and capital goods purchases on which ITC would be permitted at the time of switching over to Normal scheme.**

(4) For the changes covered by (1) to (3) above, the validation in the return module should change automatically under intimation to the concerned taxpayer and both the tax authorities. A suitable validation

/ dependency of the return module should be established.

The above changes should also be published on the common portal in addition to being intimated to other taxpayers who have identified such taxpayer as their counter-party taxpayer.

4.0 Procedure for obtaining Registration

4.1 For obtaining registration, all the taxable persons shall interact with tax authorities through a common portal called GST Common Portal² that would be set up by Goods and Services Tax Network (GSTN). The portal will have backend integration with the respective IT systems of the Centre and States.

4.2 The procedure prescribed in para 6.0 below is meant for new applicants. The procedure for migration of existing registrants either with the Centre or State or both is dealt in para 7.0 below.

4.3 A new applicant would be allowed to apply for registration without prior enrollment. Once a complete application is submitted online, a message asking for confirmation will be sent through e- mail and SMS to the authorized signatory of the applicant. On receipt of such confirmation from the authorized signatory, Acknowledgement Number would be generated and intimated to the applicant. Once the application is approved and GSTIN is generated, the same along

² Refinement to the process for States opting for two-way API based integration and flexibility (decision dated 18.4.2012 of EC) will be formulated separately(**Annexure-IX**).

with Log-in ID and temporary Password will be sent to the authorized signatory. This credential will be permanently used to access the GST Common Portal subsequently. Provision for capturing e-mail and Mobile Number of authorized

representative of the taxpayer has also been incorporated in the proposed GST Registration Form. It would be the responsibility of the taxpayer to keep this information updated.

4.4 Online verification of PAN of the Business / Sole Proprietor/ Partner/Karta/**Managing Director and whole time directors**/Member of Managing Committee of Association, Managing trustee/authorized signatory etc. of the business would be mandatory and without such verification, registration application will **not be allowed to be submitted**.

5.0 Facilitation Center and Tax Return Preparer Scheme

5.1 In order to cater to the needs of taxpayers who are not IT savvy, following facilities shall be made available:-

5.2 Tax Return Preparer (TRP): A taxable person may prepare his registration application / returns himself or can approach the TRP for assistance. TRP will prepare the said registration document / return in prescribed format on the basis of the information furnished to him by the taxable person. The legal responsibility of the correctness of information contained in the forms prepared by the TRP will rest with the taxable person only and the TRP shall not be liable for any errors or incorrect information. **If so provided in the GST law, TRPs would be approved by the tax administration of the Centre and the States and will also be provided appropriate training by them, as per common curriculum to be devised by EC/ GST Council.**

5.3 Facilitation Centre (FC) shall be responsible for the digitization and / or uploading of the forms and documents including summary sheet duly signed by the Authorized Signatory and given to it by the taxable person. After uploading the data on common portal using the ID and Password of FC, a print-out of acknowledgement will be taken and signed by the FC and handed over to the taxable person for his records. The FC will scan and upload the summary sheet

duly signed by the Authorized Signatory. This is the system in vogue for submitting TDS returns by more than 2 million tax deductors to the Income Tax Department.

5.4 Registration of TRP/FC is recommended. Final view may be taken by the GST Law drafting committee on the same.

6.0 New Applicants

6.1 The process highlighted in the paragraphs below is applicable for new applicants for registration, both mandatory and voluntary.

6.2 New applicant can apply for registration:

(1) at the GST Common Portal directly³; or

(2) at the GST Common Portal through the Facilitation center (FC) separately(**Annexure-IX**)

Multiple applications can be filed at one go where a taxable person seeks registration in more than one State or for more than one business vertical located in a single / multiple State(s).

³ Refinement to the process for states opting for two-way API based integration and flexibility (decision dated 18.4.2012 of EC) will be formulated.

6.3 Following scanned documents are required to be filed along with the application for Registration –

Relevant Box No. in the Registration Form	Document required to be uploaded	Reason for requirement
2. Constitution of Business	• Partnership Deed in case of Partnership Firm ; • Registration Certificate in case of other businesses like Society, Trust etc. which are not captured in PAN.	In case of Companies, GSTN would strive for online verification of Company Identification Number (CIN) from MCA21. Constitution of business / applicant as per PAN would be taken except for businesses such as Society, Trust etc. which are not captured in PAN. Partnership Deed would be required to be submitted in case of Partnership Firms.
11. Details of the Principal Place of business	• In case of Own premises – any document in support of the ownership of the premises like Latest Tax Paid Receipt or Municipal Khata copy or Electricity Bill copy • In case of Rented or Leased premises – a copy of the valid Rent / Lease Agreement with any	This is required as an evidence to show possession of business premises. If the documentary evidence in Rent Agreement or Consent letter shows that the Lessor is different from that shown in the document produced in support of the ownership of the property, then the case must be flagged as a “Risk

	document in support of the ownership of the premises of the Lessor like Latest Tax Paid Receipt or Municipal Khata copy or Electricity Bill copy • In case of premises obtained from others, other than by way of Lease or Rent – a copy of the Consent Letter with any document in support of the ownership of the premises of the Consenter like Municipal Khata copy or Electricity Bill copy • Customer ID or account ID of the owner of the property in the record of electricity providing company, wherever available should be sought for address verification.	Case”, warranting a post registration visit for verification. GST Law Drafting Committee may add penalty provision for providing wrong lease details.
12. Details of Bank Account (s)	Opening page of the Bank Passbook held in the name of the Proprietor / Business Concern – containing the Account No., Name of the Account Holder, MICR and IFS Codes and Branch details	This is required for all the bank accounts through which the taxpayer would be conducting business.
17. Details of Authorised Signatory	For each Authorised Signator • Letter of Authorisation or copy of Resolution of the Managing Committee or Board of Directors to that effect	This is required to verify whether the person signing as Authorised Signatory is duly empowered to do so.
Photograph	• Proprietary Concern – Proprietor • Partnership Firm / LLP – Managing/ Authorized	

	Partners (personal details of all partners is to be submitted but photos of only ten partners including that of Managing Partner is to be submitted) • HUF – Karta • Company – Managing Director or the Authorised Person • Trust – Managing Trustee • Association of Person or Body of Individual –Members of Managing Committee (personal details of all members is to be submitted but photos of only ten members including that of Chairman is to be submitted) • Local Body – CEO or his equivalent • Statutory Body – CEO or his equivalent • Others – Person in Charge

6.3.1 For Field No 16 (i.e. Details of Proprietor / all partners / Karta / Managing Director and whole-time Director / Members of the Managing Committee of Association of Persons / Board of Trustees etc.) and Field No 17 (i.e. Details of the Authorized Signatory), verification of PAN with CBDT database and GSTN database will be carried out online before the submitted application is sent to the State/ Centre. In case of mismatch the applicant will be given an opportunity to correct the same.

6.4A registration form has been designed and is annexed as Annexure-III. This form should be developed by GSTN as per the standard practices / protocols on IT notified by the Govt. of India e.g. for digitally capturing a postal address, name etc. *In case there is no standard practice for any of the field, the same should be developed by the GSTN and form designed accordingly.* Fields marked by asterisk in the form are mandatory fields and must be filled by the applicant. Separate application forms are to be designed for:

- (1) Multiple registration for business verticals of same legal entity (it must be registered already) within a State;

- (2) Application for registration in more than one State (that can be filed at one go);
- (3) Amendments to existing Registration(s);
- (4) Cancellation of Registration(s);
- (5) Option to avail / withdraw from the Compounding scheme;
- (6) Enrolment of Tax Practitioner or Facilitation Centre if provided for in the GST Law;
- (7) Assignment of Role (by a dealer) to TP/FC, as agent of the dealer if so provided for in the GST Law;
- (8) Application for new registration on account of Succession / Amalgamation / De-merger etc. of existing GST registrants;
- (9) Application by UN bodies for getting a Unique Identification Number (ID).

6.5 In some North-eastern States, individuals (Proprietorship firms) are exempt from Income Tax. However, to obtain GSTIN they will have to obtain a PAN before they can apply for registration under GST. Further Government departments will also be required to obtain PAN if they are required to obtain registration under GST. Under *GST regime, registration will not be allowed without a valid PAN.*

6.6 If applicant files application through the Facilitation Center, then the above procedure shall be followed by him through the FC by making available the requisite documents to the FC. The User ID and Password of taxable person will however be forwarded by portal to the e-mail furnished by the taxable person (that of primary authorized signatory) and by SMS to the mobile number furnished by taxable person or by post, if the taxable person so desires. It will not be sent to FC.

6.7 The GST common portal shall carry out preliminary verification / validation, including real- time PAN validation with CBDT portal, Adhaar No validation with UIDAI, CIN (Company Identification) with MCA and other numbers issued by other Departments through inter-portal connectivity before submission of the application form. Taxpayers would have the option to sign the submitted application using valid digital signatures (if the applicant is required to obtain DSC under any other prevalent law then he will have to submit his registration application using the same). In the absence of digital signature, taxpayers would have to send a signed copy of the summary extract of the submitted application form printed from the portal to a central processing center to be operated by GSTN. The location details of this central processing center would be intimated to the applicant along with the application acknowledgement number. The application will be processed even without waiting for receipt of the signed copy of the summary extract. If the signed copy is not received within 30 days, a reminder will be sent through e-mail and SMS to the authorized signatory through the portal. If the copy is not received within 30 days after such reminder being sent, the system will prompt the concerned tax authority to initiate the action for cancellation of the registration. Such cancellation will have prospective effect i.e. from the date of cancellation. GST portal would acknowledge the receipt of application for registration and issue an Acknowledgement Number which could be used by the applicant for tracking his application. Such Acknowledgement Number would not contain the details of jurisdictional officers.

6.8 The application form will be passed on by GST portal to the IT system of the concerned State/ Central tax authorities for onward submission to appropriate jurisdictional officer (based on the location of the principal place of business) along with the following information –

- (1) Uploaded scanned documents;

- (2) State specific data and documents;
- (3) Details if the business entity is already having registration in other States. This should also include GST compliance rating⁴;
- (4) Details of the PAN(s) of individuals mentioned in the application which are part of the other GST registrations;
- (5) Acknowledgment number stated in para 6.7 above;
- (6) Details of any record of black-listing or earlier rejection of application for common PAN(s).
- (7) Last day for response as per the 3 common working day limit for both tax authorities as set out through Holiday Master.

On receipt of application in their respective system, the Centre / State authorities would forward the application to jurisdictional officers who shall examine whether the uploaded documents (as detailed in para 6.3 above) are in order and respond back to the common portal within 3 common working days, excluding the day of submission of the application on the portal, using the Digital Signature Certificates.

An indicative process for processing of the application by the concerned tax authorities will be drafted and shared separately. Submission of latitude and longitude data in respect of principal place of business will be of help in automatic identification of jurisdictional officer in case of geographically distributed officials mapped on a digital map. However, submission of latitude and longitude would be optional.

⁴ Please refer para 23 IX. Of the report of the committee on IGST and GST on imports (**Annexure-X**)

6.9 After verification, the following situations are possible:

- (1) If the information and the uploaded documents are found in order, the State and the Central authorities shall approve the application and communicate the approval to the common portal within 3 common working days. The portal will then automatically generate the Registration Certificate.
- (2) If during the process of verification, one of the authorities raises some query or notices some error, the same shall be communicated to the applicant either by the Tax Authority directly or through the GST Common Portal and also simultaneously to the other authority and to the GST Common Portal within 3 common working days. The applicant will reply to the query / rectify the error / answer the query within a period informed by the concerned tax authorities (Normally this period would be seven days). A separate sub-process and interactive form for this purpose will have to be designed. On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days. **(time-period that would be allowed to the applicant for rectification of any error will be decided by the GST Law drafting committee)**
- (3) Thereafter the processing of registration application will commence resulting in either grant of registration or refusal to grant registration. If either of the two authorities (Centre or State) refuses to grant registration, the registration will not be granted.
- (4) In case registration is refused, the applicant will be informed about the reasons for such refusal through a speaking order. The applicant shall have the right to appeal against the decision of the Authority. **A**

deeming provision to the effect that rejection of the registration application by one authority amounts to rejection by both Centre and State will need to be incorporated in the GST law.

- (5) The tax authorities in the Centre and State would have a period of 3 common working days to respond to the application, either conveying approval or raising a query. In case any of the authority neither reject the application nor raise a query within 3 common working days, then the registration would be deemed to have been approved by both the authorities and the GST Common Portal will automatically generate the registration certificate. In case either authority raises a query within 3 common working days, applicant will have to respond to the same within next 7 common working days failing which the application will be rejected. After the applicant has responded to the query raised by any authority, a period of another 7 common working days will be given to the authorities to respond to the application. In case any of the authority neither rejects the application nor raises a query during this period, then the registration would be deemed to have been approved by both the authorities and the GST Common Portal will automatically generate the registration certificate.
(**GST law to have provision for the same**)

6.10 The applicant shall be informed of the fact of grant or rejection of his registration application through an e-mail and SMS by the GST common portal. Jurisdictional details would be intimated to the applicant at this stage.

6.11 In case registration is granted, applicant can download the Registration Certificate from the GST common portal. **GST law may provide that GST Registration certificate shall be displayed at the principal place of business of the taxpayer.**

6.12 The GST common portal will provide a risk profile to the tax authorities based on the risk parameters made available by the tax authorities. The Central/State tax authorities will also have their own risk profile based on their

own risk parameters. It was noted that submission of Adhaar No. cannot be made compulsory. Non –submission of Adhaar No. could be one of the risk parameters for deciding about the post registration physical verification. **On the basis of both risk profiles, the jurisdictional officer of tax authorities will take a decision about post registration verification of the application if so provided in the GST Law.**

6.13 GST Law Drafting Committee may provide for appropriate provision for imposition of substantial penalty in cases of fraudulent registrations.

7.0 Migration of existing registrants

7.1 Existing registrants are those who are either registered with States or with the Centre or with both.

7.2 In case of such registrants, the system shall be designed to migrate cleaned and verified data from the existing database to the GST Common Portal and a GSTIN shall be generated. With regard to the migration of data of the existing registrants, following steps are necessary:

- (1) The process of migration of data must be started sufficiently in advance so that the business of existing registrants does not suffer and transition from the present system to GST is smooth.
- (2) At present, tax payers are separately registered with State and/or with Central tax administrations or with both based on their business activity. In the GST regime, a taxpayer will have to obtain State wise registration. Even within a State, the taxpayer may either opt for a single registration or multiple registrations for different business verticals.
- (3) Analysis of registration data available with States and Centre conducted by NSDL and GSTN reveals the following:
 - a) The number of fields in the registration database of various State VAT

and CBEC system are different than that finalized for GST. The number of fields varies from 50 to 107 in case of States/Centre whereas GST Registration Form has 120 fields. Thus there is a gap of 13 to 70 fields, meaning that data will have to be collected from the taxpayers.

- b) As per report of NSDL, which conducted as is study of State Systems as well as that of CBEC, in majority of cases, the available data does not comply with Metadata and Data Standards (MDDS) of Government of India. This is also confirmed by the feedback received from States in May 2015. Importing such data, which is not MDDS compliant, will lead to wrong or incomplete results on query.
- c) The data from States also shows that they do not have scanned copies of supporting documents for mandatory fields like principle place of business, photos of MD or Karta etc. in their database. This again will have to be collected from them.

Since, lots of reports will be using registration database, purity of registration data will be of paramount importance. Migrating half-complete and incorrect data from existing registration databases to GST database will adversely impact the reports and intelligence derived out of it. Thus data will have to be collected afresh from the existing taxpayers. GSTIN can be issued based on State and validated PAN. In case of taxpayers under Excise and VAT, source of data for issuing GSTIN should be VAT data as in most cases Excise assessee will also be registered under VAT. For taxpayers under Service Tax the source of data for issuing GSTIN should be Service Tax.

Out of six mandatory data fields in the GST Registration field, three can be filled up from validated PAN data, namely PAN, name of business, constitution of business. The name of State is known in case of VAT data. The remaining two mandatory data fields namely

„Principal Place of Business“ and „details of promoters“ will have to be collected from taxpayers along with non-mandatory items. In case of Service

Tax, State will have to be collected before generating GSTIN. With this the following process has been suggested:

(4) For Taxpayers Registered under State VAT/Excise

- i. GSTIN will be generated by NSDL in case of all VAT TINs where PAN has been validated. Along with a password the GSTIN will be sent to respective State Tax Authorities.
- ii. State tax authorities will communicate the GSTIN/password to taxpayers, with instruction to log on the GST portal and fill up the remaining data. State specific data over and above what is contained in the GST Registration Form can be collected after GST registration becomes operational.
- iii. The data so collected by GSTN/NSDL will be provided to States so that they can undertake the verification exercise as per their convenience after 1/4/2016 in a staggered manner spread over a period of one to two quarters so that it does not affect the working of the tax authorities. This is being suggested as the dealer is already registered with VAT department.
- iv. In case, PAN has been validated but the email or mobile numbers of dealers are not available, such dealers may be advised through newspaper advertisement to visit the GST portal and use the following data for user authentication:
 1. VAT-TIN
 2. PAN
 3. Date of Birth/Date of Incorporation in DDMMYYYY format. (This data is available with PAN Database)
 - i. Date of birth of proprietor in case of Proprietorship firm.
 - ii. Date of incorporation in case of all other types of dealers.
- v. In those cases where PAN has not been validated, State VAT department will have to collect the taxpayers.

(5) In case of Service Tax, the taxpayers are not registered under a State, a

different approach will have to be adopted.

- I. Since all Service Taxpayers have user ID and password and Service Tax has their email IDs, they may advise the taxpayers to intimate State(s) where they would like to get themselves registered in.
 - II. Service Tax portal will check from GST portal whether GSTIN has been generated for combination of State and PAN of the taxpayer. If not generated, request GST portal to generate the same.
 - III. GST portal will generate the GSTIN and communicate to Service Tax, which will be communicated to the taxpayer asking him/her to provide remaining data at GST Portal.
- (6) Any verification / updation of the information as outlined above would have to be done by the taxable person within a specified period.
- (7) If the verification/updation is not done within the stipulated period, the GSTIN will be suspended till the taxable person does the needful.
- (8) Any verification by State / Central authorities can be done after GSTIN is issued.

8.0 Registration of Compounding Dealers

8.1 Dealers below the Compounding ceiling will be provided with an option of availing the Compounding scheme i.e. they can pay the tax at Compounding rate (to be specified) without entering the credit chain.

8.2 Although the Compounding scheme is only a temporary phase before the taxable person starts functioning as a normal taxable person, separate format annexed as Annexure-V has been prescribed for enabling such taxable persons to opt for Compounding scheme. When the taxable person opts for Compounding

scheme he should indicate so in the registration form and GST Common Portal would internally flag him as a Compounding dealer. Later on when he goes out of the Compounding scheme due to his turnover crossing the Compounding ceiling (change will be triggered by the tax return values) or he opts out of the scheme (through an amendment application annexed as Annexure-VI), the said flag will be removed and he would continue operating with the same registration number, without undertaking any fresh registration.

9.0 Amendments in the Registration Form

9.1 Capturing registration information is not a one-time activity and any change in critical information should be entered at the common portal within a stipulated time period. Except the fields mentioned in Para 7.2 (7) above, changes to other registration data can be done on self-service basis. The changes to fields mentioned in Para 7.2 (7) above and a change to Compounding scheme will require submission of reasons and prescribed relevant documents, and will be subject to approval by the concerned tax authorities. All amendments in the details in registration application form will be retained in the database of the GSTN and will be made visible to the tax authorities.

10.0 Cancellation/Surrender of registration

10.1 In the following cases, the registration can be either surrendered by the registrant or cancelled by the tax authorities:

- (1) Closure of business of tax payer ;
- (2) Gross Annual Turnover including exports and exempted supplies(to be calculated on all-India basis) falling below threshold for registration ;
- (3) Transfer of business for any reason including due to death of the proprietor of a proprietorship firm;
- (4) Amalgamation of taxable person with other legal entities or de-merger;
- (5) Non commencement of business by the tax payer within the stipulated time period prescribed under the GST laws (**Suitable provision**

to be made in the GST law).

10.2 In case of surrender, the system will send an acknowledgment by SMS and e-Mail to the applicant regarding his surrender of registration and he will be deemed to be unregistered from the date of such acknowledgement. There will be a provision in the system to prompt such surrendered registrants to update their address and mobile number at a prescribed periodicity till all dues are cleared/refunds made. Application form for Surrender / Cancellation of registration is annexed as Annexure-IV.

10.3 GST Law drafting committee would make appropriate provision for recovery of arrears, other dues and compliance verification pertaining to past periods.

10.4 The cancellation of registration may be done by tax authorities in the following situations:

- (1) In case signed copy of the summary extract of submitted application form is not received even after a reminder;
- (2) In case a tax payer contravenes specified provision of the GST law;
- (3) In case a taxpayer has not filed any return at all during a predetermined period (say six months). In case a taxpayer has filed a nil return continuously for this period, then the provisions of cancellation will not be applicable.**(GST Law drafting committee should provide for the time period for which if there is a continuous failure by a taxpayer to file returns, the registration shall be cancelled)**
- (4) The cancellation of registration may be preceded by system generated notice giving 7 days" time for furnishing reply by the taxpayer. Principle of natural justice to be followed before cancellation, i.e., giving an opportunity to taxpayer to be heard and passing of order.

10.5 If the taxpayer approaches the tax authority for revocation of surrendered or cancelled registration, the surrendered / cancelled registration can be revoked. The action for revocation would be initiated by that Authority which has cancelled the registration or had earlier accepted the surrender of registration.

10.6 The GST Law would contain appropriate provisions relating to revocation / surrender /cancellation of registration.

10.7 The action for revocation / cancellation of registration would have to be initiated by both Centre and State tax authorities. Once the registration is cancelled by one authority it would be deemed to be cancelled by other authority also.

10.8 The cancellation or surrender of registration would always have prospective effect.

11.0 Explanation of the Entries in the Form (should be attached to the Form)

11.1 The critical information / documents required from the applicant while making the application has been outlined in para 6.3 above. Here the manner of organization of the said information in the registration form (Annexure-III) has been explained.

11.2 The form has fields from 1- 21 requiring various details from the applicant. These fields have been organized so that applicant can introduce himself and the nature of his business to the tax authorities in simple interactive manner. To maintain uniformity in the manner of submission of the form, the fields are provided in the standard conventional manner. These can be adopted from the forms notified by the Information Technology department of the Central and State Governments. For example, the legal name can be either a single field or it could be split into first name, middle name and last name. *In*

case there is no standard practice for any of the fields, the same should be developed by the GST common portal. The form is self-explanatory and has online validation facility before the submission of the form. Wherever possible, drop down menu will be provided so that the form is user friendly and there is no dispute about the information submitted.

11.3 The fields marked with asterisk are the critical fields and need to be filled before the form can be submitted to the portal. In case of non-availability of the information such as PAN Number with the applicant, the common portal will direct the applicant to the website of the income tax department where he can submit the application for obtaining the PAN and after obtaining PAN, can apply for registration under GST.

11.4 Fields 1-5 are the basic introductory fields and need no explanation.

11.5 Field 6 is relevant for taxable persons opting for Compounding scheme.

11.6 Field 7 asks for date of commencement of business in the State in which the taxable person is applying for registration. As has been discussed earlier, the taxable person in the GST regime will be required to take State specific single registration for CGST, IGST and SGST purposes (multiple registrations in a state for business verticals are permitted) .

11.7 Field 8 asks for the date on which liability to pay tax has arisen. Field 9 asks for the details of time period for which registration is required by the casual dealers. Field „From“ – „To“ - will be mandatory for casual /non-resident dealers in the registration application. For others field „From“ only would be mandatory. Field 10 captures the reason for such liability. This field would not be enabled in case of registration application by casual/non-resident dealer.

11.8 Field 11 is for the existing registrants. They have to indicate the details of their existing registrations, so that information already available in the respective data bases can be culled out and made use by the tax authorities for granting new registration to the applicant under GST.

11.9 Field 12 asks for the details of the principal place of business of the

applicant. Principal place of Business in the State is the place declared by the taxable person, where-

- (1) He will make available all the records to the tax authorities when called for.
- (2) The tax authorities will serve all the communications, notices, orders etc. and service of the communications, notices and orders at this place will be treated as legal service of such communications, etc.

11.10 Field 13 seeks the details of the Bank Accounts of the applicant. The taxable person is required to disclose the details of all the bank accounts maintained by him for conducting his business.

11.11 Field 14 and 15 ask for the details of top 5 goods or services (**in terms of turnover or any other parameter to be specified by the GST Law drafting Committee**) which taxable person is supplying or likely to supply.

11.12 Field 16 captures details of the additional places of business. In this field the applicant has to give the details of all the places from where he conducts the business.

11.13 Field 17 asks for the details of Proprietor, partners, Karta, Directors, Member of Managing Committee of Association, Managing trustee etc. of the business depending on the constitution of the business.

11.14 Field 18 asks for the details of the authorized signatory.

11.15 Field 19 asks for the details of authorized representative (TRP / CA/ Advocate, etc.) of the taxpayer.

11.16 Field 20 is kept to capture any State specific information, **if so provided in the GST law.**

11.17 Field 21 is required to capture the scanned documents (as mentioned in para 6.3. above) required to be uploaded along with the application

11.18 Field 22 is the field for verification and declaration made by the applicant about correctness of the information submitted by him in the

registration application.

(Satish Chandra)
Member Secretary
Empowered Committee
of State Finance Ministers

(Rashmi Verma)
Additional Secretary
Department of Revenue
Government of India

**ANNEXURE-
I**

**CONSTITUTION ORDER OF JOINT COMMITTEE ON BUSINESS
PROCESSES FOR GST**

EMPOWERED COMMITTEE OF STATE FINANCE MINISTERS

DELHI SECRETARIAT, IP ESTATE, NEW DELHI – 110002

Tel. No. 2339 2431, Fax: 2339 2432 e-mail: vatcouncil@yahoo.com

No.15/45/EC/GST/2014/32

Date: 7th April, 2014

JOINT COMMITTEE ON BUSINESS PROCESSES FOR GST

During the last Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also keep in view the Registration and Return requirements necessary for IGST Model. Accordingly, a Joint Committee, in consultation with the Government of India, is constituted with the following members:

Government of India

- (1) Smt. Rashmi Verma, Additional Secretary (Revenue) -- Co-convener
- (2) Shri P.K. Mohanty, Joint Secretary (TRU-I)
- (3) Shri M. Vinod Kumar, Joint Secretary (TRU-II)
- (4) Shri J.M. Kennedy, Director (TRU-II)
- (5) Director/Deputy Secretary holding the charge of
State Taxes Section

States Government

- (1) Dr. J.B. Ekka, Commissioner of Taxes, Assam
- (2) Shri Prashant Goyal, Commissioner, Trade & Taxes, Delhi
- (3) Shri H.V. Patel, Commissioner, Commercial Tax, Gujarat
- (4) ShriSudhirRajpal, Commissioner, Excise & Taxation, Haryana
- (5) ShriKifayatHussainRizvi, Commissioner, Commercial Tax, J&K
- (6) Shri Ajay Seth, Commissioner, Commercial Tax, Karnataka
- (7) ShriShyamJagannathan, Commissioner, Commercial Tax, Kerala
- (8) ShriAmitRathore, Commissioner, Commercial Tax, Madhya Pradesh

(9) Dr. Nitin Kareer, Commissioner, Sales Tax, Maharashtra

- (10) ShriAbhishekBhagotia, Commissioner, Commercial Tax, Meghalaya
- (11) Shri Manoj Ahuja, Commissioner, Commercial Tax, Odisha
- (12) Shri Sanjay Malhotra, Commissioner, Commercial Tax, Rajasthan
- (13) Shri K. Rajaraman, Commissioner, Commercial Tax, Tamil Nadu
- (14) Shri M.K. Narayan, Commissioner, Commercial Tax, Uttar Pradesh
- (15) ShriDilipJawalkar, Commissioner, Commercial Tax, Uttarakhand
- (16) ShriBinod Kumar, Commissioner, Commercial Tax, West Bengal

Empowered Committee of State Finance Ministers

(1) Shri Satish Chandra, Member Secretary -- Co-convener

2. The Committee will submit its report to the Empowered Committee in two months time.

Sd/-

(Satish Chandra)
Member Secretary
Empowered Committee of
State Finance Ministers

Copy to: All the Members of the Joint Committee

Copy also to:

- (1) PS to Chairman, Empowered Committee of State Finance Ministers
- (2) Adviser to Chairman, Empowered Committee of State Finance Ministers
- (3) Sr.A.O./OSD/F.O./A.O., Empowered Committee of State Finance Ministers

**ANNEXURE-
II**

**LIST OF PARTICIPANTS OF THE MEETING HELD ON 22ND AND 23RD
JULY, 2015**

Government of India

1. Smt. Rashmi Verma, Additional Secretary (Revenue), Government of India
2. Shri Rajeev Yadav, Director (Service Tax), CBEC, Government of India
3. Shri B.B. Agrawal, Principal Commissioner, CBEC, Government of India
4. Shri Upender Gupta, Commissioner, GST, CBEC, Government of India
5. Shri M.K. Sinha, Commissioner (LTU), Audit, CBEC, Government of India
6. Shri G.D. Lohani, Commissioner, CBEC, Government of India
7. Shri Ravneet Singh Khurana, Deputy Commissioner, CBEC, Government of India
8. Shri Sachin Jain, Additional Commissioner, CBEC, Government of India
9. Shri P.K. Manderna, Superintendent (GST Cell), Government of India

States

1. Shri Gautam Das Gupta, Deputy Commissioner of Taxes, Assam
2. Shri T. Ramesh Babu, Additional Commissioner, Commercial Tax, Andhra Pradesh
3. Shri Arun Kumar Mishra, Joint Secretary, Finance, Bihar
4. Shri Santosh Kumar Sinha, Additional Commissioner, Commercial Tax, Bihar
5. Shri Deepak Kanan, Additional Commissioner, Commercial Tax (GST), Bihar
6. Shri R.K. Trivedi, Additional Commissioner, Commercial Tax, Chhattisgarh
7. Shri Kishor Bhalla, Deputy Commissioner (VAT), Daman & Diu and Dadra & Nagar Haveli
8. Shri Vijay Kumar, Commissioner (VAT), Trade and Taxes, Delhi
9. Shri Jagmal Singh, Deputy Director, Trade and Taxes, Delhi
10. Shri Dipak M. Bandekar, Additional Commissioner, Commercial Tax, Goa
11. Dr. P.D. Vaghela, Commissioner, Commercial Tax, Gujarat
12. Ms. Aarti Kanwar, Special Commissioner, Commercial Tax, Gujarat
13. Shri Shyamal Misra, Commissioner, Excise & Taxation, Haryana
14. Shri Hanuman Singh, Additional Commissioner, Excise & Taxation, Haryana
15. Shri J.C. Chauhan, Commissioner, Excise & Taxation, Himachal Pradesh
16. Shri P.K. Bhat, Additional Commissioner, Commercial Tax, Jammu & Kashmir
17. Smt. Nidhi Khare, Secretary-cum-Commissioner, Commercial Tax, Jharkhand
18. Dr. M.P. Ravi Prasad, Joint Commissioner, Commercial Tax, Karnataka
19. Dr. Rajan Khobragade, Commissioner, Commercial Tax, Kerala
20. Shri M.I. Mansur, Assistant Commissioner, Commercial Tax, Kerala
21. Shri Sudip Gupta, Deputy Commissioner, Commercial Tax, Madhya Pradesh
22. Shri P. Velrasu, Special Commissioner, Sales Tax, Maharashtra
23. Shri B.V. Borhade, Joint Commissioner, Sales Tax, Maharashtra
24. Shri P.M. Kulkarni, Deputy Commissioner, Sales Tax, Maharashtra
25. Shri K. Sanglawma, Commissioner of Taxes, Mizoram
26. Shri H. Rangthanmawia, Superintendent of Taxes (GST Cell), Mizoram
27. Shri Niten Chandra, Commissioner, Commercial Tax, Odisha

28. Shri Sahadev Sahoo, Joint Commissioner, Commercial Tax, Odisha
29. Shri K. Sridhar, Deputy Commissioner, Commercial Tax, Puducherry
30. Dr. Karthik, Additional Secretary, Punjab
31. Shri Pawag Garg, Additional Commissioner, Excise & Taxation, Punjab

32. Shri Vaibhav Galriya, Commissioner, Commercial Tax, Rajasthan
33. Shri Manoj Rai, Joint Commissioner, Commercial Tax, Sikkim
34. Shri D. Soundraraja Pandian, Joint Commissioner (Taxation), Commercial Taxes, Tamil Nadu
35. Shri K. Chandrasekhar Reddy, Additional Commissioner, Commercial Tax, Telangana
36. Shri Vikas Singh, Commissioner of Taxes and Excise, Mizoram
37. Shri Vivek Kumar, Additional Commissioner, Commercial Tax, Uttar Pradesh
38. Shri Abhijit Gupta, Commercial Tax Officer (IT), Uttar Pradesh
39. Shri N.C. Sharma, Additional Commissioner, Commercial Tax, Uttarakhand
40. Smt. Ujjaini Datta, Joint Secretary, Finance, West Bengal

Goods and Services Tax Network (GSTN)

1. Shri Navin Kumar, Chairman, Goods and Services Tax Network
2. Shri Prakash Kumar, Chief Executive Officer, Goods and Services Tax Network

Empowered Committee of State Finance Ministers

1. Shri Satish Chandra, Member Secretary, Empowered Committee
2. Shri Bashir Ahmed, Adviser, Empowered Committee

**ANNEXURE-
III
Form GST –**

[See Rule __]

Application for Registration under Goods and Services Tax Act, Year

1	Legal Name of Business*	
1A	Trade Name (optional)	

2	Constitution of Business (Please Select the Appropriate)*

Proprietorship	☐	Partnership	☐
Hindu Undivided Family	☐	Private Limited Company	☐
Public Limited Company	☐	Society/Club/Trust/Association of Persons	☐
Government Department	☐	Public Sector Undertaking	☐
Unlimited Company	☐	LLP"s	☐
Local Authority	☐	Statutory Body	☐
Others (Please Specify)	☐		

In case of Proprietorship*

3	Name of Proprietor										
4	PAN of the proprietor										

In case of other Businesses*

4A	PAN of the Business										

5	Name of the State and its Code*	Drop down for Name of State & Codes	

6	Option For Composition	Yes ☐ No ☐	☐

7	Date of commencement of business								
		D	D	M	M	Y	Y	Y	Y
8	Date on which liability to pay tax arises	D	D	M	M	Y	Y	Y	Y
9	Estimated supplies (in case of casual dealers)								
	Period for which registration is required – From								
	To								
10	Reason of liability to obtain registration (from the dropdown)								

(1) Due to crossing the Threshold

- (2) Due to inter-State supply
- (3) Due to liability to pay as recipient of services
- (4) Due to being Input Service Distributor (ISD)
- (5) UN bodies for allotment of Unique Identification Number (ID)
- (6) Due to transfer of Business which includes change in the ownership of business (if transferee is not a registered entity)
- (7) Due to death of the Proprietor (if the successor is not a registered entity)
- (8) Due to de-merger
- (9) Due to change in constitution of business
- (10) Due to Merger /Amalgamation of two or more registered taxpayers
- (11) Being casual Dealer
- (12) Being Non resident Dealer
- (13) None of the above – on voluntary basis

11 Indicate Existing Registrations

	Yes/No	Registration Details
Central Excise		
Service Tax		
State VAT Registration (TIN)		
CST Registration No		
IEC No.(Importer Exporter Code Number)		
Corporate Identity Number (CIN)		
GSTIN		

12 Details of Principal Place of Business*

ADDRESS																				
Building No/Flat No/Door No								Floor No												
Name of the Premises/Building								Road/Street/Lane												
Locality/Area/Village								District/Town/City												
Latitude (optional)								Longitude (optional)												
PIN Code																				
CONTACT DETAILS																				
Telephone number											Fax Number									
Mobile Number																				
Email Address																				
Nature of possession of premises																				
Owned	☐	Leased	☐	Rented	☐	Consent	☐	Shared	☐											

Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	☐	Wholesale Business	☐	Retail Business	☐
Warehouse/Deport	☐	Bonded Warehouse	☐	Service Provision	☐
Office/Sale Office	☐	Leasing Business	☐	Service Recipient	☐
EOU/ STP/ EHTP	☐	SEZ	☐	Input Service Distributor (ISD)	☐

Works Contract	☐				

13. Details of Bank Accounts (s)

Total number of Bank Accounts maintained by the applicant for conducting business	

Details of Bank Account 1

Account Number														
Type of Account							IFSC							
Name of the Bank														
Branch and Address of the Bank & Branch	To be auto-populated (Edit mode)													
PIN Code							State							

Details of Bank Account 2

Account Number														
Type of Account														
Name of the Bank														
Branch and Address of the Bank & Branch	To be auto-populated (Edit mode)													
PIN Code											State			

Details 3...n (Multiple fields will be available to capture the details of all the additional Bank A/c)

14 Details of the **Goods/Commodities** supplied by the Business

Please specify top 5 Commodities		
S.N	Description of Goods	HSN Code (4 digit code)
0.		
1		
2		
...		
5		

15 Details of **Services** supplied by the Business.

Please specify top 5 Services		
S. No.	Description of Services	Service Accounting Code
1		

2		

5		

16 Details of Additional Place of Business

Number of additional places	

Premises 1

Details of Additional Place of Business

ADDRESS												
Building No/Flat No/Door No								Floor No				
Name of the Premises/Building								Road/Street/Lane				
Locality/Area/Village								District/Town/City				
PIN Code												
CONTACT DETAILS												
Telephone number									Fax Number			
Mobile Number												
Email Address												
Nature of possession of premises												
Owned	☐	Leased	☐	Rented	☐	Consent	☐	Shared	☐			

Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	☐	Wholesale Business	☐	Retail Business	☐
Warehouse/Deport	☐	Bonded Warehouse	☐	Service Provision	☐
Office/Sale Office	☐	Leasing Business	☐	Service Recipient	☐
EOU/ STP/ EHTP	☐	SEZ	☐	Input Service Distributor (ISD)	☐
Works Contract	☐				

Premises 2.....n (Multiple fields will be available to capture the details of all the additional places of business within the state)

17 Details of Proprietor/all Partners/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc. *

Total Number of Persons

Please provide details in the table below. In case you need more tables, click on add table

- In case of **Proprietorship**: Details of Owner/Proprietor
- In case of **Partnership**: Details of **all Managing/ Authorized Partners** (personal details of all partners but photos of only ten partners including that of Managing Partner is to be submitted)
- In case of **Companies** registered under Companies Act: **Managing Director and**

whole time directors

- In case of **HUF**: Details of **Karta of HUF**

- In case of **Trust**: Details of **Managing Trustee**
- In case of **Association of Persons**: Details of Members of Managing Committee (personal details of all members but photos of only ten members including that of Chairman is to be submitted)
- In case of Local Authority: Details of CEO or equivalent
- In case of Statutory Body: Details of CEO or equivalent
- In case of others: Details of person responsible for day to day affairs of the business

	First Name	Middle Name	Surname
Name of Person			
Name of Father /Husband			
Designation		Date of Birth	
			DDMMYYYY
PAN			
Passport No (in case of foreigners)			
UID No			
DIN No. (if any)			

[illegible]

Residential Address			
Building No/Flat No/Door No		Floor No	
Name of the Premises/Building		Road/Street/Lane	
Locality/Area/Village		District/Town/City	
PIN Code			

Details 2...n (Multiple fields will be available to capture the details of other persons)

18 Details of Authorized Signatory

Number of Authorized Signatory

11

Details of Signatory No. 1

Details of Signatory No. 1																
		First Name				Middle Name				Surname						
Name of Person																
Name of Father / Husband																
Designation						Date of Birth										
										DD		MM		YYYY		
PAN																

UID No													
DIN No. (if any)													
Mobile Number													
E-mail address									Gender	M	☐	F	☐
Telephone No									FAX No				
Residential Address													
Building No/Flat No/Door No								Floor No					
Name of the Premises/Building								Road/Street/Lane					
Locality/Area/Village								District/Town/City					
PIN Code								State					

Details 2....n (Multiple field will be available to capture the details of other authorized persons)

19 Details of Authorized Representative (TRP / CA / Advocate etc.)

	First Name	Middle Name	Surname										
Name of Person													
Status	TRP / CA / Advocate etc.												
Mobile Number													
E-mail address													
Telephone No									FAX No				

20 State Specific

Information a.

Field 1

b. Field

2 c.

d.

e. Field n

21 Document Upload

A customized list of documents required to be uploaded (as detailed in para 6.3 of the process document) as per the field values in the form should be auto-populated with provision to upload relevant document against each entry in the list.

22

Verification

I hereby solemnly affirm and declare that the information given herein above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom

Place

Date

Name of Authorized Signatory

Designation

Instructions to Taxable Person

1. **Field 4:** In case of Proprietary concerns, only PAN of the Proprietor will be required while in case of other business entities, only PAN of the business will be required.
2. **Field 4A:** PAN should be in same name as the Legal Name in Field 1.
3. **Field 6:** If “Yes” option is selected, the applicant will be asked to confirm that the likely all- India annual turnover including exports and exempted supplies during next 12 months (**depending on the exact legal formulation to be made by the GST Drafting Law Committee**) is below Rs. Lakh.
4. **Field 17:** In case of multiple authorized signatories provided by the Dealer, any one of them can sign this form as Authorized Signatory
5. **Field marked with * are mandatory fields.** Any changes in these fields require approval from proper officer.

All communication will be made to the Mobile Number and e-mail mentioned in Principal Place of Business.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Suggestions for System Development

1. Pin Code should be the field requiring primary data, and the other two field should get auto- populated (based on master values) with option to enter locality/area/village if that is not in the portal master. Alternatively, a validation between PIN Code and Locality/Area/Village and District/Town/City should be inbuilt.
2. For Field No 17 (i.e. Details of Proprietor / all partners / Karta / Managing Director and whole-time Director / Members of the Managing

Committee of Association of Persons / Board of Trustees etc.) and Field No 18 (Details of the Authorised Signatory) providing PAN would be mandatory for Indian nationals. For foreign national passports details would be required.

3. In Field 10, there should be an option to enter details of multiple entities which are merged and the application is on behalf of the merged entity
4. In Field No. 9 (Period for which registration is required – From/ To) validity period of registration is captured. The “From Date” is mandatory for all dealers but the “To Date” should be mandatory only for Casual/non-resident Dealers. Following validation needs to be built in
 - ☐ Inserting of a radio buttons – Whether regular dealer or Casual/non-resident dealer
 - ☐ In case of Casual/non-resident dealer – both from date and to date are enabled, and both are mandatory fields. Further, the “from date” could be retrospective date (in view of para 2.1 (2)).
 - ☐ In case of Regular dealer – only from date is enabled and is mandatory and this could be retrospective date (in view of para 2.1 (2)).
 - ☐ Further, the system must be able to display all the previous registrations obtained as Casual/non-resident Dealer with from date and to date and the LVO in which he was registered and arrears of amounts if any standing in his name.
5. Field No. 10 (Reason of liability to obtain registration) should not be enabled for casual dealers. Voluntary registration is to be enabled.
6. Field No. 11 (Indicate existing registrations) – Following state specific fields need to be captured:
 - ☐ Professions Tax E.C. No.
 - ☐ Professions Tax R.C. No.
 - ☐ State Excise License No. and the name of the person in whose name Excise Licence is held.
7. For Field No. 12 (Details of Principal Place of Business) and Field o. 16 (Details of Additional Place of Business), it is required to display the earlier places of business – i.e. Address, From date and To date from

the History Table, for the efficiency of tax administration. Though this may not be useful in new registrations, it is required in case of amendments, when the addresses are changed, additional places are added or deleted. This would not need modification in the registration format and business process, but the software/ database should take care of the displaying these details when an amendment form is being filled or when the departmental officer views it. In case of casual dealers, principal place of business will be the place where he will run his business.

8. For Field No. 14 (Details of Goods/ Commodities supplied by the Business) history of existing/ deleted/ added commodities and services with from date and to date needs to be captured by the software. This would give a detailed picture of the nature of the commodities dealt by the dealer. Further, it is also better if the dealer identifies one of the commodities/ service as the main commodity/ service, he is dealing in. This is required to match the GST return information with the details obtained from macro-economic parameters and matching with NIC Activity classification, based on which the macro-economic performance is presented.
9. For Field No. 17 (Details of Proprietor/all Partners/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc.) –All changes in Partners or Directors, or Managing Persons, must be kept in the database to enable the jurisdictional officer to see the history of the persons entered earlier, and from date and to date. Photos of maximum of 10 partners including that of Managing Partner is required to be uploaded.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ANNEXURE-IV**Form GST -***[See Rule ____]***Application for Surrender of Registration under Goods and Services Tax Act, Year**

Please file **your tax return** for the tax period in which the effective date of cancellation of your registration falls before applying for cancellation. **Filed no. 2 to 5 would get auto populated on the basis of information mentioned in filed no. 1.**

1. GSTIN														

2. Full Name of Registrant														
3. Trade Name, if any														
4. Address of Principal Place of														
5. Address for correspondence (e-mail, mobile, landline etc.)														

6. Reason for Surrender <u>Tick ☒ one</u>	☐ Discontinuance of business	☐ Closure of incorporated body
	☐ Death of sole proprietor	☐ Dissolution of firm
	☐ Has ceased to be liable to pay tax	☐ Merger
	☐ Amalgamation etc.	☐ Others (specify the reason)

(Note: In case of death of Sole Proprietor application will have to be made by the legal heir / successor manually before the concerned tax authorities)

7. In case of amalgamation or merger, provide particulars of registration in which merged, amalgamated etc.	
(i) GSTIN	
(ii) Name	
(iii) Principal Place of Business	

(The new entity in which the applicant proposes to amalgamate itself must be registered with the tax

authority before the filing of the surrender application. This application can only be made after that.)

8. Date from which registration under -----Act, 20-- is

to be surrendered			/					
	<u>Day</u>			<u>Month</u>			<u>Year</u>	

9. Amount of GST payable in respect of goods / capital goods held on the date of surrender of registration (Rs.)	Turnover	Tax	
		CGST	SGST

10. Details of amount of GST paid as calculated at 9 above. (This needs to be amended in view of maintenance of ITC / Cash Ledger)	i) Date of deposit			-			-				
		Day			Month				Year		
	ii) Challan No.										
	(iii) Name of Bank & Branch										

11. Verification	
(i) I/We hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.	
(ii) I/We undertake to discharge any tax liability which is found to be payable subsequent to the surrender of registration and the tax authorities shall be free to take any action as prescribed in the law.	
Signature of Authorised Signatory	
Full Name	
Designation/Status	

Place																					

Date							
	Day		Month		Year		

[See Rule]

Application to Opt for Composition Scheme

(For existing taxpayer)

Filed no. 2 & 3 would get auto populated on the basis of information mentioned in filed no. 1.

[illegible][illegible]

3. Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	☐	Wholesale Business	☐	Retail Business	☐
Warehouse/Deport	☐	Bonded Warehouse	☐	Service Provision	☐
Office/Sale Office	☐	Leasing Business	☐	Service Recipient	☐
EOU/ STP/ EHTP	☐	SEZ	☐	Input Service Distributor (ISD)	☐

4. Year for which composition scheme is sought							

5. Turnover in the preceding year	(Rs.)								

6. Estimated Turnover in the current year	(Rs.)								

[illegible]

year(provision for capital goods may have to be made if the GST law provides for proportionate credit in case of	(iii) Packaging																			
	(iv) Finished Goods																			
	Total																			

8. Details of Tax paid calculated as per (7) above(This needs to be amended in view of maintenance of ITC / Cash Ledger)	Description										
	(i) Amount of tax paid (Rs.)										
	(iii) Date of Deposit			/			/				
		dd		mm				yyyy			
	(iii) Challan No.										

9. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name (*first name, middle, surname*) _____

Designation/Status _____

Place																				

Date									
	Day		Month		Year				

ANNEXURE-VI

Form GST -

[See Rule]

Application for withdrawal from Composition Scheme

(For existing taxpayer)

Filed no. 2 & 3 would get auto populated on the basis of information mentioned in filed no. 1.

1. GSTIN														

2. Full Name of Applicant Dealer														

3. Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	☐	Wholesale Business	☐	Retail Business	☐
Warehouse/Deport	☐	Bonded Warehouse	☐	Service Provision	☐
Office/Sale Office	☐	Leasing Business	☐	Service Recipient	☐
EOU/ STP/ EHTP	☐	SEZ	☐	Input Service Distributor (ISD)	☐
Works Contract	☐				

4. Date from which withdrawal from composition scheme is sought (dd/mm/yyyy)					-				

5. Turnover in the preceding year / period (Rs.)							

6. Reasons for withdrawal from composition scheme	

7. Input Tax	Description	Turnover (Rs.)	Input Tax Credit (Rs.)

available ongoods purchased and lying in stock on the day of withdrawal from the scheme(provision for capital goods may have to be made if the GST law provides for proportionate			CGST				SGST				IGST			
	(i) Trading Stock													
	(Iii) Raw material													
	(iii) Packaging													
	(iv) Finished Goods													
	Total													

8. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name (*first name, middle, surname*) _____

Designation/Status _____

Place

Date

Day	

Month	

Year			

ANNEXURE-VII

Form GST -

[See Rule]

Application for Amendment(s) in Particulars subsequent to Registration under Goods & Services Act Year

(This form would be used to amend fields mentioned in para 7.2(7) of the Process document as all other fields can be amended on self-service basis)

I GSTIN																				

II Full Name of Dealer																				

III Amendment summary

(Please put field reference in which amendments are sought, date of amendment and reason for amendment(s). attach additional sheets if required)

Field Ref.	Field Name	Date (mm/dd/yy)	Reason(s)

(Please edit /fill in only those following fields that are to be amended)

Complete Registration form should be copied here.

Facilities for uploading scanned documents including photographs (only in .jpg format) etc. needs to be provided.

ANNEXURE-VIII

EXTRACT OF THE REPORT OF THE COMMITTEE ON THE PROBLEM OF DUAL CONTROL, THRESHOLD AND EXEMPTIONS IN GST REGIME

Para 7. The matter was deliberated upon by the Committee. It was felt that the threshold, both for SGST and CGST should be common except for North-eastern States where the threshold could be prescribed at lower level. It was also felt by the Committee that the threshold both for services and goods should be same. However, for inter-state dealers, the threshold should be zero. The threshold should be worked out taking into account both the supply of goods and services on gross turnover basis. Such turnover would include the turnover of exempted goods and services (including non-taxable) and exports. It was also agreed that the turnover so calculated would be applicable for the purposes of Threshold, Compounding Scheme and Dual Control. While the State representatives felt that turnover should be State-wise of a legal entity, the representatives of Government of India strongly felt that it should be All India turnover of a legal entity, otherwise it may lead to tax evasion. It was pointed out by the Centre's representatives that if the turnover of an entity is considered State-wise, the threshold for CGST would increase steeply when calculating the turnover of the entity on an All India basis. This would adversely affect the revenue of the Centre. What would happen is that an entity will open office in States and Union Territories (which are 37 in number) for availing of State-wise threshold for SGST purposes. In such a scenario, the threshold for CGST purposes would work out to Rs. 9.25 Crores (Rs. 25 Lacs * 37). Similar impact would be there for the compounding scheme as well as for the issue relating to dual control. The suggestion of the Central Board of Excise and Customs (CBEC) that legal entity on all India basis should be taken was considered by the Committee and after due deliberations the suggestion was agreed to avoid tax evasion by the manufacturers/traders/dealers.

ANNEXURE-IX

EXTRACT OF THE MINUTES ON REFINEMENT TO THE PROCESS FOR STATES OPTION FOR TWO-WAY API BASED INTEGRATION AND FLEXIBILITY (DECISION DATED 18.04.2012 OF EC) WILL BE FORMULATED SEPARATELY

14. The Chairman, Empowered Committee asked the Member Secretary to indicate the recommendations of the Committee regarding strategic control of the Government on GST Network. The Member Secretary mentioned that a Committee of Principal Secretaries/Secretaries (Finance/Taxation) and Commissioners of Commercial Taxes met on 10th April, 2012 to discuss the various concerns raised by the States regarding GSTN-SPV. Dr. Nandan Nilekani, Chairman, Unique Identification Authority of India and Chairman, Empowered Group on IT Infrastructure for GST kindly agreed to join the discussion of the Committee. He, during the Committee meeting, clarified the position why the Government of India, Empowered Committee and the Empowered Group on IT Infrastructure for GST have recommended for setting up of a Non-profit Section 25 Private Company. During the meeting, concerns were raised regarding flexibility to be provided to the States and the strategic control of the Government on GSTN. After due deliberations, following recommendations were made by the Committee for the consideration of the Empowered Committee:

- (i) Following three options may be made available to the States for usage of services to be provided by GSTN:
 - a. **"Full service model"** where the GSTN will offer the full range of GST services as a utility which the States can utilize.
 - b. **"Limited service model"** where a State will use the GSTN for common registration, return and payments and has its own software for remaining GST functions.
 - c. **"Application Programming Interface (API) model"** where the States will have their own software for flexibility but will, adhere to the common registration, return and payment formats defined by the GSTN (though they may collect additional data) and ensure that the rights of both States and Centre are protected in terms of getting instantaneous information and ensuring timely settlements of their respective share of taxes.
- (ii) The Committee noted that the ownership of the private equity holders will be widely dispersed and hence, the basic control would stay with the

Government. The distinction between ownership and control was also noted.

- (iii) The Committee noted that the Empowered Committee had deliberated on the non- Government status of the SPV in detail in its earlier meetings and taken a considered view to approve it. However, Committee requested that the list of potential private equity partners should be decided in consultation with the Empowered Committee.
- (iv) The Committee noted that the mechanisms recommended by Empowered Group for ensuring strategic control would be adequate. However, the draft Memorandum of Association and Articles of Association incorporating necessary provisions should be placed before the Empowered Committee for consultation before finalisation.
- (v) To provide higher representations to the States, there should be an Advisory Committee of the GSTN-SPV in which all the States should be represented.
- (vi) There should be an exit/sunset clause for dissolving the GSTN-SPV, if both the Centre and the States decide to do so.
- (vii) Any new developments during the process leading to the formation of GSTN SPV should be brought to the notice of the Empowered Committee.

15. The Chairman, Empowered Committee broadly indicated that the strategic control over the SPV will be available by virtue of thinly dispersed private shareholding, the composition of Board of Directors, special resolutions, share holders agreement, induction of deputationists from the Government and agreements between GSTN-SPV and Government, Advisory Committee of GSTN-SPV etc. After due deliberations, the recommendations of the Committee mentioned in para 14 was approved by the Empowered Committee.

16. It was also mentioned by the Member Secretary that during the meeting of the Hon^{ble} Union Finance Minister on 17th April, 2012, the issue regarding finalizing the other details of the formation of the GSTN-SPV came up for discussion. It was felt that the Empowered Group on IT Infrastructure for GST, chaired by Dr. Nandan Nilekani, may also look into this aspect as well. The Empowered Committee accordingly decided to endorse the same.

**ANNEXUR
E-X**

**EXTRACT OF THE REPORT OF THE COMMITTEE ON IGST AND GST
ON IMPORTS**

I. Norms for blacklisting of dealers for blocking tax credits

A system of “GST Compliance Rating” can be introduced. Any fall in the rating below a prescribed level will have impact of blacklisting a dealer. The rating is only a measure to facilitate informed choices by the purchasers and not a punishment measure. There should be clear declaration in the law that blacklisting does not mean that ITC claim on other non-blacklisted dealers is assured by the Government as any eligibility for ITC primarily depends on the selling dealer owning up the tax invoice and paying the due tax. However, if the rating falls below the prescribed level resulting in that dealer becoming blacklisted, purchases from him will no longer be eligible for ITC, on self-assessment basis, (they however will be eligible for availing the ITC only after the tax has been paid by such selling dealers) by the buyers, till improvement of the rating to normal level.

IX.A. Trigger for Blacklisting

- i. Continuous default for 3 months in paying ITC that has been reversed.
- ii. Continuous default of 3 months or any 3 month-period over duration of 12 months in uploading sales details leading to reversal of ITC for others. Defaulters of even a single event should also be flagged and put in public domain as being a potential black listed dealer so as to alert the buyers.
- iii. Continuous short reporting of sales beyond a prescribed limit of 5% (of total sales) for a period of 6 months.

IX.B. Default

Not doing the activity within the prescribed cut off dates. A system of rating the dealers based on their compliance should also be done and put in public domain to inform prospective buyers.

IX.C. Rating and Compliance Profile

There should also be a continuous rating system, provided under model law, for dealers based on parameters such as promptness in e-return filing, discrepancies detected where the dealer has had to make corrections, making prompt payment in lieu of reversed ITC, etc. The profiles for all dealers would be posted in public domain so that the dealer community is kept aware of the compliance profile of all registered dealers with whom they may have to deal with during the course of their business. While the system of blacklisting may only highlight deviant behaviour after it crosses a certain threshold, a system-updated dealer profile will serve as a continuing rating mechanism for the entire community and leaders within a certain industry can set a benchmark for others to emulate.

IX.D. Blacklisting

- i. Only for regulating ITC by others.
- ii. Will be based on dealer rating. A dealer will be blacklisted if dealer rating falls below the prescribed limit.
- iii. To be put in public domain.
- iv. To be notified (auto-SMS) to all dealers who have pre-registered this dealer (black listed now) as their supplier.
- v. To be prospective only (from month next to blacklisting)
- vi. Blacklisted GSTINs cannot be uploaded in purchase details. Corresponding denial of ITC to be supported by suitable provision in the law.
- vii. ITC reversal in hands of the buyer should take place for disowning of any tax invoice with date prior to effect of blacklisting of the seller.
- viii. Once blacklisting is lifted, buyers can avail unclaimed ITC subject to this dealer uploading sales details along with tax and interest.

7.2 Report on Returns

REPORT OF

THE JOINT COMMITTEE ON BUSINESS PROCESS FOR GST

ON

GST RETURNS

October 2015

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1. Introduction

1.1 During the Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also keep in view the Registration and Return requirements necessary for IGST Model. Accordingly, a Joint Committee, in consultation with the Government of India, was constituted on 7th April, 2014.

1.2 The Committee held its deliberations on 28th October, 2014, 12th November, 2014, 25th November, 2014, 22nd December, 2014, 2nd and 3rd February, 2015, 19th and 20th February, 2015, 16th and 17th April, 2015, 7th and 8th July, 2015, 22nd and 23rd July, 2015 and 9th October, 2015. The list of the participants of the last meeting of the Committee held on 9th October, 2015 is appended. (Annexure-I)

1.3 A return is a statement of specified particulars relating to business activity undertaken by the taxable person during a prescribed period. A taxable person has a legal obligation:

- (i) To declare his tax liability for a given period in the return;
- (ii) Furnish details about the taxes paid in accordance with that return; and
- (iii) File correct and complete return within stipulated time frame.

1.4 GST is a self-assessed destination based taxation system. The submission and processing of return is an important link between the taxpayer and tax administration as it is an important tool for:

- (i) Compliance verification program of tax administration;
- (ii) Providing necessary inputs for taking policy decision;
- (iii) Management of audit and anti-evasion programs of tax administration;
- (iv) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation.

1.5 This document lists out the salient aspects of the process related to filing of GST returns.

1.6 There will be common e-return for CGST, SGST, IGST and Additional Tax.

Who needs to file Return in GST regime?

1.7 Every registered person is required to file a return for the prescribed tax period. A return needs to be filed even if there is no business activity (i.e. Nil Return) during the said tax period of return.

1.8 UN agencies etc. will have unique GST ID and will file return for the month (in simpler form) during which they make purchases. They would not be required to file regular return. They would submit their purchase statements (without purchase invoices) as per the periodicity prescribed for claim of refund.

1.9 Government entities / PSUs , etc. not dealing in GST supplies or persons exclusively dealing in exempted / Nil rated / non – GST goods or services would neither be required to obtain registration nor required to file returns under the GST law. However, State tax authorities may assign Departmental ID to such government departments/ PSUs / other persons. They will ask the suppliers to quote the Department ID in the supply invoices for all inter-State purchases being made to them. Such supplies will be at par with B2C supplies and will be governed by relevant provisions relating to B2C supplies.

2. Periodicity of Return Filing

2.1 Common periodicity of returns for a class of taxpayers would be enforced. There will be different frequency for filing of returns for different class of taxpayers, after payment of due tax, either prior to or at the time of filing return. The return can be filed without payment of self-assessed tax as per the return but such return would be treated as an invalid return and would not be taken into consideration for matching of invoices and for inter-governmental fund settlement among States and the Centre. The periodicity of return for different categories of taxpayers is as follows:

S. No.	Return / Ledger	For	To be filed by
1	GSTR 1	Outward supplies made by taxpayer (other than compounding taxpayer and ISD)	10 th of the next month
Z	GSTR Z	Inward supplies received by a taxpayer (other than a compounding taxpayer and	15 th of the next month

		ISO)	
3	GSTR 3	Monthly return (other than compounding taxpayer and ISO)	20 th of the next month
4	GSTR 4	Quarterly return for compounding Taxpayer	18 th of the month next to quarter
5	GSTR 5	Periodic return by Non-Resident Foreign Taxpayer	Last day of registration
6	GSTR 6	Return for Input Service Oistributor (ISO)	15 th of the next month
7	GSTR 7	Return for Tax Oeducted at Source	10 th of the next month
8	GSTR 8	Annual Return	By 31 st Oecember of next FY
9		ITC Ledger of taxpayer	Continuous
10		Cash Ledger of taxpayer	Continuous
11		Tax ledger of taxpayer	Continuous

2.2 Other important points relating to periodicity of return filing are as under: -

- (i) Normal / Regular taxpayers (including casual taxpayers) would have to file GSTR-1 (details of outward supplies) (Annexure-II), GSTR-2 (details of inward supplies) (Annexure-III) and GSTR-3 (monthly Return) (Annexure-IV) for each registration.
- (ii) Normal / Regular taxpayers with multiple registrations (for business verticals) within a State would have to file GSTR-1, GSTR-2 and GSTR-3 for each of the registrations separately.
- (iii) Compounding taxpayers would have to file a quarterly return called GSTR-4 (Annexure-V).
- (iv) Taxpayers otherwise eligible for the compounding scheme can opt against the compounding and file monthly returns and thereby make their supplies eligible for ITC in hands of the purchasers.
- (v) Casual/ Non - Resident Taxpayers (other than foreigners) would have to file GSTR-1, GSTR-2 and GSTR-3 returns for the period for which they have obtained registration. The registration of Casual/Non -Resident taxpayers will be done in the same manner as that of Normal / Regular taxpayers.
- (vi) Non- Resident Taxpayers (foreigners) would be required to file GSTR-5 return for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days as stated earlier. For these taxpayers the registration format to be used will be the same as that for UN Bodies/Embassies (Annexure-VI).
- (vii) Annual return (GSTR -8) (Annexure -IX) will be filed by all normal / regular taxpayers. It will be based on financial records.
- (viii) Compounding taxpayer will also file a simple annual return.

- (ix) Cut-off date for filing of details of outward supplies (GSTR-1), inward supplies (GSTR-2) and Monthly return (GSTR-3) would be 10th, 15th and 20th day respectively of the succeeding month for all Monthly filers.
- (x) Cut-off date for filing of Quarterly return (GSTR-4) by compounding taxpayer would be 18th day of the first month of the succeeding quarter.
- (xi) Cut-off date for filing of Input Service Distributor return (GSTR-6) (Annexure-VII) would be 15th day of the succeeding month.
- (xii) Cut-off date for filing of TDS (Tax Deducted at Source) return (GSTR-7) (Annexure-VIII) by Tax Deductor would be 10th day of the succeeding month.
- xiii) For Annual return, the cut-off date would be 31st December following the end of the financial year for which it is filed.
- (xiv) The filing of return would be only through online mode although the facility of offline generation and preparation of returns would be provided. The returns prepared in offline mode would have to be uploaded.

3. Monthly Return: There would be separate returns for the outward supplies, inward supplies and a consolidated return based on these two returns. Besides that, there would be separate returns for the Input Service Distributors, non-resident taxpayers (foreigners) and Tax Deductors. The components of each of these return is being discussed hereunder:

3.1. Components of valid GST Return for Outward Supplies made by the Taxpayer (GSTR-1):

3.1.1 This return form would capture the following information:

1. Basic details of the Taxpayer i.e. Name along with GSTIN

2. Period to which the Return pertains

3. Gross Turnover of the Taxpayer in the previous Financial Year. This information would be submitted by the taxpayers only in the first year and will be auto-populated in subsequent years.

4. Final invoice-level supply information pertaining to the tax period separately for goods and services :

- (i) For all B2B supplies (whether inter-state or intra-state), invoice level specified details will be uploaded
- (ii) For all inter-state B2C supplies (including to non-registered Government entities, Consumer / person dealing in exempted / NIL rated / non GST goods or services), the suppliers will upload invoice level details in respect of every invoice whose value is more than Rs. 2,50,000/-. For invoices below this value, State-wise summary of supply statement will be filed covering those invoices where there is address on record. The address of the buyer has to be mandatorily reflected in every invoice having a value of Rs. 50,000/- or more. (Model GST Law may provide for such a provision). Invoices for a value less than Rs. 50,000/- that do not have address on record will be treated as intra-state supply. In other words, State-wise summary of inter-State supply would be filed covering (a) those invoices value of which is less than Rs. 50000/- and where address is on record and (b) those invoices whose value is between Rs. 50000/- to Rs. 250000/-
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- (iii) The recommendation of the Committee on IGST and GST on Imports with respect to the details about HSN code for goods and Accounting code for services to be captured in an invoice have been accepted with certain modifications. The details proposed by this Committee are as follows:-
 - a) HSN code (4-digit) for Goods and Accounting Codes for Services will be mandatory initially for all taxpayers with turnover in the preceding financial year above Rs. 5 Crore (For the first year of operations of GST, self-declaration of turnover of previous financial year will be taken as the basis as all India turnover data will not be available in the first year. From the 2nd year onwards, turnover of previous financial year under GST will be used for satisfying this

condition).

- b) For taxpayers with turnover between Rs 1.5 Crores and Rs 5 Crores in the preceding financial year, HSN codes may be specified only at 2-digit chapter level as an optional exercise to start with. From second year of GST operations, mentioning 2-digit chapter level HSN Code will be mandatory for all taxpayers with turnover in previous financial year between Rs. 1.5 Crores and Rs. 5.0 Crores.
 - c) Any taxpayer, irrespective of his turnover, may use HSN code at 6-digit or 8-digit level if he so desires.
 - d) To start with, compounding dealers may not be required to specify HSN at 2-digit level also.
 - e) Prescribed Accounting code will be mandatory for those services for which Place of Supply Rules are dependent on nature of services to apply the destination principle, irrespective of turnover.
 - f) HSN Codes at 8-digit level and Accounting Codes for services will be mandatory in case of exports and imports.
- (iv) The above parameters with respect to HSN code for goods and Accounting Code for services will apply for submitting the information in return relating to relevant invoice level information for B2B supplies (both intra-state and inter-state) and inter-state B2C supplies (where taxable value per invoice is more than Rs. 2.5 lakhs). It is proposed that in the return form the description of goods and services may not be required to be submitted by the taxpayer as the same will be identified through the submission of HSN code for goods and Accounting Code for services. In order to differentiate between the HSN code and the Service Accounting Code (SAC), the latter will be prefixed with "s". The taxpayers who have turnover below the limit of Rs. 1.5 Crore will have to mention the description of goods/service, as the case may be, wherever applicable.
- (v) For all Intra-State B2C supplies (including to non-registered Government entities, consumer / person dealing in exempted / NIL rated / non GST goods or services), consolidated sales (supply) details will be uploaded. However a dealer may at his option furnish invoice wise information in respect of exempted and nil rated supplies also.
- (vi) The supply information will also have details relating to the Place of Supply in order to identify the destination state as per the Place

of Supply Rules where it is different from the location of the recipient.

(vii) Details relating to supplies attracting Reverse charge will also be submitted

5. Details relating to advance received against a supply to be made in future will be submitted in accordance with the Point of Taxation Rules as framed in the GST law.
6. Details relating to taxes already paid on advance receipts for which invoices are issued in the current tax period will be submitted.
7. Details relating to supplies exported (including deemed exports) both on payment of IGST as well as without payment of IGST would be submitted.
8. There will be a separate table for submitting the details of revisions in relation to the outward supply invoices pertaining to previous tax periods. This will include the details of Credit/Debit Note issued by the suppliers and the differential value impact and the concomitant tax payable or refund/tax credit sought.
9. There will be a separate table for effecting modifications/correcting errors in the returns submitted earlier. The time period for correcting these errors will be provided in the GST Law.
10. There will be a separate table for submitting details in relation to NIL rated, Exempted and Non GST outward supplies to (both inter-state and intra-state) to registered taxpayers and consumers.

3.1.2 The return (GSTR-1) would be filed by the 10th of the succeeding month. Late filing would be permitted on payment of late fees only.

3.2. Components of valid GST Return for Inward Supplies received by the Taxpayer (GSTR-2):

3.2.1 This return form would capture the following information:

1. Basic details of the Taxpayer i.e. Name along with GSTIN
2. Period to which the Return pertains
3. Final invoice-level inward supply information pertaining to the tax period for goods and services separately
4. The information submitted in GSTR-1 by the Counterparty

Supplier of the taxpayer will be auto populated in the concerned tables of GSTR -2. The same may be modified i.e. added or deleted by the Taxpayer while filing the GSTR-2. The recipient would be permitted to add invoices (not uploaded by the counterparty supplier) if he is in possession of invoices and have received the goods or services.

5. There will be separate tables for submitting details relating to import of Goods/Capital Goods from outside India and for the services received from outside India.
6. The details of inward supplies would be auto-populated in the ITC ledger of the taxpayer on submission of his return. The taxpayer will select the invoice details regarding the in-eligibility and eligibility of ITC in relation to these inward supplies and the quantum available in a particular tax period.
7. There will be a separate table for submitting details in relation to ITC received on an invoice on which partial credit has been availed earlier.
8. In respect of capital goods, there will be a field to capture appropriate information regarding availment of ITC over a period (to be prescribed in GST Law in terms of duration and number of installments) from the date of acquisition of capital goods in the taxpayer's books of accounts. [GST Law may provide that Input credit pertaining to Capital Goods will be allowed to be availed over a period of 2 years in two equal installments]
9. In respect of inputs, there can be two situations. If inputs are received in one lot, the ITC will be given in the return period in which the purchase is recorded in the books of accounts. In case inputs covered under one invoice are received in more than one instance/lot, the ITC will be given in the return period in which the last purchase is recorded in the books of accounts. (GST Law to contain appropriate provision in this regard). A note in this regard has been incorporated in the Return form for the guidance of the taxpayer.
10. There will be a separate table for submitting the details of revisions in relation to inward supply invoices pertaining to previous tax periods (including post purchase discounts received). This will include the details of Credit/Debit Note issued by the suppliers and the differential value impact and concomitant tax payable or refund/tax credit sought.
11. There will be a separate table for effecting

modifications/correcting errors in the returns submitted earlier. The time period for correcting these errors will be provided in the GST Law

12. There will be a separate table for submitting details in relation to NIL rated, Exempted and Non GST inward Supplies (Both Inter-State and Intra -State) including those received from compounding taxpayers and unregistered dealers.

13. There will be a separate table for the ISD credit received by the taxpayer.

14. There would be a separate table for TDS Credit received by the taxpayer.

3.2.2 Auto Population in this return from GSTR -1 will be done on or after 11th of the succeeding month. Addition or Deletion of the invoice by the taxpayer will be permitted between 12th and 15th of the succeeding month. Adjustments would be permitted on 16th and 17th of the succeeding month.

3.2.3 The return (GSTR-2) would be filed by 17th of the succeeding month. Late filing would be permitted on payment of late fees only.

3.3. Components of valid GST Return (GSTR-3):

3.3.1 The GST Monthly Return form would capture the following information: 1. Basic details of the Taxpayer i.e. Name and Address along with GSTIN

2. Period to which the Return pertains

3. Turnover Details including Gross Turnover, Export Turnover, Exempted Domestic Turnover, Nil Rated Domestic Turnover, Non GST Turnover and Net Taxable Turnover

4. Final aggregate level outward and inward supply information. These details will be auto populated from GSTR-1 and GSTR-2.

5. There will be separate tables for calculating tax amounts on outward and inward supplies based on the information contained

in various tables in the GSTR-3 return.

6. There will be a separate table for capturing the TDS credit received and which has been credited to his cash ledger (the deductee).
7. Tax liability under CGST, SGST, IGST and Additional Tax.
8. Details regarding revision of invoices relating to outward and inward supplies (as per details in para 3.1.1 and 3.2.2 above)
9. Details of other liabilities (i.e. Interest, Penalty, Fee, others etc.).
10. Information about ITC ledger, Cash ledger and Liability ledger (these are running electronic ledgers maintained on the dashboard of taxpayer by GSTN). These would be updated in real time on an activity in connection with these ledgers by the taxpayer. Both the ITC ledger and the cash ledger will be utilized by the taxpayer for discharging the tax liabilities of the returns and others. Details in these ledgers will get auto populated from previous tax period return (irrespective of mode of filing return i.e. online / offline utility)
11. Details of ITC utilized against tax liability of CGST, SGST and IGST on supplies of goods and services.
12. Net tax payable under CGST, SGST, IGST and Additional Tax.
13. Details of the payment of tax under various tax heads of CGST, SGST, IGST and Additional Tax separately would be populated from the debit entry in Credit/Cash ledger. GST Law may have provision for maintaining four head wise account for CGST, SGST, IGST and Additional tax and at associated minor heads for interest, penalty, fee and others. Excess payment, if any, will be carried forward to the next return period. The taxpayer will have the option of claiming refund of excess payment through the return for which appropriate field will be provided in the return form. The return form would display all bank account numbers mentioned in the registration, out of which one will be selected by the taxpayer to which the refund will be credited.
14. Details of other payments - Interest/Penalties/Fee/Others, etc. This

will be auto populated from the Debit entry in Cash ledger irrespective of mode of filing i.e. online / offline utility.

15. Details of ITC balance (CGST, SGST and IGST) at the end of the tax period will be auto-populated in the ITC ledger irrespective of mode of filing return. In case of net exporter or taxpayers dealing with inverted duty structure or similar other cases, where input tax credit is greater than output tax due on supply, the taxpayer would be eligible for refund. The return would have a field to enable the tax payer to claim the refund or to carry forward the ITC balance (CGST, SGST and IGST). The return form should display all bank account numbers mentioned in the registration, out of which one will be selected by the taxpayer to which the refund will be credited. To begin with GST law may provide that the refund will be processed quarterly.

16. Details of cash balance (CGST, SGST, IGST and Additional tax) in personal ledger at the end of the tax period (this will be auto populated irrespective of mode of filing return).

17. Information regarding quantity of goods (as per Unique Quantity Code) supplied will not be contained in the monthly return. However, the same would be submitted by the taxpayer in the annual return. (GST Law may contain appropriate provision in this regard). The format of the annual return would have a suitable field for this purpose.

3.3.2 The return (GSTR-3) would be entirely auto- populated through GSTR-1 (of counterparty suppliers), own GSTR-2, ISD return (GSTR-6) (of Input Service Distributor), TDS return (GSTR -7) (of counterparty deductor), own ITC Ledger, own cash ledger, own Tax Liability ledger. However, the taxpayer may fill the missing details to begin with.

3.3.3 The return would be permitted to be filed both on online and offline mode. In case of offline mode, payment by debit to cash / ITC ledger can be done at an earlier date also and such debit entry number would be verified at the time of uploading of the return. In online mode, both debiting and filing can be done simultaneously.

3.3.4 The return would be filed by 20th of the succeeding month. Late filing would be permitted on payment of late fees only.

3.4 Quarterly Return for compounding Taxpayers (GSTR-4):

3.4.1 After crossing the threshold exemption limit, the taxpayers may opt for compounding scheme wherein they would be required to pay taxes at fixed rate without any ITC facilities. Such taxpayers would be required to file a simplified quarterly return (GSTR-4) as per the format prescribed. In this return the taxpayer is only required to indicate the total value of supply made during the period of return and the tax paid at the compounding rate along with the details of payment of tax in the return. The compounding taxpayer will also need to declare invoice-level purchase information (auto-drafted from supply invoice information uploaded by counter-party taxpayers) for the purchases from normal taxpayers. The Compounding taxpayer will also be required to submit details of the goods and services imported from outside India. The Compounding taxpayers would be allowed to export supplies outside India. GST Law may provide for suitable provisions with respect to the eligibility of such taxpayers to purchase only tax paid supplies and that they can make purchases from unregistered suppliers on payment of GST on reverse charge basis.

3.5 Non-Resident Foreign Taxpayers (GSTR-5):

3.5.1 Non-Resident foreign taxpayers would be required to file GSTR-5 for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days as stated earlier.

3.6 Components of a valid ISD Return (GSTR-6):

3.6.1 This return form would capture the following information:

1. Basic details of the Taxpayer i.e. Name along with GSTIN
2. Period to which the Return pertains
3. Final invoice-level inward supply information pertaining to the tax period separately for goods and services on which the ITC is being claimed. This will be auto populated on the basis of GSTR-1 filed by the Counterparty Supplier of the taxpayer. The same may be modified i.e. added or deleted by the Taxpayer while filing the ISD return. The recipient would be permitted to add invoices (not uploaded by the counterparty supplier) if he is in possession of invoices and have received the services.

4. Details of the Invoices along with the GSTIN of the receiver of the credit i.e. to whom the ISD is distributing credit.

5. There will be separate ISD Ledger in the return that will detail the Opening Balance of ITC (to be auto-populated on the basis of previous return), credit for ITC services received, debit for ITC reversal and ITC distributed and Closing Balance.

3.6.2 This return would be filed by 15th of the succeeding month. Late filing would be permitted on payment of late fees only.

3.7 Components of a valid TDS Return (GSTR-7):

3.7.1 This return would capture the following information:

1. Basic details of the Taxpayer i.e. Name along with GSTIN
2. Period to which the Return pertains
3. Details of GSTIN of the Supplier along with the invoices against which the Tax has been deducted. This will also contain the details of tax deducted against each major head i.e. CGST, SGST and IGST.
4. Details of other payments - Interest/Penalties/Fee/Others, etc. (This will be auto-populated from the Debit entry in Cash ledger)

3.7.2 This return would be filed by 10th of the succeeding month. Late filing would be permitted on payment of late fees only.

3.8 Steps for Return Filing:

Step1: The taxpayer will upload the final GSTR-1 return form either directly through

data entry at the GST Common Portal or by uploading the file containing the said GSTR-

1 return form through Apps by 10th day of month succeeding the month during which supplies has been made. The increase / decrease (in supply

invoices) would be allowed, only on the basis of the details uploaded by the counter-party purchaser in GSTR-2, upto 17th day of the month. (i.e. within a period of 7 days). In other words, the supplier would not be allowed to include any missing invoices on his own after 10th day of the month.

GSTN will facilitate periodic (may be daily, weekly etc.) upload of such information to minimize last minute load on the system. GSTN will facilitate offline preparation of GSTR-1.

Step2: GST Common Portal (GSTN) will auto-draft the provisional GSTR-2 of taxpayer based

on the supply invoice details reported by the counter-party taxpayer (supplier) on a

near real-time basis.

Step3: Purchasing taxpayer will accept / reject/ modify such auto-drafted provisional GSTR-2.

(A taxpayer will have the option to download his provisional purchase statement from

the Portal or through Apps using Application Programming Interface (APIs) and update / modify it off-line).

Step4: Purchasing taxpayer will also be able to add additional purchase invoice details in his GSTR-2 which have not been uploaded by counter-party taxpayer (supplier) as described in Step 1 and 2 above, provided he is in possession of valid invoice issued by counter-party taxpayer and he has actually received such supplies.

Step5: Taxpayers will have the option to do reconciliation of inward supplies with counter-

party taxpayers (suppliers) during the next 7 days by following up with their counter- party taxpayers for any missing supply invoices in the GSTR-1 of the counter-party taxpayers, and prompt them to accept the same as uploaded by the purchasing taxpayer. All the invoices would be auto-populated in the ITC ledger of taxpayer. The taxpayer would, however, indicate the eligibility / partial eligibility for ITC in those cases where either he is not entitled or he is entitled for partial

ITC.

Step 6: Taxpayers will finalize their GSTR-1 and GSTR-2 by using online facility at Common Portal or using GSTN compliant off-line facility in their accounting applications, determine the liability on their supplies, determine the amount of eligible ITC on their purchases and then generate the net tax liability from the system for each type of tax. Cash details as per personal ledger/ carried forward from previous tax period, ITC carried forward from previous tax period, ITC reversal and associated Interest/Penalty, taxes paid during the current tax period etc. would get auto-populated in the GSTR-3.

Step 7: Taxpayers will pay the amount as shown in the draft GSTR-3 return generated automatically at the Portal post finalization of activities mentioned in Step 6 above.

Step 8: Taxpayer will debit the ITC ledger and cash ledger and mention the debit entry No. in the GSTR-3 return and would submit the same.

3.9 Acknowledgement:

3.9.1 On submission of return, an Acknowledgement Number will be generated. In case of submission of a return which has been prepared by using offline tools, acknowledgement of submission will take some time as GSTN System will need to first verify details like the carry forward cash as per personal ledger, ITC, tax payment details etc. In such cases, initially a Transaction ID confirming receipt of data will be conveyed to the taxpayer, (as also envisaged in case of filing of short paid / non-paid return). Final acknowledgement of receipt of return will be generated after validation of data is completed, which will also lock-in the Transaction ID.

3.9.2 The acknowledgement of e-return would contain the following details:

- (i) Return acknowledgement number (unique number generated by the GSTN), Date and Time
- (ii) Transaction ID No., Date and Time
- (iii) GSTIN of taxpayer
- (iv) Relevant tax period details

- (v) Gross Supplies, Taxable Supplies and Tax paid / refund claimed (CGST, SGST, IGST and Additional tax separately) during the Return period

3.10 Contents of Invoice level information :

3.10.1. The following invoice level information would be captured in the return:

1. Invoices pertaining to B2B transactions (Intra-State, Inter-State and supplies to

UN organizations/embassies) [both for supply and purchase transactions]:

- (i) Goods and Services Tax Identification Number (GSTIN)/Unique ID issued to UN organizations/Embassies
- (ii) Invoice Number, Date and value
- (iii) HSN code for each item line (for Goods)/ Accounting code for each item line (for services)
- (iv) Taxable Value
- (v) Tax Rate (CGST & SGST or IGST and/ or Additional Tax)
- (vi) Tax Amounts (CGST & SGST or IGST and / or Additional Tax)
- (vii) Place of Supply (State)
- (viii) For Capital Goods, there will be separate column in the Table of the return for ease of tracking of credit due and availed over the period as prescribed by GST law
- (ix) An Invoice may have two items having different tax rates or different HSN codes in case of B2B supplies. If the invoice contains more than one tax rate/one HSN Code, the taxpayer would have to submit line - wise information separately for each HSN Code / each tax rate

2. Invoices pertaining to B2C transactions (Inter-State B2C supplies

for consumer on record)[only supply transactions]:

A. In respect of invoices whose taxable value is more than Rs. 2.5 lakhs (to enable transfer of funds to respective states):

- (i) Invoice Number, Date and value
- (ii) HSN Code for goods / Accounting code for services
- (iii) Taxable Value
- (iv) Tax Rate (IGST and Additional Tax)
- (v) Tax Amount (IGST and Additional Tax) (vi) Buyer's address (State Code)
- (vii) Departmental ID allotted by State Government to Government entities / PSUs , etc. not dealing in GST supplies or to persons dealing in exempted / Nil rated / non -GST goods or services
- (viii) Place of Supply (State) if different than S. No. (vi) above

- B. For invoices whose taxable value is upto Rs 2.5 lakhs, only aggregated taxable value of all such invoices will be submitted, state-wise and tax rate-wise.

(GST Law may provide for mandatory mention of address of the buyer in every invoice whose taxable value is more than Rs. 50000/-)

3. Invoices pertaining to B2C transactions (Intra -State B2C supplies) [only supply transactions]:

For intra-state B2C supplies, aggregated taxable value of all such invoices will be submitted tax rate-wise.

4. Invoice pertaining to Export and deemed export supply [only supply transactions]:

- (i) Invoice No, Date & Value.
- (ii) 8-digit HSN Code for goods/ Accounting Code of Services for each line item (as HSN Code / Accounting code is mandatory in case of exports)
- (iii) Taxable Value
- (iv) Tax Rate
- (v) Tax Amounts (IGST, CGST & SGST) (in case exports on payment of GST).
- (vi) Shipping Bill/ Bill of Export Number

5. Invoices pertaining to exempted including Nil rated supply [both for supply and purchase transaction]:

Aggregate value of all exempted (including Nil rated) supplies made by the taxpayer during the return period would be submitted. The aggregate value of exempted (including Nil rated) purchases would also be declared by the taxpayer in the return.

6. Bills of Entry relating to Import [only purchase transactions]:

- (i) Bill of Entry Number, Date and value
- (ii) Assessable Value for IGST
- (iii) 8-digit HSN Code for goods

- (iv) IGST rate
- (v) IGST Amount
- (vi) Importer's address (for transfer of IGST) [Will get auto populated in case of registered taxpayer. In case of others, it will have to be provided by them]

These details would be verified from Bill of Entry data available at ICES / ICEGATE.

7. Credit Note / Debit Note [for Sales-Purchase return, Post-sale discount]:

For sale-purchase return , on account of differential value/quantity/tax rates :

- (i) Debit / Credit Note Number
- (ii) Original Invoice Number and Date
- (iii) Taxable Value, Tax Rate and Tax Amount (CGST & SGST or IGST and Additional Tax) (that is being modified) The credit/debit note will be reflected in the monthly return in which such notes have been issued. GST Law may provide the time period within which sales return can be made and the date (invoice date or date of receipt by the buyer) from which such time period is to be calculated.

8. Post sales discount :

GST Law may provide what constitutes a sale price especially with respect to

post sales discount. The Law may also contain suitable provisions about admissibility or otherwise of post supply discounts. The adjustments for post sales discount will be completed before filing of annual return. The credit/debit note will be reflected in the monthly return in which the said adjustment is made.

9. Advances received against a supply to be made in future :

GST law may provide for Point of Taxation Rules which will determine the point at which the taxes would be paid by the taxable person. So, accordingly, if the tax is to be paid on the basis of advance payment received against a future supply of goods and/or services, then the following details would be required to be provided:

- (i) GSTIN/UID/GDI/Name of customer
- (ii) State Code
- (iii) HSN Code for goods / Accounting code for services
- (iv) Amount of advance received
- (v) Tax Rate (CGST and SGST or IGST and Additional Tax)
- (vi) Tax Amount (CGST and SGST or IGST and Additional Tax)

10. TDS:

GST law may provide for provision of TDS (Tax Deducted at source) for certain supplies of goods and/or services made to specified categories of purchasers who will be obligated to deduct tax at a certain percentage from the payment due to the suppliers. They will be required to file a TDS return and submit the following details:

- (i) GSTIN/GDI of Deductor
- (ii) GSTIN of deductee/supplier
- (iii) Invoice no. with date (iv) TDS Certificate no. with date and value
- (v) Taxable value

(v) Rate of TDS for IGST, CGST and SGST as applicable

(vi) Amount of IGST, CGST and SGST as applicable, deducted as TDS

11. ISD:

GST law may retain the concept of Input Service Distributor (ISD). Accordingly,

ISDs would be required to file a monthly return and submit the following details:

(i) Details of ISD i.e. GSTIN, name and address

(ii) Details of recipient i.e. GSTIN, name and address

(iii) Details of the inward supply invoices on the basis of which Input Tax

Credit is claimed.

(iv) Invoice / Document no. with date

(v) Amount of IGST, CGST, SGST Credit, as applicable, being distributed .

3.10.2 GST Law may provide the suitable provisions for the mandatory fields and data structure which must be contained in a GST invoice.

3.11 Where will the taxpayer file Return?

3.11.1 A registered Tax Payer shall file GST Return at GST Common Portal either:

- (i) by himself logging on to the GST Common Portal using his own user ID and password;
- (ii) Through his authorized representative using the user Id and password (allotted to the authorized representative by the tax authorities), as chosen at the time of registration, logging on to the GST Common Portal.

The filing may be done either directly or by using Applications developed by accounting companies / IT companies which will interact with GST System using APIs or through Facilitation Center (FC).

3.11.2 At the time of registration, every taxpayer has to enroll with GST Common Portal (GSTN). A unique User-ID and Password will be generated and intimated to the taxpayer. This User-ID and Password shall be used by him for filing the tax return on the Common Portal as well. However, a taxable person may prepare and submit his returns himself or can use services of a TRP. The process for filing return through TRP is given below :

- (i) A TRP will have to be chosen by the taxpayer out of TRPs registered with respective State tax authorities/CBEC. (taxpayer will have the option to change TRP any time);
- (ii) The TRPs registered with tax authorities will be provided separate user ID and password;
- (iii) Using his own user Id and password, the TRP will prepare the return in prescribed format on the basis of the information furnished to him by the taxable person. (The legal responsibility of the correctness of information contained in the return prepared by the TRP will rest with the taxable person only and the TRP shall not be liable for any errors or incorrect information.);
- (iv) The TRP will be able to upload all types of return , based on the information provided by the taxpayer who has authorized him to do so at the portal;
- (v) The system will generate an email and SMS having basic

data of return and send the same to the taxpayer ;

- (vi) The taxpayer can accept the correctness of the return and submit the same by just clicking on the link provided in the e-mail. In case he does not respond to the e-mail, return will be considered as not submitted;
- (vii) In case taxpayer wants to respond to the SMS, he may do so by replying YES and mention the OTP sent along with the SMS. In case he does not respond to the SMS, return will be considered as not submitted;
- (viii) This mechanism may be provided in the GST law and the TRPs would have to be approved by the tax administration and allotted a Unique ID and will also be provided appropriate training by them.

3.11.3 The return can also be submitted by the taxpayer through any Facilitation Center (FC) approved by the Tax authorities and selected by the taxpayer at GST System. The taxpayer shall make available the requisite documents to the facilitation center. Facilitation Centre (FC) shall be responsible for the uploading of all types of return given to it by the taxable person. After uploading the data on the common portal using the ID and Password of FC, the GSTN system will generate an email/SMS for the taxpayer. The process explained in Para 3.11.2 above will be followed. With e-sign being worked out by Department of Electronics and Information Technology (DEITY), individual signing of return by one-time Digital Signature Certificate (DSC) can also be completed. This will do away with the requirement of print-out of acknowledgement of return proposed earlier based on the current system of ITR filing.

3.11.4 Registration of TRP/FC will be done by CBEC / respective State tax authorities and the registration data will be shared with GSTN to enable applicants/taxpayers to choose one from the available list of registered TRPs/FCs. The GST Law may also contain suitable provisions about it.

3.11.5 The common portal will display the electronic form to be used for filing the return. The form can be downloaded, filled and then uploaded using approved e- tools.

3.11.6 The portal will provide a form generation utility which can be downloaded by the taxpayer for preparation of the return offline

and for conducting the preliminary arithmetic checks before return is uploaded on the portal using APIs.

3.11.7 Along with the return, taxpayer is not required to submit any other document. The documents as required for scrutiny or audit shall be made available by the taxpayer to the audit party deputed by the CBEC /State tax authorities/CAG.

3.11.8 The Common Portal will maintain and display the ledger of the Tax Payer providing information about the tax deposited, input tax credit availed/taken, input tax credit utilized, tax liability created , balance ITC carried forward , tax payments made by debiting the ledgers under respective major tax heads, refund granted and balance in respective cash ledger and credit ledger carried forward [Separate ledger will be maintained for ITC and Cash for each Taxpayer]. The information of Interest on delayed payments, Penalty for legal defaults, Tax Demand as per adjudication/appellate orders, etc. would also be provided. The ledger will also give the status of the tax dues or excess payment on any given date. Thus such ledger would have eight pages and cash ledger would have 20 pages .

3.11.9 A return related liability should mean the tax liability for the transactions (including credit/debit notes) of the return period and the additional liability arising out of any ITC reversal or late inclusion of the supply in the return period . Arrears pertaining to audit/reassessment/enforcement outcomes would be handled separately, and not mixed with the return related liabilities and payments. The payments made on this account, however, would be reflected in the return.

3.12 Revision of Return

3.12.1 There would be no revision of returns.

3.12.2 All unreported invoices of previous tax period would be reflected in the return for the month in which they are proposed to be included. The interest, if applicable will be auto populated.

3.12.3 All under-reported invoice and ITC revision will have to be corrected using credit/debit note and such credit / debit note would be reflected in the return for the month in which such adjustment is carried out. The credit/debit note will have provision to record original invoice, date etc. to enable the system to link the same

with the original invoice as also to calculate the interest, if applicable. Its format will be like the invoice.

3.12.4 There would be separate tables in the returns for reflecting those adjustments for which credit / debit notes are not required to be issued / issued. The interest, if applicable will be auto populated.

3.13 Non-filing, late-filing and short-filing of return

A. Non-Filers & Late-Filers

In case of failure by the taxpayer to submit periodic returns, a defaulter list will be generated by the IT system by comparing the return filers with the registrant database. Such defaulter list will be provided to the respective GST Authorities for necessary enforcement and follow up action.

GST Common Portal can auto generate and send the notice to all non-filers (being done by many State VAT authorities) in the form of email and SMS. Jurisdictional tax authorities can get the same printed and dispatch such notices. The details of non-filers shall be made available on the dash board of jurisdictional officers. GST Law may also provide for imposition of automatic late fees for non-filers and late filers which can also be in-built in the notices.

B. Short-Filers

As per the requirement of the IGST model, Return should be allowed to be filed only on payment of due tax as self-assessed and declared in the return. It has, however, been decided that e-Return should be allowed to be uploaded even in case of short payment for the limited purpose of having the information about self-assessed tax liability even though not paid. The invoice matching and inter-governmental fund settlement would, however, take place only after the full tax has been paid. Return without full payment of tax will be allowed to be uploaded but it will be treated as an invalid return and this return will not be used for matching of invoices and settlement of funds.

Any invalid return (including the one not supported by full payment) will merely be recorded with unique transaction ID, but not accepted in the system, and that aspect will

be made known to the taxpayer at the time of communicating the ID itself.

[GST Law may provide adequate penal provisions for short-filing and non-filing of return]

4 Return for Casual/Non-Resident Taxpayers:

Casual/Non-Resident Taxpayers should file GSTR-1, GSTR-2 and GSTR-3 for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days as stated earlier.

5 Annual Return (GSTR-8):

5.1 All the Normal taxpayers would be required to submit Annual Return. This return to be filed annually is intended to provide 360 degree view about the activities of the taxpayer. This statement would provide a reconciliation of the returns with the audited financial statements of the taxpayer.

5.2 This return is a detailed return and captures the details of all the income and expenditure of the taxpayer and regroups them in accordance with the monthly returns filed by the taxpayer. This return also provides for the reconciliation of the monthly tax payments and will provide the opportunity to make good for any short reporting of activities undertaken supply wise. The said return would also capture the details of pending arrears against the taxpayer and the current status of the orders leading to such arrears. The details of all the refund claims pending with the tax authorities would also be captured. Since this return captures the minutest details of income and expenditure of the taxpayer, the gross profit/loss arrived on the basis of the details submitted in this statement should tally with the gross profit/loss indicated in the Profit and Loss Account of the dealer. Accordingly, this return is to be submitted along with the audited copies of the Annual Accounts of the dealer and would be filed by 31st December following the end of the financial year for which it is filed.

5.3 A separate reconciliation statement, duly certified

by a Chartered

Accountant, will have to be filed by those taxpayers who are required to get their accounts audited under section 44AB of Income Tax Act 1961. Currently this limit is Rs 1 Crore.

5.4 Consolidated statement of purchases and supplies based on monthly returns filed by the taxpayer can be made available to taxpayers by GSTN common portal as a facilitation measure for enabling him to prepare annual return.

5.5 The format of Reconciliation statement would be finalized after finalization of GST Model law.

6 Processing of Return:

After the GST Return has been uploaded onto the GST Common Portal, the Portal will undertake the following activities:

- (i) Acknowledge the receipt of the return filed by the taxpayer after conducting required validations.
- (ii) Acknowledgement number would be issued as per procedure detailed in Para 3.9 above.
- (iii) Once a return is acknowledged, forward that GST Return to tax authorities of Central and appropriate State Govt. through the established IT interface.
- (iv) The ITC claim will be confirmed to purchasing taxpayer in case of matched invoices after 20th of the month succeeding the month of the tax period month provided counterparty supplying taxpayer has submitted the valid return (and paid self-assessed tax as per return).
- (v) Communicate to the taxpayers through SMS/e-Mail, about the macro- results of the matching. The details will be in the taxpayers' dashboard/ledger which can be viewed after log-in at the Portal.
- (vi) Auto-populate the ITC reversals due to mismatching of

invoices in the taxpayer's account in the return for the 2nd month after filing of return for a particular month.

- (vii) Aggregation of cross-credit utilization of IGST and SGST for each State and generation of settlement instructions based on IGST model and as finalized by the Payments Committee. This has to be with dealer-wise details as the concerned tax administration's follow on activities will be dependent on that detailing.

(Satish Chandra)
Member Secretary
Secretary Empowered Committee
Department of Revenue of State Finance Ministers
Government of India

(Rashmi Verma)
Special

ANNEXURE-I

LIST OF PARTICIPANTS OF THE MEETING HELD ON 9TH OCTOBER, 2015

Government of India

1. Smt. Rashmi Verma, Special Secretary (Revenue), Government of India
2. Shri Udai Singh Kumawat, Joint Secretary (Revenue), Government of India
3. Shri Manish Saxena, Additional Director, Directorate General of Systems, Government of India
4. Shri Shashank Priya, ADG, DG (GST), CBEC, Government of India
5. Shri Upender Gupta, Commissioner, GST, CBEC, Government of India
6. Shri G.D. Lohani, Commissioner, CBEC, Government of India
7. Shri Rajeev Yadav, Director (Service Tax), CBEC, Government of India
8. Shri Ravneet Singh Khurana, Deputy Commissioner, CBEC, Government of India
9. Shri Vishal Pratap Singh, Deputy Commissioner (GST), CBEC, Government of India
10. Smt. Aarti Saxena, Deputy Secretary (State Taxes), Government of India
11. Shri Tshering Y. Bhutia, Assistant Secretary, Department of Revenue, Government of India

States

1. Shri Gautam Das Gupta, Deputy Commissioner of Taxes, Assam
2. Shri T. Ramesh Babu, Additional Commissioner, Commercial Tax, Andhra Pradesh
3. Shri Ajay Kumar Chourasia, Joint Commissioner, Commercial Tax, Bihar
4. Shri Vijay Kumar, Commissioner (VAT), Trade and Taxes, Delhi
5. Shri Jagmal Singh, Deputy Director, Trade and Taxes, Delhi
6. Shri Dipak M. Bandekar, Commissioner, Commercial Tax, Goa
7. Dr. P.D. Vaghela, Commissioner, Commercial Tax, Gujarat
8. Shri Riddhesh Raval, Assistant Commissioner, Commercial Tax, Gujarat
9. Shri Hanuman Singh, Additional Commissioner, Excise & Taxation, Haryana
10. Shri Prediman Bhat, Additional Commissioner, Commercial Tax, Jammu & Kashmir
11. Shri S.K. Prasad, Deputy Commissioner, Commercial Tax, Jharkhand
12. Shri Ritvik Pandey, Commissioner, Commercial Tax, Karnataka
13. Dr. M.P.Ravi Prasad, Joint Commissioner, Commercial Tax, Karnataka
14. Dr. Rajan Khobragade, Commissioner, Commercial Tax, Kerala
15. Shri Sudip Gupta, Deputy Commissioner, Commercial Tax, Madhya Pradesh
16. Shri Niten Chandra, Commissioner, Commercial Tax, Odisha

17. Shri Dipankar Sahu, Deputy Commissioner(IT&P), Commercial Tax, Odisha
18. Shri K. Sridhar, Deputy Commissioner, Commercial Tax, Puducherry
19. Shri Pawag Garg, Additional Commissioner, Excise & Taxation, Punjab
20. Shri Dinesh Chandra Rakhecha, Assistant Commissioner, Commercial Tax, Rajasthan
21. Shri K. Rajaraman, Principal Secretary/Commissioner, Commercial Taxes, Tamil Nadu
22. Shri D. Soundraraja Pandian, Joint Commissioner (Taxation), Commercial Taxes, Tamil Nadu
23. Shri K. Chandrasekhar Reddy, Additional Commissioner, Commercial Tax, Telangana
24. Shri Rakesh Verma, Joint Commissioner, Commercial Tax, Uttar Pradesh
25. Shri Vivek Kumar, Additional Commissioner, Commercial Tax, Uttar Pradesh
26. Shri N.C. Sharma, Additional Commissioner, Commercial Tax, Uttarakhand
27. Shri Khalid Aizaz Anwar, Joint Commissioner, Commercial Tax, West Bengal

Goods and Services Tax Network (GSTN)

1. ~~Shri Navin Kumar, Chairman, Goods and Services Tax Network~~
2. Shri Prakash Kumar, Chief Executive Officer, Goods and Services Tax Network
3. Shri S.B. Singh, SVP (Services), Goods and Services Tax Network
4. Shri K.P. Verma, VP (Services), Goods and Services Tax Network
5. Ms. Kalyaneshwari B. Patil, AVP (Services), Goods and Services Tax Network
6. Shri J. Rasal Dass Soloman, AVP (Services), Goods and Services Tax Network

Empowered Committee of State Finance Ministers

1. ~~Shri Satish Chandra, Member Secretary, Empowered Committee~~
2. Shri Bashir Ahmed, Adviser, Empowered Committee
3. Shri V.P. Gupta, Senior Administrative Officer, Empowered Committee

ANNEXURE-II

GSTR-1

OUTWARD SUPPLIES MADE BY THE TAXPAYER

[To be furnished by the 10th of the month]
[Not to be furnished by compounding taxpayer/ISD]

1. GSTIN:
2. Name of the taxpayer:
(S. No. 1 and Z will be auto-populated on logging)
3. Gross Turnover of the taxpayer in the previous FY.....
(To be submitted only in first year. To be auto populated in subsequent year)
4. Period: Month..... Year

5. Taxable outward supplies to a registered person

(figures in Rs)

GSTIN UIN	Invoice					IGST		CGST		SGST		Addl Tax [#]		POS (only if different from the location of recipient)	Indicate if supply attracts reverse charge \$
	No.	Date	Value	HSN/ SAC	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

· As per Para 3.1 (4) (iii) of the return report

[#] Not applicable to services and intra-state & specified inter-state supplies of goods

\$ To be filled only if a supply attracts reverse charge

Notes:

1. SAC to be different from HSN (may be prefix 'S')
2. Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table
3. In case of inter-state supplies, only IGST & Additional Tax (if applicable) would be filled
4. In case of intra-state supplies, CGST & SGST would be filled.

6. Taxable outward supplies to a consumer where place of supply is other than the State where supplier is located (Inter-state supplies) and Invoice value is more than Rs 2.5 lakh (optional in respect of other supplies)

(figures in Rs)

Recipien's State code	Name of the recipient/ GDI	Invoice					IGST		Addl Tax [#]		POS (only if different from the location of recipient)
		No.	Date	Value	HSN/ SAC	Taxabl e value	Rate	Amt	Rate	Amt	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- As per Para 3.1 (4) (iii) of the return report

Not applicable to services and intra-state & specified inter-state supplies of goods

Notes:

- SAC to be different from HSN (may be prefix 'S')
- Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table

7. Taxable outward supplies to consumer (Other than 6 above)

(figures in Rs)

HSN/ SAC	State code (Place of supply)	Aggregate Taxable Value	IGST		CGST		SGST		Addl Tax [#]	
			Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

- As per Para 3.1 (4) (iii) of the return report

Not applicable to services and intra-state & specified inter-state supplies of goods

Notes:

- SAC to be different from HSN (may be prefix 'S')
- Taxpayer has the option to furnish the details of nil rate and exempted supplies in this Table

8. Details of Credit/Debit Notes

(figures in Rs)

Debit Note/credit note		Original Invoice		Differential Value (Plus or Minus)	Differential Tax							
					IGST		CGST		SGST		Addl Tax [#]	
No.	Date	No.	Date		Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

Debit Note

Credit Note

Not applicable to services and intra-state & specified inter-state supplies of goods

Note: Information about Credit Note / Debit Note to be submitted only if issued as a supplier.

(figures in Rs)

Not applicable to services and intra-state & specified inter-state supplies of goods

(figures in Rs)

- If the details of "nil" rated and "exempt" supplies have been provided in Table 5,6 and 7, then info in column (3) may only be furnished.

(figures in Rs)

[illegible]

- As per Para 3.1 (4) (iii) of the return report

12. Tax liability of amount received in advance against a supply to be made in future

(figures in Rs)

GSTIN/UID/ GDI/ Name of customer	State Code	HSN/SAC • of supply to be made	Amount of advance received without raising a bill	TA							
				IGST		CGST		SGST		Addl Tax#	
				Rate	Tax	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

- As per Para 3.1 (4) (iii) of the return report
- # Not applicable to services and intra-state & specified inter-state supplies of goods

Note: A transaction id would be generated by system for each transaction on which tax is paid in advance

13. Tax already paid (on advance receipt) on invoices issued in the current period

(figures in Rs)

Invoice No.	Transaction id (A number assigned by the system when tax was paid)	TAX Paid on receipt of advance							
		IGST		CGST		SGS		Addl Tax#	
		Rate	Tax	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

- # Not applicable to services and intra-state & specified inter-state supplies of goods

Note: Tax liability in respect of invoices issued in this period shall be net of tax already paid on advance receipt.

Usual Declaration

(Signatures of Authorized Person)

INSTRUCTIONS for furnishing the information

1. Terms used:

GSTIN: Goods and Services Taxpayer Identification Number

UID: Unique Identity Number for embassies

HSN: Harmonized System of Nomenclature for goods

SAC: Service Accounting Code

GDI: Government department unique ID where department does not have

GSTIN POS: Place of supply of goods or services - State Code to be mentioned

Z

Note:

1. Auto-population would be done, on the basis of GSTR1 of counter-party supplier, on or after 11th of succeeding month.
- Z. Addition of invoices / debit note / credit note, not submitted by counter-party supplier, would be permitted between 12th to 15th of succeeding month.
3. Adjustments would be permitted on 16th and 17th of succeeding month.
4. Further the other details that are not auto-populated, i.e. import of services, eligibility of ITC and quantum thereof and purchases from unregistered taxpayer shall be furnished.

INWARD SUPPLIES/PURCHASES RECEIVED

1. GSTIN.....
- Z. Name of taxpayer.....
(S. No. 1 and Z will be auto-populated on logging)
3. Period : Month..... Year
4. From Registered taxpayers

Eligibility of Total Tax ITC

Others

- As per Para 3.1 (4) (iii) of the return report

5. Goods jCapital goods received from Overseas (Import of goods)

- As per Para 3.1 (4) (iii) of the return report

6. Services received from a supplier located outside India (Import of services)

(figures in Rs)								
Invoice					IGST		ITC Admissibility	
No	Date	Value	SAC	Taxable value	Rate	Amt	Total ITC admissible	ITC admissible this month
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

7. Details of Credit/Debit Notes

Debit	Note	Received

Column No. I to I3 shall be auto populated from

[illegible]

[illegible]

Not applicable to services and intra-state & specified inter-state supplies of goods

8. Amendments to details of inward supplies received in earlier tax periods (including post purchase discounts received)

(figures in Rs)																	
Original		GSTIN/ UIN IGST	Revised Invoice				IGST		CGST		SGST		Add'l Tax	# Eligibility	for Total	ITC available	
Invoice														ITC	available as	this month	
No. Date			No.	Date	HSN/ SAC	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt	(select from ITC drop down as in Table 5 above)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

Not applicable to services and intra-state & specified inter-state supplies of goods

9. Supplies received from compounding /unregistered dealer & other exempt/nil/non GST supplies

(figures in Rs)						
	HSN Code/ SAC code	Value of supplies received from				
		Compounding Dealer	Unregistered dealer	Any exempt supply not included in Table 4 above	Any nil rated supply not included in Table 4 above	Non GST Supply
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Interstate supplies						
Intrastate supplies						

10. ISD credit received

(figures in Rs)					
GSTIN_ISD	Invoice/Document details		ISD Credit		
	No	Date	IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)	(6)

	Shall be auto populated from counterparty IDs return	

11. TDS Credit received

(figures in Rs)

GSTIN/ GDI/of TDS deductor	TDS Certificate		TDS					
			IGST		CGST		SGST	
	No	Date	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(3)
	Shall be auto populated from counterparty TDS return							

12. ITC Received on an invoice on which partial credit availed earlier

(figures in Rs)

Original invoice/ doc.		ITC availed					
		IGST		CGST		SGST	
No	Date	Earlier	This month	Earlier	This month	Earlier	This month
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(3)
	ITC taken earlier shall be auto populated upon choosing the invoice number						

Usual declaration

Signature of Authorized Person

GSTR-3

ANNEXURE-

IV

GST RETURN

[To be furnished by the 20th of the month]

[Other than compounding taxpayer / ISD]

TAXPAYER DETAILS

1. GSTIN

.....

2. Name of Taxpayer.....

3. Address

[S. Nos. 1, 2 and 3 shall be auto populated on logging]

4. Period Month..... Year.....

5. TURNOVER DETAILS

(figures in Rs)

A.	Gross Turnover	
B.	Export Turnover	
C.	Exempted Domestic Turnover	
D.	Nil rated Domestic Turnover	
E.	Non GST Turnover	
F.	Net Taxable Turnover	

6.Outward Supplies

6.1 Inter-state supplies to Registered taxpayers

(Auto populated from GSTR-1)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 5 plus Table 8 plus Table 10 of GSTR-1

6.2 Intra-State Supplies to Registered taxpayers

(Auto populated from GSTR-1)



(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	CGST	SGS T
(1)	(2)	(3)	(4)
Goods			
Services			

Note: To be auto-populated from Table 5 plus Table 8 plus Table 10 of GSTR-1

6.3 Inter-State Supplies to Consumers (Auto populated from GSTR-1)

(including unregistered Government Departments / persons dealing in exempted / NIL rated/ non GST goods or services)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 6 plus Table 7 plus Table 8 plus Table 10 of GSTR-1

6.4 Intra-State Supplies to Consumers (Auto populated from GSTR-1)

(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt and Non GST)	Value	CGST	SGST
(1)	(2)	(3)	(4)
Goods			
Services			

Note: To be auto-populated from Table 7 plus Table 8 plus Table 10 of GSTR-1

6.5 Exports (including deemed exports) (Auto populated from GSTR-1)

(figures in Rs)

Description	Taxable Value	IGST	CGST	SGST
(1)	(2)	(3)	(4)	(5)
Goods				
Without payment of GST				

With Payment of GST				
Services				
Without payment of GST				
With Payment of GST				

Note: To be auto-populated from Table 11 of GSTR-1

6.6 Revision of supply invoices pertaining to previous tax period (including post sales discounts or any clerical/other errors)

[Auto populated from GSTR11

(figures in Rs)

Invoice No	Invoice Date	Differential Value (Plus or Minus)	IGST	CGST	SGST	Additional Tax
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Goods						
Services						

Note: To be auto-populated from Table 9 of GSTR-1

6.7 Total tax liability on outward supplies

(Auto Populated from the Tables above)

(figures in Rs)

Value	IGST	CGST	SGS	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Tables 6.1 to 6.6 above of this Return

7. Inward supplies

7.1 Inter-State supplies received

(Auto-populated from

GSTR2)

(figures in Rs)

State Code	Rate of Tax (Rate wise-Including Nil, exempt and non-GST)	Value	IGST	ITC of IGST available in the current	Addl Tax
(1)	(2)	(3)	(4)	(5)	(6)

Goods_Inputs					
Capital goods					
Services					

Note: To be auto-populated from Table 4 plus Table 7 plus Table 9 of GSTR-2

7.2 Intra-State supplies received (Auto populated from GSTR -2)

(figures in Rs)

Rate of Tax (Rate wise-Including Nil, exempt, compounding dealer and non-GST)	Value	CGST	SGS T	ITC-CGST available in current month	ITC-SGST available in current month
(1)	(2)	(3)	(4)	(5)	(6)
Goods_ Inputs					
Capital Goods					
Services					

Note: To be auto-populated from Table 4 plus Table 7 plus Table 9 of GSTR-2

7.3 Imports (Auto populated from GSTR -2)

(figures in Rs)

	Assessable Value	IGST	ITC- IGST available in current month
(1)	(2)	(3)	(4)
Goods_ inputs			
Capital goods			
Services			

Note: To be auto-populated from Table 5 plus Table 6 of GSTR-2

7.4 Revision of purchase invoices pertaining to previous tax period (including post sales discounts received or any clerical / other errors (Auto populated from GSTR-2)

(figures in Rs)

Differential Value (+/-)	CGST	SGST	IGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods_ Inputs				

Capital goods				
Services				

Note: To be auto-populated from Table 8 of GSTR-Z

7.5 Total Tax liability on inward supplies on reverse charge

(figures in Rs)

Value	CGST	SGS	IGST	Additional Tax
(1)	(Z)	(3)	(4)	(5)
Goods				
Services				

Note: To be auto-populated from Table 6 of GSTR-Z

8 Total Tax liability for the month (Table 6.7 plus Table 7.5 of this Return)

(figures in Rs)

Value	CGST	SGS	IGST	Additional Tax
(1)	(Z)	(3)	(4)	(5)
Goods				
Services				

9. TDS credit received during the month (Auto-populated from GSTR-Z)

(figures in Rs)

GSTIN/ GDI/of TDS deductor	TDS Certificate		IGST		CGST		SGST	
	No	Date	Rate	Tax	Rate	Tax	Rate	Tax
(1)	(3)		(4)	(5)	(6)	(7)	(8)	(9)

Note: To be auto-populated from Table 11 of GSTR-Z

10. ITC received during the month (auto populated from ITC Ledger)

(figures in Rs)

IGST		eGST		SGST	
Rate	Tax	Rate	Tax	Rate	Tax
(2)	(3)	(4)	(5)	(6)	(7)

11. Tax, fine and penalty paid (auto-populated from cash and ITe ledger)

(figures in Rs)

S. No.	Description	IGST	eGST	SGST	Addl Tax
(1)	(2)	(3)	(4)	(5)	(6)
1.	ITe Reversal paid (On account of adjustment)				
2.	ITe Reversal paid (On account of mismatch)				
3.	Interest				
4.	Tax for previous Tax periods				
5.	Tax for eurrent Tax period				
6.	Late fee				
7.	Penalty				
	Debit Nos. in Ledger				
1.	In eash Ledger				
2.	In ITe ledger				

12. Refunds claim of excess ITe in specified cases and excess tax paid earlier

(1)	eGST (2)	SGS (3)	IGST (4)
Refund of ITe accumulation claimed in specified cases			
Refund of excess amount of tax paid earlier			
Refund from cash ledger			
Bank Account Number=			

*This should be one of the bank accounts mentioned in the GSTIN

Usual declaration

Signatures of Authorized Person

TAX Liability Ledger (Auto populated in real time)

(figures in Rs)

	CGST	SGST	IGST	Addl Tax	Total
(1)	(2)	(3)	(4)	(5)	(6)
Opening Tax Liability					
Tax liability arising out of return					
Tax liability on account of mismatch of					
Other tax liability					
TDS Liability					
Penalty					
Fees					
Interest					
Less : Tax paid (cash plus ITC)					

Closing balance

The heads for tax, TDS and other liability shall be shown as drop down items for facilitation

CASH LEDGER (updated on real time)

(figures in Rs)

	CGST	SGST	IGST	Addl Tax	Total
(1)	(2)	(3)	(4)	(5)	(6)
Opening Balance					
Amount deposited [Auto populated from CIN]					
CIN					
CIN					
Amount of TDS Credit [Auto populated from TDS Return of counterparty deductor]					
Amount utilized for payment of tax					
Outstanding liability from earlier period					
For this tax period					
Any other liability paid (indicate reference from Tax liability register)					
Amount utilised for payment of interest/penalty and other amount paid					
Interest paid on delay in payment of tax					
Fees paid for late filing of return					
Others penalties paid					
Other amount paid (selection)					
Refund from cash ledger					
Closing balance					

Ire LEDGER (updated on real time)

(figures in Rs)

	eGSr	SGSr	IGSr	total
(1)	(2)	(3)	(4)	(5)
Opening Balance				
Ire availed (including revision in invoices)	[first 4 will be auto-populated]			
Inputs				
Capital goods				
Services-received directly				
Services credit received from ISD				
Mismatched credit claimed				
Disputed credit claimed				
Credit claimed by a taxpayer on becoming regular taxpayer				
Any other Ire claimed (Please specify)				
Credit utilized				
Ire Reversal (On account of adjustment)				
Ire Reversal (On account of mismatch)				
Ire Revision for any reason				
Ire Disallowed				
Interest Liability related to Returns of previous tax period				
Tax Liability of earlier tax periods				
Tax payment for the month [selection]				
Ire_ refund under process/refund allowed				
Other tax liability paid				
Closing Balance				

- As per Para 3.1 (4) (iii) of the return report

6. Goods jCapital goods received from Overseas (Import of goods)

(figures in Rs)

Bill of entry					IGST	
No.	Date	Value	HSNj SAC ·	Taxable value	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)

· at 8-digit level

7. Services received from a supplier located outside India (Import of services)

(figures in Rs)

Invoice					IGST	
No	Date	Value	SAC ·	Assessable Value	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)

· As per Para 3.1 (4) (iii) of the return report

8. Outward Supplies made

(figures in Rs)

S.No.	Nature of supplies	Amount
(1)	(2)	(3)
1	Intra-state supplies	
2	Non GST Supplies	
3	Exports	

9. Tax Payable

(figures in Rs)

	IGST#	CGST#	SGST#	Compounding Tax
(1)	(2)	(3)	(4)	(5)
Tax payable as per return				
Interest payable for delayed payment of Tax				
Fees for late filing of return				
Others				
Total				

Tax paid in respect of supplies attracting reverse charge and those received from unregistered traders

10. Details of Tax Payment

(figures in Rs)

Cash Ledger Debit Entry No.	Date	IGST	CGST	SGST	Compounding Tax
(1)	(2)	(3)	(4)	(5)	(6)

11. Are you likely to cross composition limit before the date of next return: YIN

Declaration:

(Signatures of Authorized Person)

GSTR-5ANNEXURE-
VI**RETURN FOR NON RESIDENT TAXPAYERS (FOREIGNERS)**

(To be furnished on monthly basis by 20th of the month & within 7 days after expiry of registration)

1. GSTIN
2. Name of the Taxpayer.....
3. Address

(S. No. 1, 2 and 3 shall be auto-populated on logging)

4. Period of Return From..... To.....

5. Goods imported:

(figures in Rs.)

S. No.	Description of goods	Bill of Entry No.	Bill of Entry Date	HSN Code •	UQC	Quantity	Value	IGST paid, if any
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- at 8-digit level

6. Outward supplies made:

(figures in Rs.)

S. No.	GSTIN, if any	Invoice					IGST		CGST		SGST	
		No.	Date	Value	HSN •	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

- As per Para 3.1 (4) (iii) of the return report

7. ITC availed on inputs and input services

(figures in Rs.)

S. No.	GSTIN of supplier	Invoice					IGST		CGST		SGST	
		No.	Date	Value	HSNjSAC	Taxable value	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

- As per Para 3.1 (4) (iii) of the return report

8. Tax paid

(figures in Rs.)

Description	Tax payable (Table 6)	ITC utilized	Tax paid in cash (after adjusting ITC)
(1)	(2)	(3)	(4)
IGST			
CGST			
SGST			
Total			

9. Closing stock of Goods

S. No.	Description of goods	HSN	UQC	Quantity	Value (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)

- As per Para 3.1 (4) (iii) of the return report

Usual Declaration

Signature

ANNEXURE- VII

GSTR-6

RETURN FOR INPUT SERVICE DISTRIBUTOR

(To be furnished by 15th of the month)

(To be furnished by Input Service Distributor)

1. GSTIN:

2. Name of the Registered person:
(S.No. 1 and 2 will be auto-populated on logging)

3. Period: Month year.....

4. From Registered taxpayers (to be auto-populated from counter party GSTR-1)
(figures in Rs)

GSTIN of supplier	Invoice					IGST		CGST		SGST		Total Tax available as ITC for distribution	ITC available this month for distribution
	No	Date	Value	SAC	Taxable Value	Rate	Amt	Rate	Amt	Rate	Amt		
(1)	(2)	(3)	(4)			(7)	(8)	(11)	(12)	(13)	(14)	(16)	(17)
Other than supplies attracting reverse charge													
Auto populated													
Claimed													
Supplies attracting reverse charge													

5. Input Service Distribution

(figures in Rs)

GSTIN of receiver of credit	Invoice/Document No.				
	No.	Date	ISD Credit distributed		
			CGST	SGST	IGST
(1)	(2)	(3)	(4)	(5)	(6)

6. ISD Ledger

(figures in Rs)

	eGST	SGST	IGST	Total
(1)	(2)	(3)	(4)	(5)
Opening Balance				
ITes received–				
ITe Reversal				
ITe Distributed				
elosing balance				

– To be auto-populated from table No. 4 above

Usual Declaration:

(Signatures of Authorized Person)

ANNEXURE-VIII

GSTR-7 TDS Return

(To be furnished by 10th of the month)

(To be furnished by person liable to deduct TDS)

1. GSTIN\GST TDS IN:
 2. Name of dedutor :
- (S.No. 1 and 2 will be auto-populated on logging)
3. Return period: Month..... Year.....

4. TDS details

(figures in Rs.)

GSTIN of supplier	Invoice			CIN No. vide which TDS paid	TDS_IGST		TDS_CGST		TDS_SGST		TDS_All Taxes	
	No	Date	Value		Rate	Amt	Rate	Amt	Rate	Amt	Rate	Amt
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

5 Other amount paid

(figures in Rs)

	CGST Alc	SGST Alc	IGST	CIN No
(1)	(2)	(3)	(4)	
Interest on delayed payment of TDS				
Fees for late filing of return				
Others (pl specify)				
Total				

Declaration:

(Signatures of Authorized Person)

GSTR-B



ANNUAL
RETURN

[To be furnished by the 31st December of the next Financial Year]

- 1. GSTIN
- Z. Name of the Taxpayer
(S. No. 1 and Z will be auto-populated on logging)
- 3. Date of statutory Audit
- 4. Auditors
- 5. Details of expenditure:

(a) Total value of purchases on which ITC availed (inter-State)

Goods

Sl. No.	Description	HSN Code	UQC	Quantity	Tax Rate	Taxable Value	IGST Credit	Additional Tax paid

Services

Sl. No.	Description	Accounting Code	Tax Rate	Taxable Value	IGST Credit

b) Total value of purchases on which ITC availed (intra-State)

Goods

Sl.No	Description	HSN Code	UQC	Quantity	Taxable Value	Tax Rate		Tax Credit	
						CGST	SGST	CGST	SGST

Services

Sl.No	Description	SAC	Taxable Value	Tax Rate		Tax Credit	
				CGST	SGST	CGST	SGST

C) Total value of purchases on which ITC availed (Imports)

Goods

Sl.No.	Description	HSN Code	UQC	Quantity	Tax Rate	CIF Value	IGST	Custom Duty paid

Services

Sl.No.	Description	SAC	Tax Rate	Taxable Value	IGST

(d) Other Purchases on which no ITC availed

Sl.No	Goods/Services	Purchase Value

(e) Sales Returns

Sl.No	Goods	HSN Code	Taxable Value	CGST	SGST	IGST	Additional Tax

(f) Other Expenditure (Expenditure other than purchases)

Sl. No.	Specify Head	Amount

6. Details of Income:

(a)Total value of supplies on which GST paid (inter-State Supplies)

Goods

Sl. No.	Description	HSN Code	Tax Rate	Taxable Value	IGST	Additional Tax

Services

Sl. No.	Description	Accounting Code	Tax Rate	Taxable Value	IGST

(b)Total value of supplies on which GST Paid (intra-State Supplies)

Goods

Sl.No	Description	HSN Code	Taxable Value	Tax Rate		Tax	
				CGST	SGST	CGST	SGST

Services

Sl.No	Description	SAC	Taxable Value	Tax Rate		Tax	
				CGST	SGST	CGST	SGST

(c)Total value of supplies on which GST Paid (Exports)

Goods

Sl.No	Goods	HSN Code	Tax Rate	FOB Value	IGST	Custom Duty

Services

Sl.No	Services	SAC	Tax Rate	FOB Value	IGST

(d)Total value of supplies on which no GST Paid (Exports)

Goods

Sl.No	Goods	HSN Code	Tax Rate	FOB Value

Services

Sl.No	Services	SA	Tax Rate	FOB Value

(e) Value of Other Supplies on which no GST paid

Sl. No.	Goods/Services	Value

(f) Purchase Returns

Goods

Sl. No	Goods	HSN Code	Taxable Value	CGST	SGST	IGST	Additional Tax

Services

Sl. No	Services	SAC	Taxable Value	CGST	SGST	IGST

(g) Other Income (Income other than from supplies)

Sl. No.	Specify Head	Amount

7 Return reconciliation Statement

A CGST

Sl. No	Month	Tax Paid	Tax Payable (As per audited a/c)··	Difference	Interest	Penalty
	Total					

B SGST

Sl. No	Month	Tax Paid	Tax Payable (As per audited a/c)··	Difference	Interest	Penalty
	Total					

C IGST

Sl. No.	Month	Tax Paid	Tax Payable (As per audited a/c)··	Difference	Interest	Penalty
	Total					

D Additional Tax

Sl. No.	Month	Tax Paid	Tax Payable (As per audited a/c)··	Difference	Interest	Penalty
	Total					

..

1. Presently the statutory auditor is not required to calculate the tax payable on account of CE and ST.
- Z. Further there is bound to be difference in supply value when compared with the Taxable value determined in accordance with the Valuation Rules (this may be on account of certain permissible deductions from the supply value or on account of certain additions which may be required to be made to arrive at the taxable value).
3. A reconciliation format (reconciling the supply value with the taxable value), therefore, is required to be prescribed. Such a format can be prepared only after the GST law particularly the valuation Rules are finalized.

8. Other Amounts@@
A Arrears (Audit/Assessment etc.)

Sl. No.	Details of Order	Tax Payable	Interest	Penalty	Current Status of the Order
	Total				

B Refunds

Sl. No.	Details of Claim	Date of Filing	Amount of Refund	Current Status of the claim

This may be divided into parts:-

- i) amount already paid / refund already received during the year, ii) amount payable / refund pending.

9. Profit as Per the Profit and Loss Statement

Gross Profit Profit
after Tax Net Profit

7.3 Report on Refunds

REPORT OF

THE JOINT COMMITTEE ON BUSINESS PROCESS FOR GST

ON

GST REFUNDS

August 2015

INDE
X

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REPORT OF THE JOINT COMMITTEE ON BUSINESS PROCESSES FOR
GST ON
REFUND PROCESSES IN GST REGIME
INTRODUCTION:

1.0 During the Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub- Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also give its recommendations on Refund Processes in GST regime. Accordingly, a Joint Committee, in consultation with the Government of India, was constituted on 7th April, 2014 (Annexure-I).

1.1 In the second meeting of the Joint Committee on Business Processes for GST held on 12th November, 2014, it was decided to constitute a Sub-Committee on GST Refund Processes. Pursuant to that decision, a Sub-Committee under the Co- convenership of Shri Manoj Ahuja, Commissioner, Commercial Tax, Odisha and Shri Upender Gupta, Additional Commissioner, GST, CBEC, Government of India was constituted on 14th November, 2014 (Annexure-II). Shri Sanjeev Khirwar, Commissioner, Trade Taxes, Delhi was co-opted as a member of the Sub- Committee.

1.2 The Sub-Committee examined the present practices prevalent in the Central and the State VAT laws and also noted the proposed structure for verifications, etc. envisaged under the IGST Model. The Sub-Committee submitted its Report on 28th January, 2015. The Report of the Sub-Committee was considered by the Joint Committee on Business Processes for GST in its meeting held on 2nd February, 2015 and 3rd February, 2015. The list of the participants of the last meeting of the Joint Committee on Business Processes is appended at Annexure-III. The Joint Committee broadly agreed with the recommendations of the Sub-Committee and the two Conveners of the Sub- Committee were requested to finalise the Report of the Sub-Committee keeping in view the observations made during the meeting of the Joint Committee on Business Processes on 2nd February, 2015 and 3rd February, 2015. Accordingly, a final Report was received on 11th February, 2015 from the Co-convenor of the Sub-Committee. The Report of the Joint Committee on Business Processes for GST was prepared accordingly. The Report was further discussed in the Joint Committee on Business Processes for GST meeting held on 22nd and 23rd July, 2015. Changes have been incorporated as per discussions.

SITUATIONS WHERE REFUNDS WOULD ARISE:

2.0 In the taxation administration, refund refers to any amount that is due to the tax payer from the tax administration. In the present taxation system it is considered as a strained area, both for the taxpayer and the tax administration. So in order to establish an effective and efficient tax administration system it is essential that issues on which refund arises ought to be kept at minimum and be clearly defined in the law. Since GST is going to subsume many of the existing taxation laws such as Central Excise, Service Tax, VAT, CST, etc., the situations under which refund arise under these laws are as follows:

- (A) Excess payment of tax due to mistake or inadvertence.
- (B) Export (including deemed export) of goods / services under claim of rebate or Refund of accumulated input credit of duty / tax when goods / services are exported.
- (C) Finalization of provisional assessment.
- (D) Refund of Pre – deposit for filing appeal including refund arising in pursuance of an appellate authority's order (when the appeal is decided in favor of the appellant).
- (E) Payment of duty / tax during investigation but no/ less liability arises at the time of finalization of investigation / adjudication.
- (F) Refund of tax payment on purchases made by Embassies or UN bodies.
- (G) Credit accumulation due to output being tax exempt or nil-rated.
- (H) Credit accumulation due to inverted duty structure i.e. due to tax rate differential between output and inputs.
- (I) Year-end or volume based incentives provided by the supplier through credit notes.
- (J) Tax Refund for International Tourists

Each of the situations mentioned above are being discussed hereunder individually for better appreciation of the issue and the proposed process to handle them under the proposed GST regime:

(A) EXCESS PAYMENT OF TAX DUE TO MISTAKE OR INADVERTENTCE:

- i) As the heading suggests, it refers to the situations where the tax payer has made excess payment of tax either by mistake or by inadvertence resulting in more payment of tax than due to the Government. Since the tax that has been paid is in excess, which was actually not required to be paid, the same should be refunded to the taxpayer.
- ii) Such excess payment may be on account of:-
 - a) wrong mention of nature of tax (CGST / SGST / IGST),
 - b) wrong mention of GSTIN, or
 - c) wrong mention of tax amount.

- iii) In first two situations i.e. in case of wrong mention of nature of tax (CGST / SGST / IGST) or in case of wrong mention of GSTIN, the tax administration is required to verify the correctness of the taxpayer's claim and therefore the taxpayer may file a refund application which should be decided within a period to be prescribed by the GST Law.
- iv) A dealer is required to make tax payment on two accounts i.e. payment linked to a return or payment in response to a specific demand arising out of audit, etc. The IT system should be in a position to make a distinction between these two type of payment. Perhaps the payment challan may have a field to select the purpose of payment.
- v) The GST Law Drafting Committee / Payment Committee may decide as to whether the payment is to be made tax period wise or a system of Personal Ledger Account (PLA) is to be used. Maharashtra has suggested that Kerala model of return cum challan may also be examined by the GST Law Drafting Committee / Payment Committee.
- vi) In the third situation i.e. where the amount has been mentioned wrongly, the refund of excess amount of tax, at the option of the taxpayer, would either be automatically carried forward for adjustment against future tax liabilities or be refunded on submission of application (return itself can be treated as a refund application) by the taxpayer. The automatic carry forward would be allowed if the excess payment was made against a return and not against any other liability. The GST Law may provide for automatic set off if the excess payment of tax is not on account of interpretation of notifications, application of exemptions etc., i.e. the excess payment is not on account of difference of opinion between the tax administration and the taxpayer. The GST Law may also lay down the time limit within which the excess amount of tax, as reflected in the return filed by a taxpayer for that relevant period, can be re-credited suo moto and can be utilized by the taxpayer for payment of future tax liability.
- vii) The refund may be on account of CGST, SGST or IGST as the case may be.

(B) EXPORT (INCLUDING DEEMED EXPORT) OF GOODS / SERVICES UNDER CLAIM OF REBATE OR REFUND OF ACCUMULATED CREDIT OF TAX WHEN GOODS / SERVICES ARE EXPORTED:

The treatment for export of goods and services and that of deemed export would be different under GST regime because of their inherent nature. Therefore these are being discussed separately as follows:

EXPORT OF GOODS:

i) Presently under the Central Law, every exporter has three options available for neutralization of taxes paid on inputs used for export goods or taxes paid on finished goods exported by him which are delineated hereunder:

- a) Obtaining non duty paid inputs and exporting final product without payment of duty.
- b) Obtaining duty paid inputs and claiming refund of the same at the time of export of the finished goods without payment of duty.
- c) Obtaining duty paid inputs, availing the input tax credit thereon and exporting finished goods after payment of duty (after utilizing such input tax credit) and thereafter claiming the rebate of the duty paid on exported goods.

ii) It was noted that in the proposed GST regime, exports are proposed to be Zero rated which means that the export goods would not suffer any actual tax liability although the inputs for them would be tax paid which would be subsequently neutralized. So there should be a mechanism whereby the GST paid on the inputs or on exported finished goods, either through cash or by utilization of input tax credit, is refunded to the exporter. This would serve two objectives simultaneously. On the one hand, the ITC chain through the various dealers will not be broken and on the other hand, the exporter of the finished goods will get the refund of the GST paid on the inputs or on finished goods thereby making the exports actually free from the burden of taxes. The system should be simple and efficient so that exporters do not experience any hassles while claiming refund of taxes. For this it is essential to devise a system based verification mechanism so that human intervention is reduced to the minimum.

iii) It is recommended that the first option mentioned above i.e. option to procure duty free inputs for exported goods should not be available in the GST regime. This would obviate the requirement of submission of statutory form and the supplier of goods to the actual exporter would be required to pay the GST and will not be required to comply with various formalities presently required for making tax free supplies.

iv) It is further recommended that other two options may be made available to the exporter in the proposed GST regime. It is recommended that GST Law drafting Committee may provide for the provision of rebate and the legality of the same will be examined at the time of vetting of the GST law by the Law Ministry.

v) Since the process for payment of refund of GST paid on inputs (including input services) or payment of rebate of GST paid on finished goods is similar to a large extent, the same is being discussed here together. The following process is proposed for making this system as simple as possible:

- a) The IEC details of taxpayer will be captured at the time of issuance of GSTIN and the same can be verified online with DGFT

for verifying the correctness of the exporter's particulars.

b) The refund of ITC / rebate of GST paid on exported goods may be granted on submission of application to this effect by the taxpayer.

c) Since the trigger point for refund is export of goods, therefore the event of export needs to be verified (mostly online) so as to minimize cases of erroneous / fraudulent claims of refund / rebate.

d) It is recommended that linkage between ICEGATE of Customs administration and the proposed GSTN of GST administration may be established so that online verification of the exports can be carried out. In any case such linkage has to be established to verify IGST paid at the time of import of goods / services.

e) It is also noted that, as per IGST Model, there is a requirement for online filing of invoice wise sale / purchase details by the taxpayers' along with the monthly returns. These details can be linked with the Customs data (for export cases) available with ICEGATE.

f) Normally for export verification the following documents are sought from the applicant :

- i) Shipping Bill (Export Promotion copy);
- ii) Mate's Receipt / Transporter's Challan (in case of export by road);
- iii) Export invoice;
- iv) Packing list;
- v) Bill of Lading/ Airway Bill;
- vi) Bank Realization Certificate (BRC).

g) Since it is proposed to establish linkage between ICEGATE and GSTN, therefore shipping bill, which includes relevant details from the export invoice and packing list, can be verified online and there would not be any need for the exporter to submit the same. Further, Mate's Receipt and Bill of Lading are the crucial documents that determine the occurrence of event of export, the exporter would be required to upload the scanned copies of the same with online refund application. As regards the BRC, it was noted that as per the RBI guidelines, the exporter has a time period of one year from the date of export, within which the export proceeds are required to be remitted into India. Thus BRC will not be available till the time export proceeds are realized. Therefore it is recommended that submission of BRC may not be insisted upon at the time of filing of refund application and post facto verification can be carried out by the tax authorities.

The refund in such cases should be subject to submission of BRC details within a period of maximum one year or such period as extended by RBI from the date of the export. If such details are not submitted at the portal at which the refund application was made, the portal should generate an alert/report for the concerned tax authorities to take up appropriate action. In case of any short receipt of export receipts, necessary action for recovery of proportionate refunded amount may be taken accordingly.

- h) BRC, however, may be verified at the time of exports itself if the payment has already been received in advance. It is also recommended that e-BRC module may be integrated in the Refund process under GST.
- i) The time limit for filing of refund application is normally linked with the date of export and it is proposed that this time limit should be fixed at one year from the date of export. This date is the date on which the proper officer under the Customs Act gives an order for export of goods commonly known as "Let Export Order" (LEO). This date can also be verified online in view of the proposed linkage between ICEGATE and GSTN.
- j) Once the export is established, verification of the duty paid on the final products at the time of export is required to be carried out. For this, normally, copy of challans/ invoices evidencing duty payment are sought from the exporter and the same are verified manually by the jurisdictional authority. In the proposed GSTN, the payment of GST on exported goods can be verified online (as the sales invoices are required to be filed along with the monthly return) and there is no need for separate submission of these documents. Once the GST paid character of exported goods is established, refund can be sanctioned.
- k) In respect of refund claimed for GST paid on inputs (including input services) used for exported goods, once the export is established, verification of the GST paid on the inputs (including input services) as well as their utilization for the exports is required to be carried out. For this normally copy of invoices evidencing GST payment are sought from the exporter and the same are verified manually by the jurisdictional authority. Besides a declaration is filed by the applicant with the proper officer declaring inter alia input-output ratio for inputs on which refund is sought. In the proposed GST regime, the GST paid character of inputs (including input services) can be established online (as the purchase invoices are required to be filed along with the monthly return) and the refund of input tax credit on inputs (including input services) can be sanctioned once the input tax credit has been matched from the purchase and sale

statements filed by the exporter and supplier respectively and there is no need for separate submission of these documents. As regards utilization of the inputs for exports, a simple formula can be adopted that will provide for proportionate credit based on export turnover divided by total turnover. Moreover, a declaration can be obtained from the exporter regarding utilization of inputs in the exported goods.

EXPORT OF SERVICES:

- i) It is noted that in case of export of services there are no custom documents that can substantiate the occurrence of event of export as no shipping bill is required to be filed. Thus invoice and Bank Realization Certificate (BRC) are the only documents that can substantiate the occurrence of event of exports. It is, therefore, recommended that in the case of export of services, BRC would be required before sanction of the refund of GST paid on inputs (input services) / rebate of GST paid on exported services.
- ii) It is further noted that the invoice and BRC are the crucial documents for filing of the refund application. Therefore the relevant date, in case of export of services, will be the date of invoice or the date of BRC, whichever is later. This will take care of the situation if the payment has already been received in advance. It is also recommended that e-BRC module may be integrated in the refund process under GST.
- iii) It is suggested that since exports of services cannot be verified online through ICEGATE, there should be a separate application for refund of service exported.

DEEMED EXPORT OF GOODS OR SERVICES:

- i) It was noted that there is a concept of deemed export for situations listed in Chapter 8 of the Foreign Trade Policy. Supplier of domestically produced duty paid goods when supplied to EOUs / SEZs / Projects under International Competitive Bidding (ICB) / Mega Power Plants / World Bank Funded Projects can seek refund of terminal excise duty as also drawback of the duty paid on the inputs used in manufacture of such goods. However such refund is not permissible for VAT paid on such domestically supplied goods.
- ii) It is recommended that the deemed export need to be treated on equal footing as export and the similar provision as detailed above for actual exports of goods or services would be applicable except the following:
 - a) The supplier of final goods, in the course of deemed export, will pay the IGST on his supplies and can claim refund, only if, the IGST amount has not collected from the recipient. It is also required to be verified that the recipient has not availed the

- input tax credit in respect of such supplies.
- b) The supplier may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by him, being claimed as refund. GST Law Drafting Committee may prescribe a threshold amount below which self-certification (instead of CA Certificate) would be sufficient.
 - c) The recipient unit would be eligible for refund of IGST, if it has actually paid IGST at the time of obtaining goods / services from the domestic supplier. In no case, both the supplier and the recipient unit can obtain refund at the same time in respect of the same transaction. A suitable validation to block such double claim should be built in the GSTN /refund processing backend system.
 - d) Such recipients may not be registered under GST regime and therefore they would have to submit copies of all the invoices, etc. in case claim of refund is filed by them.
- iii) It is also recommended that this recommendation may be specifically brought to the notice of EC as this is deviation from the present practice being followed by the States.

GENERAL:

- i) It was suggested that as a thumb rule, up to 90% of the refund claimed by the taxpayer may be sanctioned automatically by the system. The balance amount of refund may be granted after completion of verification of documents / accounts to be done at the end of the financial year and to be completed within a period of three months. The issue was discussed and it is recommended that partial refund may not be allowed and entire refund claim may be sanctioned within the time limit laid down in the GST Law.
- ii) It was noted that there may be certain goods on which Customs Export Duty may be leviable. It is recommended that in such cases refund of ITC of GST paid on inputs (including input services) used for such exported goods may not be admissible.
- iii) Requirement of BRC for sanction of refund in respect of export of services and as a post facto verification in case of export of goods may be provided in the GST Law.
- iv) It was noted that the exports would be treated as inter-state supplies and therefore IGST would be required to be paid by the taxpayer in cases GST is paid at the time of export. Refund of such IGST would have to be paid by the Centre. In case of refund of GST paid on inputs (including input services) used for exported goods, the refund of CGST, SGST or IGST may arise and the same needs to be paid by the respective tax administration. A suitable validation to block use of same tax invoices for more than one

refund claim should be built in the GSTN /refund processing backend system.

- v) It was further noted that the principle of unjust enrichment is not applicable in case of actual export of goods or services as the recipient is located outside the taxable territory. In case of deemed exports, however, the concept is applicable.
- vi) It is further recommended that the amount of input tax credit claimed as refund may be blocked at the time of submission of application for refund itself. And if the refund claim is rejected wholly or partially the rejected portion of the ITC claim amount will be restored in the ITC ledger of the applicant.

(C) FINALIZATION OF PROVISIONAL ASSESSMENT:

As discussed in Para No. (I) below, the issues relating to provisional assessment being presently followed by Central Tax Authorities would be handled by the system of issuance of debit and credit notes, therefore refund may not arise in such cases. The process has been delineated here under, if the GST Law provides for continuance of the system of provisional assessment:

- i) In the proposed GST regime the returns of the taxpayer will be electronically filed. In the return itself there should be a field for indicating whether the tax being paid is provisional or final. In case the tax has been paid on provisional basis, there should be a drop box that would indicate the reasons for which the tax has been paid on provisional basis.
- ii) Once such a return comes up before the assessing officer and if he agrees with the reason mentioned by the taxpayer, the return /assessment may be kept provisional.
- iii) Thereafter the return may be taken up for finalization once the issue involved in provisional assessment is settled. GST law may prescribe time period for finalization i.e. 90 days and this time line should not be breached, as far as possible.
- iv) At the time of finalization of the return / assessment by the assessing officer, a speaking order may be issued which will also mention the amount that the taxpayer is required to pay or is eligible for refund.
- v) The refund would be granted only if the incidence of GST paid by him has not been passed on to the consumer (the concept of unjust enrichment). This issue would be examined by the assessing officer at the time of finalization of assessment.
- vi) The model GST Law may provide for appropriate provisions relating to the principle of unjust enrichment.
- vii) For satisfying the requirement of unjust enrichment, the taxpayer would be required to submit a Chartered Accountant's Certificate

certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund. GST Law Drafting Committee may prescribe a threshold amount below which self certification (instead of CA Certificate) would be sufficient. This would also settle the issue of ITC that would have been claimed by the purchaser on the basis of the provisional tax paid by the taxpayer as ITC would have to be reversed by the recipient before sanction of refund to the supplier.

- viii) The differential amount claimed as refund will be reflected in the return for the month in which the finalization takes place.
- ix) The refund may be on account of CGST, SGST or IGST as the case may be.

(D) REFUND OF PRE – DEPOSIT FOR FILING APPEAL INCLUDING REFUND ARISING IN PURSUANCE OF AN APPELLATE AUTHORITY’S ORDER:

Refund arising in pursuance of appellate authority’s order is another area that has been subject of judicial scrutiny and strictures. The following process is recommended in order to make this process streamlined, efficient and in line with the judicial decisions on the matter:

- i) Looking at the policy objective of making the refund process hassle free, it is recommended that the taxpayer may file a simple refund application along with a Chartered Accountant’s Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund. As mentioned earlier, the GST Law Drafting Committee may prescribe a threshold amount below which self certification (instead of CA Certificate) would be sufficient.
- ii) The refund may not be kept in abeyance if the appellate authority’s order (in pursuance of which refund arises) is appealed against at the next higher appellate forum unless the jurisdictional authority has obtained a stay from the higher appellate authority against the operation of the appellate authority’s order in pursuance of which refund has arisen. This position may be appropriately reflected in the GST Law itself so that any ambiguity on this issue can be avoided and the tax administrations are made more accountable for early action in case of such refunds.
- iii) GST Law may provide for certain predefined period during which refund may not be granted which can be regarded as the mandatory waiting period for the outcome of the appeal / application for stay.
- iv) GST Law Drafting Committee may also consider for providing powers to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid.
- v) The refund may be on account of CGST, SGST or IGST as the case may be.

(E) PAYMENT OF DUTY/TAX DURING INVESTIGATION BUT NO / LESS LIABILITY ARISES AT THE TIME OF FINALIZATION OF INVESTIGATION /ADJUDICATION :

Presently the Central Law (State Laws do not have similar provision) does not debar suo-motto payments during investigation / audit without issuance of a formal show cause notice / demand. If the GST Law does not debar such payments during investigation / audit process and ultimately no / less demand arises vis-à-vis amount already paid, then refund of such amount may be handled as per the procedure given below:

- i) A separate mechanism for the accounting of such payments has to be designed.
- ii) Refund in such cases requires utmost attention as such amount of tax paid during investigation, etc. become non leviable once the investigation is finalized and / or an adjudication order in favor of the taxpayer is issued. Therefore this process should be simple and hassle free.
- iii) As soon as the investigation, etc. is over which does not lead to issuance of a show cause notice or where after investigation, show cause notice is issued but the adjudication order is in favor of the taxpayer i.e. where the demand of duty is dropped in full or in part, the taxpayer should be immediately eligible to claim refund of the amount that is found to have been paid in excess during investigation, etc.
- iv) Looking at the policy objective of making the refund process hassle free, it is recommended that the taxpayer may file a simple refund application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by him, being claimed as refund. GST Law Drafting Committee may prescribe a threshold amount below which self certification (instead of CA Certificate) would be sufficient.
- v) However, as every adjudication order can potentially be appealed against, the model GST Law may provide for a time limit after which only the refund can be sanctioned either by cash or by adjustment order at the option of the tax payer by the jurisdictional officers. This time limit should be concurrent with the time limit available for filing of an appeal so that department has time to file an appeal along with stay application, if any against adjudication order.
- vi) Refund may be withheld only if the department has obtained a stay order on the operation of the adjudication order, failing which, refund has to be allowed.
- vii) The GST Law Drafting Committee may also consider for providing powers to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid.

viii) The refund may be on account of CGST, SGST or IGST as the case may be.

(F) REFUND FOR TAX PAYMENT ON PURCHASE BY UN BODIES, SUPPLIES TO CSD CANTEENS, PARA MILITARY FORCES CANTEENS, ETC.:

i) Presently the UN bodies are eligible for refund of taxes paid by them at the time of purchases made by them from the market. GST Law may provide for similar provision and in such a case, the following process for grant of refund is recommended:

- a) Refund on purchases by UN Bodies may be granted from only one office each of both the tax administrations within one State.
- b) UN Bodies may be assigned a unique identification number (ID) the structure of which would be uniform across the States in conformity with the GSTIN Structure. (Some other structure may have to be considered as such bodies do not have PAN)
- c) The registration document, return document and invoice would contain a column for capturing this Unique ID.
- d) There has to be a separate field for allotting ID to such bodies.
- e) While making supplies to such bodies, the suppliers must indicate the Unique ID on the invoices.
- f) The UN Bodies may file their purchase statements (without purchase invoices) along with their claim for refund.
- g) The GST Law may provide that some purchases are ineligible for refund (e.g. invoice value less than the prescribed threshold, goods / services specified as ineligible for refund, etc.). Such cases should be specifically marked in the purchase statement or may not be included in the purchase statement.
- h) The net claim will be related to GST paid on total purchases minus GST paid on ineligible purchases.
- i) The IT system will carry out the matching with the sales statements of the counter party suppliers.
- j) The matched and claimed to be eligible invoices will be seen by the jurisdictional authority to verify that none of the ineligible purchases have been included in the refund claim.
- k) The refund may be granted based on the matching and the limited manual verification.
- l) There might be situations when the supplier does not declare the supply in his monthly return. In such a case, unmatched invoices will get marked by the IT system and the supplier will be notified accordingly.
- m) The UN body may be granted refund along with its next claim if any of the unmatched supplies have been accepted and related GST has been paid by the supplier and return has been filed subsequently.
- n) The personal purchases by the staff may also be done seeking

ID of the UN body on the invoice.

- o) Such invoices in the statement can be marked as “for personal consumption” for any additional verification in case of any restriction under the GST Law.
- p) GST Law Drafting Committee may provide for appropriate provisions whether refund has to be given for the personal purchases by the staff of UN bodies and Embassies. Such provisions may also relate to limits or restrictions, if any on such refunds.
- ii) It is recommended that the suppliers to CSD Canteens, Para Military Canteens would not be eligible for exemption. The procedure as detailed above would apply in respect of supplies to CSD Canteens, Para Military Forces canteens etc. and these bodies would claim refund.
- iii) Form of application for refund which may be used by such bodies is enclosed as Annexure-VII to this document.
- iv) The refund may be on account of CGST, SGST or IGST as the case may be.

(G) TAX CREDIT ON INPUTS USED FOR MANUFACTURING/GENERATION /PRODUCTION /CREATION OF TAX FREE SUPPLIES OR NON-GST SUPPLIES:

- i) There would be certain goods or services which may be either exempted or NIL rated in GST regime. Further there may be certain goods or services which may not be brought under GST regime. Persons supplying such exempted / nil rated / non-GST goods or services would be receiving goods or services as their input supplies after payment of GST.
- ii) The issue, whether such taxpayers are entitled to cash refund of the GST paid by them in respect of such input supplies (including input services or capital goods) which will be used for making supplies without payment of GST, was discussed at length.
- iii) It is felt that the ITC is allowed to remove cascading and under modern VAT laws, tax is charged on value addition only and not on tax paid at the earlier level of supply chain. It is for this reason that the ultimate consumer is liable to bear the tax. Most State VAT administrations as well as Centre do not allow refund of ITC on inputs used for tax exempt/ nil rated goods.
- iv) Further the inputs (including input services or capital goods) received by such suppliers would become exempt if the refund is allowed to them, which is not intended by tax design.
- v) It is recommended that the model GST Law may provide that the suppliers of exempted / NIL rated / non GST goods or services would not be entitled to the ITC of GST paid on inputs (including input services or capital goods) received by them and consequently for refund of GST paid by them. In case of mixed supplies, ITC may be allowed proportionately.

- vi) The tax credit on the inputs used for supply of exempted / NIL rated / non GST goods or services should be treated as “ineligible input tax credit” and there should be an appropriate provision in the return to provide the related invoice details.
- vii) In addition to ineligible input tax credit arising from inputs used for supply of exempted / Nil rated / non-GST goods or services, there may be other types of ineligible input tax credits such as those related to specified capital goods / assets. It is recommended that the model GST law may provide for the full scope of such ineligible input tax credits.
- viii) It is also recommended that such ineligible tax credit should accrue to the importing States in accordance with the Place of Supply Rules. This imperative will also apply to the inter-state supplies procured by the economic entities / government departments / public bodies supplying tax exempt / nil-rated / non-GST goods and services only. The mechanism for flow of such funds to the importing state by way of a system based apportionment in a consistent manner may be decided as a part of the return process.

(H) REFUND OF CARRY FORWARD INPUT TAX CREDIT:

- i) As stated earlier, ITC is allowed to remove cascading and under modern VAT laws, tax is charged on value addition only and tax is not charged on tax. It is for this reason that the ultimate consumer is liable to bear the tax burden.
- ii) It is noted that the ITC may accumulate on account of the following reasons :
 - a) Inverted Duty Structure i.e. GST on output supplies is less than the GST on the input supplies;
 - b) Stock accumulation;
 - c) Capital goods; and
 - d) Partial Reverse charge mechanism for certain services.
- iii) As regards the accumulated ITC attributed to accumulation of stock or capital goods, it is recommended that GST Law may provide that refund of carried forward ITC may not be allowed and such amount would be carried forward to the next tax period (s). The GST Law may provide for appropriate provisions in this regard.
- iv) Under the proposed GST law, it is proposed to have fewer tax rates and fewer exemptions and therefore it is felt that chances of inverted duty structure would not be there or would be very minimal. But still there might be a possibility that ITC may accumulate on account of inverted duty structure.
- v) It is recommended that in such case, cash refund may be granted

after due audit and should be sanctioned only after the input tax credit has been matched from the purchase and sales statements filed along with monthly returns. The refund would be granted on submission of application. It may be mentioned, however, that presently the Centre does not grant refund in such cases.

- vi) Two options i.e. blocking the utilization of input tax credit claimed as refund at the time of submission of application for refund itself or debiting the input tax credit account / cash ledger subject to the amount available in either account at the time of issuance of sanction order of refund were discussed. It is recommended that the first option should be adopted. Suitable linkage between the refund application and blocking of the "carry forward input tax credit" in the return/cash ledger should be built in GSTN and refund backend processing system.
- vii) ITC may also accumulate on account of circumstances wherein liability to pay service tax is under Partial reverse Charge Mechanism. Presently the liability to pay service tax is either on the service provider or on service recipient or on both. The third category is popularly known as joint / partial reverse charge where both the service provider and the service recipient are liable to pay the service tax.
- viii) In case of partial reverse charge, service provider may be left with unutilized balance in the input credit account as he is not liable to discharge the tax liability in full. In such cases, refund may be granted if the GST law provides for a joint reverse charge mechanism.
- ix) The refund may be on account of CGST, SGST or IGST as the case may be.

(I) REFUND ON ACCOUNT OF YEAR END OR VOLUME BASED INCENTIVES PROVIDED BY THE SUPPLIER THROUGH CREDIT NOTES:

It is noted that suppliers are allowing year end or volume based discounts through credit notes. Such practice is being misused by the trade where the downstream dealers show negative value-additions. Some States have placed restrictions on such ITC. It is felt that the GST Law may provide for suitable provisions in this regard as provisions for such discounts is a trade practice and will have to be permitted in the GST regime. The following procedure is recommended:

- i) The refund would be granted on submission of a simple application along with a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being

claimed as refund. The GST Law Drafting Committee may prescribe a threshold amount below which self-certification (instead of CA Certificate) would be sufficient.

- ii) In such cases, the eligibility for ITC at the buyer's end and the output liability at the supplier's end will get simultaneously reduced / adjusted on the basis of credit notes issued by the supplier and the corresponding debit notes issued by the buyers.
- iii) This would also obviate the need for resorting to provisional assessment presently provided in Central Law and discussed in para (C) above.
- iv) The GST Law may contain suitable provision to this effect and the GSTN should have suitable validations to this effect. The validation should include matching of credit and debit notes and reversal of the reduction of the output tax liability in case of the mismatch.
- v) The refund may be on account of CGST, SGST or IGST as the case may be.

(J) TAX REFUND FOR INTERNATIONAL TOURISTS:

Tax Refund for International Tourist (TRT) scheme provides an opportunity to the foreign tourists to purchase goods during their stay in any country on payment of GST and obtain refund of the GST so paid, at the time of exit from the country. Nearly 52 countries have adopted such kind of refund mechanism. It was noted that such a scheme helps in attracting tourist and is in line with avowed objective of GST regime of zero rating of goods and Make in India initiative of Government of India. State governments are offering VAT refunds to foreign diplomats and officials of multilateral agencies. This scheme will be implemented through particular retailers who are registered for this scheme. Refund of GST will be available at designated airports and ports only and the refund of the GST paid on retail purchase by the foreign tourists during their stay in India is allowed. A part of the eligible amount of refund will be deducted as handling fee for services rendered. GST law drafting Committee may provide for this provision as well delineate the details of the scheme.

REFUND FORMS:

3.0 The form should be simple to fill, easy to understand and more importantly, in the context of the technological world, it should be in electronic format. The forms for Refund Claim, Refund order and Reduction / Adjustment summary are enclosed as Annexure –IV to VII to this document.

TIME PERIOD FOR FILING OF REFUND AND RELEVANT DATE:

4.0. It is recommended that a period of one year from the relevant date may be allowed for filing of refund application. Relevant date for filing of each kind of refund needs to be defined separately. The following dates are recommended as relevant dates for different type of refund cases:

- i) Date of payment of GST when the refund arises on account of excess payment of GST due to mistake or inadvertence.
- ii) Date on which proper officer under the Custom Act gives an order for export known as "LET EXPORT ORDER" for the purpose of refund filed on account of export of goods under claim of rebate of GST paid on exported goods or refund of accumulated input credit of GST when goods are exported.
- iii) Date of BRC in case of refund on account of export of services under claim of rebate of GST paid on exported services or refund of accumulated input credit of GST when services are exported.
- iv) Date of the finalization order where refund arises on account of finalization of provisional assessment. (May not be required if the GST law does not provide for provisional assessment)
- v) Date of communication of the appellate authority's order where the refund arises in pursuance of an appellate authority's order in favor of the taxpayer.
- vi) Date of communication of adjudication order or order relating to completion of investigation when refund arises on account of payment of GST during investigation, etc. when no/less liability arose at the time of finalization of investigation proceedings or issuance of adjudication order.
- vii) Date of providing of service (normally the date of invoice) where refund arises on account of accumulated credit of GST in case of a liability to pay service tax in partial reverse charge cases.
- viii) Date of payment of GST for refund arising out of payment of GST on petroleum products, etc. to Embassies or UN bodies or to CSD canteens, etc. on the basis of applications filed by such persons.
- ix) Last day of the financial year in case of refund of accumulated ITC on account of inverted duty structure.

SUPPORTING DCOUMENTS:

5.0 Documents evidencing tax payments required to be enclosed with the refund application should be minimal but adequate so that both the taxpayer and tax authority find it easy to deal with the application. Normally following documents are required to establish the rightful claim of refund:

- i) Copy of TR-6 / GAR-7/ PLA / copy of return evidencing payment of duty. It is recommended that these forms may not be called for as in the proposed GST scenario payment of duty will be in electronic mode and the same will be easily visible to the refund sanctioning authority on screen.

ii) Copy of invoices (in original) (for the purpose of evidencing the supply of goods and the fact that duty is not reflected in the same). It is noted that the IGST Committee has recommended that the taxpayers would upload their invoice details on monthly basis. Once the same is done and the refund sanctioning authority is able to examine and view them on screen then submission of invoices can be dispensed with. It was noted that the field relating to "Quantity" is not captured in the invoice details proposed to be uploaded either before or alongwith the Return. It was further noted that this information would be required in case of refund in relation to exports. The applicant for refund in such cases would submit the copies of the invoices or a statement containing details of quantity along with the refund application. Documents evidencing export. In the proposed GST scenario it is recommended that the ICEGATE and GSTN would be inter linked, and therefore these documents can be verified on line and therefore can be dispensed with.

- iii) Documents evidencing that the tax burden has not been passed on to the buyer. Since GST is an Indirect tax, there will be a rebuttable presumption that the tax has been passed on to the ultimate consumer. Therefore there is a need for establishing that principle of "unjust enrichment" does not apply to the refund claim. It is recommended that a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund should be called for. The GST Law Drafting Committee may prescribe a threshold amount below which self-certification (instead of CA Certificate) would be sufficient.
- iv) Any other document as prescribed by the refund sanctioning authority.

It is recommended that the state and central tax authorities together prescribe the documents that are required for demonstrating the legitimacy and correctness of refund claimed and checklists can be generated for refund sanctioning process.

RECEIPT OF REFUND APPLICATION AND PROCEDURE FOR GENERATING PROOF OF RECEIPT OF APPLICATION FOR REFUND:

6.0 It is recommended that the State Tax authorities shall deal with the SGST refund and Central Tax authorities shall deal with refund of CGST and IGST. The following procedure is proposed in this regard:

- i) Applicant may be given the option of filing refund application either through the GSTN portal or through the respective State / Central Tax portal. Filing through GSTN portal may be beneficial for those applicants whose refund relates to CGST / IGST as well as SGST or the refund arises in different State Tax jurisdictions. Instead of filing applications with different tax authorities, the same may be filed with the GSTN portal which will forward it to the respective tax

- authority.
- ii) On filing of the electronic application, a receipt/ acknowledgement number may be generated and communicated to the applicant via SMS and email for future reference. A provision may be made to display the application for refund in dealer's online dashboard when he logs into the system.
 - iii) The "carry forward input tax credit" in the return and the cash ledger should get reduced automatically, if the application is filed at GSTN portal itself. In case the application is filed at the tax department portal, suitable integration of that portal with GSTN portal should be established to reduce/block the amount before taking up the refund processing.
 - iv) It should be clearly mentioned / highlighted that generation of this number does not in any way affirm the legality, correctness or completeness of the refund application.

NUMBER OF COPIES OF APPLICATIONS TO BE FILED:

7.0 As the filing of the electronic refund application is a preferred mode, filing of multiple copies of applications is not required.

REQUIREMENT FOR TAXPAYER TO KEEP A COPY OF REFUND APPLICATION FOR THE PRESCRIBED PERIOD:

8.0 Since the application for refund is expected to be filed electronically, the application form should have a print option along with the option for the applicant to download the same so that he can store the same for future reference and record. This would serve the purpose of record keeping for the applicant.

PROCEDURE AND TIME WITHIN WHICH PRELIMINARY SCRUTINY OF SUBMISSION OF THE RELEVANT DOCUMENTS IS CARRIED OUT:

9.0 After the receipt of the application in the jurisdictional officer's menu, the same should be examined for deficiency, if any. Since the recommendation is to reduce the number of documents that are to be filed along with the application and most of the documents related to refund application will be available online, it is recommended that the preliminary scrutiny may be carried out within 30 common working days and deficiency, if any, should be communicated to the applicant directly from the respective tax portal. (In case refund relates

to different jurisdictions or involves both central and state GST levy, then the said deficiency needs to be forwarded to GSTN also which will communicate the same to the corresponding tax authority relating to that refund).

9.1 It is recommended that tax authorities should make efforts to ensure that piecemeal queries are avoided. Applicant may file his reply through the respective tax authority portal / GSTN. Any further queries should be raised only with the approval of higher authorities so that unnecessary queries are avoided. Once the refund application is found to be complete in all respect, the same may be communicated to applicant via SMS and e mail and the date of communication shall be considered as the relevant date for the purpose of time limit prescribed for sanctioning of refund and initiation of interest clause.

PROCEDURE FOR DEALING WITH REFUND THEREAFTER
INCLUDING EXAMINATION OF PRINCIPLE OF "UNJUST ENRICHMENT " :

10.0 Once the refund application is found to be complete and the fact of completeness has been intimated to the applicant, the jurisdictional tax authority should examine the same in the light of the provisions of the GST Law relating to refund. Important parameters include the timeliness of refund application, tax payment, date of export (if relating to export), reasons for refund etc.

10.1 It is recommended that for the sake of uniformity, the state and central laws should have similar provisions.

10.2 As GST is an indirect levy, there is always a rebuttable presumption that the tax has been passed on to the ultimate consumer by the applicant. So it is essential that every refund application should be examined in light of the principle of "unjust enrichment" and the appropriate provisions may be incorporated in the GST law. The burden of discharging the obligation under "unjust enrichment" should be on the applicant and documents manifesting the same should be submitted along with the application. As discussed above, a Chartered Accountant's Certificate certifying the fact of non-passing of the GST burden by the taxpayer, being claimed as refund should be submitted. The GST Law Drafting Committee may prescribe a threshold amount below which self-certification (instead of CA Certificate) would be sufficient.

10.3 If the refund is not found to be legal or correct for any reason,

then the jurisdictional authority should issue Show Cause Notice (SCN) to the applicant and thereafter the refund will be kept in abeyance in the system till the SCN is adjudicated. In case, the refund application is found to be in order but does not satisfy the test of unjust enrichment, the refund amount, after sanction, would be credited to the Consumer Welfare Fund. The GST Law Drafting Committee may examine whether such amount should be credited to Consumer Welfare Fund or to the consolidated fund of State / Union.

MINIMUM AMOUNT BELOW WHICH REFUND SHALL NOT BE GRANTED:

11. Filing of refund application and processing of the same involves investment of resources, in terms of time, money and manpower, by both the applicant and tax administration. Therefore the amount should not be meager enough to create uneconomical burden on the applicant as well as tax administration. Looking at the rising inflation, it is recommended that an amount in the range of Rs. 500-1000/- may be fixed below which refund shall not be granted. This limit should be uniform for both CGST/IGST and SGST.

SANCTIONING OF REFUND:

12. To make the process of refund hassle free, it is important that even this last stage of refund processing should be simple and free from human intervention so that the applicant may have a pleasant experience while dealing with tax authorities. Therefore it becomes significant that once the tax authority decides about sanctioning of the refund, the same shall be granted to the applicant promptly. For this it would be essential that the details of the bank account are sought from the applicant at the time of filing of the refund application itself so that the amount of refund can be transferred to the applicant electronically through NEFT /RTGS/ECS.

VERIFICATION AND CONTROL:

13. Every refund that is sanctioned would need to go through a process of review by higher authorities in order to ensure the correctness of the decision of refund sanctioning authority. So once the refund is sanctioned, the same shall be transferred through the IT system to the menu of the higher authority along with the documents on the basis of which decision was taken by the refund sanctioning authority. Any documents that were sought besides those in the application should also be forwarded manually to the higher authority for taking a decision

about review of the order. It is essential that there is simultaneous flow of the refund documents in paper along with the electronic application to the audit section so that the process of post audit can be carried out concurrently.

13.1 It is recommended that looking at the higher level of compliance and self regulating mechanism in the form of system based ITC verification, uploading of sales and purchase invoices, reconciliation, compliance rating etc. post audit of refund application (and not of the accounts of the taxpayer) can be dispensed with if so decided by the respective Tax Jurisdiction for refunds upto Rs. One lakh for normal taxpayers and for refund upto Rs. 2 lakhs for certain prescribed categories of applicants (like public sector undertakings, applicants having the AEO Status, etc.) but the process of review of refund may be provided in the GST Law.

13.2 Besides this, for refund amounts exceeding a pre-determined amount a provision for pre-audit of refund application (and not of the accounts of the taxpayer) before the sanction of the refund may be provided for. Keeping in view the points mentioned above regarding increased compliance, self-regulation and system based verification, etc., it is recommended that the monetary limit for pre- audit of the refunds sanctioned may be kept at Rs. one crore or as may be decided by the respective Tax Jurisdiction. The procedure for pre- audit will be same as that for the post audit except that the application will have to move to and fro between the refund sanctioning authority and the audit authority before grant of refund. The GST Law may provide that the process of audit should be time bound with clearly defined timeline so that quality of audit does not suffer from insufficiency of time.

13.3 It is recommended that either the review procedure or system of pre- audit & post-audit may be kept in the GST Law. GST Law Drafting Committee may provide for the appropriate provision.

INTEREST

14. It is recommended that the GST Law may provide for a prescribed time limit of 90 days from the date of the system generated acknowledgment of refund application within which refund has to be paid. It may also be provided in the GST law that, interest clause will start automatically once the prescribed time limit for sanctioning of refund has been breached.

14.1 The issue relating to dealing with the refund cases in which refund application has been filed but the same is found to be incomplete or deficient was discussed. It is recommended that the GST Law may clearly specify that the time limit for payment of interest will

start from the date of the electronically generated acknowledgement of the refund application signifying that the application is complete in all respects. The GST Law may also provide for a time limit of 30 days from the date of receipt of refund application for raising queries/ deficiency memos by tax authorities regarding incompleteness of the refund documents. Piecemeal queries must be avoided. Once the applicant files a reply to the deficiency memo and the refund application is found complete as per the prescribed documents, the same should be acknowledged electronically by the refund sanctioning authority and the time limit for interest will start from the date of such electronic acknowledgement.

14.2 It is recommended that the rate of interest for delayed payment of refund and that in case of default in payment of GST should be different. The Committee recommends that the rate of interest in case of refund may be around 6% and that in case of default in payment of interest may be around 18%. The GST Law may provide accordingly. The GST Law may also provide that the interest will accrue from the last date when refund should have been sanctioned even when the refund is ordered to be paid by the order of the appellate authority in the appeal filed by the applicant against order of rejection passed by the refund sanctioning authority. This would discourage refund sanctioning authority from rejecting refund claims on frivolous grounds.

ADJUSTMENT:

15 In some cases, the taxpayer may have outstanding demand under GST Act. The GST Law may provide for adjusting the refund claim against any amount of un-stayed confirmed demand lying beyond the appeal period. The refund order may clearly state the amount so adjusted and particulars of the adjusted demand may also be stated in the annexure to be attached with the order. Format of Application for refund and Refund order can be designed accordingly. Suggested format is enclosed as Annexure-IV to VI to this document.

RECOVERY OF ERRONEOUS REFUND:

16 It is recommended that the GST law may provide for the provisions for recovery of erroneously granted refunds along with interest.

(Satish Chandra)
Secretary
Committee
Ministers

(Rashmi Verma) Member
Additional Secretary Empowered
Department of Revenue of State Finance
Government of India

ANNEXURE-
I

CONSTITUTION ORDER OF JOINT COMMITTEE ON BUSINESS PROCESSES FOR
GST

EMPOWERED COMMITTEE OF STATE FINANCE
MINISTERS

DELHI SECRETARIAT, IP ESTATE, NEW DELHI -
110002

Tel. No. 2339 2431, Fax: 2339 2432 e-mail:
vatcouncil@yahoo.com

No.15/45/EC/GST/2014/32
2014

Date: 7th April,

JOINT COMMITTEE ON BUSINESS PROCESSES FOR
GST

During the last Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also keep in view the Registration and Return requirements necessary for IGST Model. Accordingly, a Joint Committee, in consultation with the Government of India, is constituted with the following members:

Government of
India

- (1) Smt. Rashmi Verma, Additional Secretary (Revenue) -- Co-convener
- (2) Shri P.K. Mohanty, Joint Secretary (TRU-I)
- (3) Shri M. Vinod Kumar, Joint Secretary (TRU-II)
- (4) Shri J.M. Kennedy, Director (TRU-II)
- (5) Director/Deputy Secretary holding the charge of

State Taxes Section
States Government

- (1) Dr. J.B. Ekka, Commissioner of Taxes, Assam
- (2) Shri Prashant Goyal, Commissioner, Trade & Taxes, Delhi
- (3) Shri H.V. Patel, Commissioner, Commercial Tax, Gujarat

- (4) Shri Sudhir Rajpal, Commissioner, Excise & Taxation, Haryana
- (5) Shri Kifayat Hussain Rizvi, Commissioner, Commercial Tax, J&K
- (6) Shri Ajay Seth, Commissioner, Commercial Tax, Karnataka
- (7) Shri Shyam Jagannathan, Commissioner, Commercial Tax, Kerala
- (8) Shri Amit Rathore, Commissioner, Commercial Tax, Madhya Pradesh
- (9) Dr. Nitin Kareer, Commissioner, Sales Tax, Maharashtra
- (10) Shri Abhishek Bhagotia, Commissioner, Commercial Tax, Meghalaya
- (11) Shri Manoj Ahuja, Commissioner, Commercial Tax, Odisha
- (12) Shri Sanjay Malhotra, Commissioner, Commercial Tax, Rajasthan
- (13) Shri K. Rajaraman, Commissioner, Commercial Tax, Tamil Nadu
- (14) Shri M.K. Narayan, Commissioner, Commercial Tax, Uttar Pradesh
- (15) Shri Dilip Jawalkar, Commissioner, Commercial Tax, Uttarakhand
- (16) Shri Binod Kumar, Commissioner, Commercial Tax, West Bengal

Empowered Committee of State Finance Ministers

- (1) Shri Satish Chandra, Member Secretary -- Co-convenor

2. The Committee will submit its report to the Empowered Committee in two months time.

Sd/-
(Satish Chandra) Member
Secretary Empowered
Committee of State
Finance Ministers

Copy to: All the Members of the Joint Committee

Copy also to:

- (1) PS to Chairman, Empowered Committee of State Finance Ministers
- (2) Adviser to Chairman, Empowered Committee of State Finance Ministers
- (3) Sr.A.O./OSD/F.O./A.O., Empowered Committee of State Finance Ministers

ANNEXURE-II

CONSTITUTION OF SUB-COMMITTEE ON GST REFUND PROCESSES

EMPOWERED COMMITTEE OF STATE FINANCE MINISTERS
DELHI SECRETARIAT, IP ESTATE, NEW DELHI -
110002

Tel. No. 2339 2431, Fax: 2339 2432 e-mail: vatcouncil@yahoo.com,
vatcouncil@gmail.com

No.15/45/EC/GST/2014/170
2014

Date: 14th November,

CONSTITUTION OF SUB-COMMITTEE ON GST REFUND PROCESSES

During the last meeting of the Joint Committee on Business Process for GST held on 12th November, 2014, it was decided to form a Sub-Committee to look into the GST refund processes. Accordingly, a Sub-Committee consisting of the following is constituted:

Government of India

- (1) Shri Upender Gupta, Additional Commissioner, GST Cell -- Co-convener
- (2) Shri Manish Sinha, Director (CX)
- (3) Shri Rajiv Yadav, Director (ST)

State Governments

- (1) Shri Manoj Ahuja, Commissioner, Commercial Tax -- Co-convener
Government of Odisha
- (2) Shri Amit Rathore, Commissioner, Commercial Tax,
Government of Madhya Pradesh
- (3) Dr. Nitin Kareer, Commissioner, Sales Tax, Government
of Maharashtra
- (4) Shri M. Girees Kumar, Commissioner, Commercial Tax,
Government of Kerala

Goods and Services Tax Network

(1) Shri Prakash Kumar, Chief Executive Officer

Special Invitee

(1) Shri Ajay Seth

(2) The Sub-Committee should submit its report in one month's time.

Sd/-	
(Satish	Chandra)
Member	Secretary
Empowered	Committee
of State	Finance
Ministers	

Copy to: All the Members of the Committee

ANNEXURE-III

LIST OF PARTICIPANTS OF THE MEETING HELD ON

22ND AND
23RD JULY, 2015

Government of India

1. Smt. Rashmi Verma, Additional Secretary (Revenue), Government of India
2. Shri Rajeev Yadav, Director (Service Tax), CBEC, Government of India
3. Shri B.B. Agrawal, Principal Commissioner, CBEC, Government of India
4. Shri Upender Gupta, Commissioner, GST, CBEC, Government of India
5. Shri M.K. Sinha, Commissioner (LTU), Audit, CBEC, Government of India
6. Shri G.D. Lohani, Commissioner, CBEC, Government of India
7. Shri Ravneet Singh Khurana, Deputy Commissioner, CBEC, Government of India
8. Shri Sachin Jain, Additional Commissioner, CBEC, Government of India
9. Shri P.K. Manderna, Superintendent (GST Cell), Government of India

States

1. Shri Gautam Das Gupta, Deputy Commissioner of Taxes, Assam
2. Shri T. Ramesh Babu, Additional Commissioner, Commercial Tax, Andhra Pradesh
3. Shri Arun Kumar Mishra, Joint Secretary, Finance, Bihar
4. Shri Santosh Kumar Sinha, Additional Commissioner, Commercial Tax, Bihar
5. Shri Deepak Kanan, Additional Commissioner, Commercial Tax (GST), Bihar
6. Shri R.K. Trivedi, Additional Commissioner, Commercial Tax, Chhattisgarh
7. Shri Kishor Bhalla, Deputy Commissioner (VAT), Daman & Diu and Dadra & Nagar Haveli
8. Shri Vijay Kumar, Commissioner (VAT), Trade and Taxes, Delhi
9. Shri Jagmal Singh, Deputy Director, Trade and Taxes, Delhi
10. Shri Dipak M. Bandekar, Additional Commissioner, Commercial Tax, Goa

11. Dr. P.D. Vaghela, Commissioner, Commercial Tax, Gujarat
12. Ms. Aarti Kanwar, Special Commissioner, Commercial Tax, Gujarat
13. Shri Shyamal Misra, Commissioner, Excise & Taxation, Haryana
14. Shri Hanuman Singh, Additional Commissioner, Excise & Taxation, Haryana
15. Shri J.C. Chauhan, Commissioner, Excise & Taxation, Himachal Pradesh
16. Shri P.K. Bhat, Additional Commissioner, Commercial Tax, Jammu & Kashmir
17. Smt. Nidhi Khare, Secretary-cum-Commissioner, Commercial Tax, Jharkhand
18. Dr. M.P.Ravi Prasad, Joint Commissioner, Commercial Tax, Karnataka
19. Dr. Rajan Khobragade, Commissioner, Commercial Tax, Kerala
20. Shri M.I. Mansur, Assistant Commissioner, Commercial Tax, Kerala
21. Shri Sudip Gupta, Deputy Commissioner, Commercial Tax, Madhya Pradesh
22. Shri P. Velrasu, Special Commissioner, Sales Tax, Maharashtra
23. Shri B.V. Borhade, Joint Commissioner, Sales Tax, Maharashtra
24. Shri P.M. Kulkarni, Deputy Commissioner, Sales Tax, Maharashtra
25. Shri K. Sanglawma, Commissioner of Taxes, Mizoram
26. Shri H. Rangthanmawia, Superintendent of Taxes (GST Cell), Mizoram
27. Shri Niten Chandra, Commissioner, Commercial Tax, Odisha
28. Shri Sahadev Sahoo, Joint Commissioner, Commercial Tax, Odisha
29. Shri K. Sridhar, Deputy Commissioner, Commercial Tax, Puducherry
30. Dr. Karthik, Additional Secretary, Punjab
31. Shri Pawag Garg, Additional Commissioner, Excise & Taxation, Punjab
32. Shri Vaibhav Galriya, Commissioner, Commercial Tax, Rajasthan
33. Shri Manoj Rai, Joint Commissioner, Commercial Tax, Sikkim
34. Shri D. Soundraraja Pandian, Joint Commissioner (Taxation), Commercial Taxes, Tamil Nadu
35. Shri K. Chandrasekhar Reddy, Additional Commissioner, Commercial Tax, Telangana
36. Shri Vikas Singh, Commissioner of Taxes and Excise, Mizoram
37. Shri Vivek Kumar, Additional Commissioner, Commercial Tax, Uttar Pradesh
38. Shri Abhijit Gupta, Commercial Tax Officer (IT), Uttar Pradesh
39. Shri N.C. Sharma, Additional Commissioner, Commercial Tax, Uttarakhand
40. Smt. Ujjaini Datta, Joint Secretary, Finance, West Bengal

Goods and Services Tax Network (GSTN)

1. Shri Navin Kumar, Chairman, Goods and Services Tax Network

2. Shri Prakash Kumar, Chief Executive Officer, Goods and Services Tax Network

Empowered Committee of State Finance Ministers

1. Shri Satish Chandra, Member Secretary, Empowered Committee
2. Shri Bashir Ahmed, Adviser, Empowered Committee

IV

Government of -----

-- Department of --

----- Form GST -

Refund Claim Form under ----- Goods & Services Tax Act,

(To be used by Tax Payers only)

[illegible][illegible]

3. Taxpayer's address	Building Name/ Number													
	Area/ Road													
	Locality/													
	Market Pin													

4. Amount of refund claimed (Rs.)	IGST	CGST	SGST

5. Ground for claiming refund (provide reasons in detail, attach additional sheets, if required) [Attach /upload supporting documents)	

6. Tax Period for which refund claimed	From								To							
		dd	mm	yy			dd	mm		yy						

[illegible]

8. Verification

I/We _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory _____

Full Name (*first name, middle, surname*) _____

Designation / Status _____

Place																						

Date							
	Day		Month		Year		

ANNEXURE-
V

Department of -----

- Government of -----

Form GST

—

[See Rule -
]

Reference No.

Date -

Refund order under ----- Goods & Services Tax Act,

1. GSTIN															

2. Full Name of Tax Payer															

3. Tax Payer's address	Building Name/ Number														
	Area/ Road														
	Locality/ Market														
	Pin Code														

4. Receipt No. & date	Receipt No. -	Receipt date -

of refund
application

5. Act	Tick ☒ one	☐ IGST	☐ CGST	☐ SGST
6. Type of refund application	Tick ☒ one	☐ Return type	☐ Return type	☐ Application

Note - Return type can be regular & composition (say, GST-20,21) etc.

7. Tax Period for which refund claimed	From								To							
		dd	mm	yy				dd	mm	yy						

[illegible]

(vi) Net amount of refund payable	(iii + iv – v)																			
9. Details of Bank Account																				
i) Bank Account No.																				
ii) Bank Account Type																				
iii) Operated in the name of																				
iv) Name & Address of Bank/Branch																				
v) MICR No. / IFSC																				

(Signature)

Name

(Designation)

Ward/Circle/Unit/Other

(Place)

(Date)

Note - Please quote your GSTIN while communicating with the department ----- in this matter or in any other matter whatsoever.

ANNEXURE-

VI

Reduction / Adjustment Summary

Sr No.	Description	Year & Tax Period	Amount (reduction / adjustment)	Order No.	Order date	Balance demand, if any remaining
1	2	3	4	5	6	7
1.	Reduction of refund amount					
2.	Adjustment against outstandin g demand					
	Total					

(Signature)

Name

(Designation

)

Ward/Circle/Unit/Other

(Place

)

(Date)

ANNEXURE-
VII

Department of -----

- Government of -----

— — — —

Form GST -
[See Rule --
]

Refund Claim Form under ---- Goods & Services Tax Act, ----

[To be used only by Embassies, International and Public Organisations and their Officials]

[illegible]

2. Tax Period for which refund claimed	From							To						
		dd	mm	yy			dd		mm	yy				

[illegible]

4. Address of Embassy / Organisation	Building Name/ Number														
	Area/ Road														
	Locality/ Market														
	Pin Code														
	Email Id														
	Telephone Number														
	Fax Number														

5. Entry Number of ---- Schedule under which the applicant is eligible to claim refund		

6. Amount of refund claimed (Rs.)	IGST				CGST				SGST			
(As per invoice detail provided below)												

7. Details of purchases of tax paid goods in respect of which refund of tax is sought

Sr. No.	Invoice date	Invoice No.	Supplier's	Supplier's	Value / Price (excluding	Tax (Rs.)		
						IGST	CGST	SGST
1	2	3	4	5	6	7	8	9
Total								

8. Details of Bank Account in which refund should be remitted	Bank Account Number																
	Bank Account Type																
	Operated in the name of																
	MICR / IFSC																
	Name of Bank																
	Address of Branch																

9. Verification

I/We _____ hereby solemnly affirm and declare that the

information given hereinabove is true and correct to the best of my/our knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

Full Name *(first name, middle, surname)* _____

Designation / Status

Place																					

Date							
	Day		Month		Year		

7.4 Report on Payment
REPORT OF

THE JOINT COMMITTEE ON BUSINESS PROCESS FOR GST

ON

GST PAYMENT PROCESS

April 2015

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INTRODUCTION

During the Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Payment and Return to the Empowered Committee. Accordingly, a Joint Committee, in consultation with the Government of India, was constituted on 7th April, 2014 (Annexure-I). The Committee held its deliberations on 28th October, 2014, 12th November, 2014, 25th November, 2014, 22nd December, 2014, 2nd and 3rd February, 2015, 19th and 20th February, 2015 and 16th and 17th April, 2015.

2. The Joint Committee on Business Processes for GST held on 2nd February, 2015, it was decided to constitute a sub-committee on GST Payment Process. Pursuant to that decision, the Member Secretary, Empowered Committee constituted the Sub-Committee vide his memorandum letter dated 3rd February, 2015 (Annexure-II). Shri V Rajendaran, DG (Government Accounts), CAG, Mrs. Krishna Tyagi, CCA, CBEC, Government of India, Shri Madan Mohan, Jt. CGA, Government of India and Shri G Sreekumar, CGM, RBI were co-opted as members of the Sub-Committee. Shri Ravneet S. Khurana, Deputy Commissioner GST Cell, CBEC also participated in the deliberations of

the Sub-Committee. The Sub-Committee met in Bengaluru on 14th and 15th February, 2015 and on 06th and 07th April, 2015. The Sub-Committee also exchanged drafts on emails during the interregnum period. The Sub-Committee submitted its final report on 10th April, 2015.

3. The report of the Sub-Committee was discussed in the meeting of the Joint Committee of Business Processes held in Delhi on 16th and 17th April 2015 and was accepted with certain modifications. The meeting of the Joint Committee was attended by the officers as listed in Annexure III.

4. In modern day taxation regime, every transaction of the tax payer with the tax administration should be transparent, responsive and simple. It has been experience of tax administrations that more the system and procedures are made electronic more is the efficiency of tax administration and greater is the satisfaction of taxpayer. In this context, payment system of GST should also be based on Information Technology which can handle both the receipt and payment processes.

5. The objectives of this report are as under:

- a) Highlight key issues in tax collection, collation, remittance and reporting of tax collection into Government account;
- b) Need for a uniform system of banking arrangements for collection, remittance and reporting of GST to both Central and State Governments;
- c) Proper accounting and bank reconciliation of taxes derived from basic data of payments made by taxpayers to banks, with the required classification of heads of accounts indicated on the Challan;

d) Designing the format of a new Challan for use by the taxpayers paying GST;

e) Developing a detailed accounting procedure common to both Central and State Governments for GST, covering all relevant aspects of payments, accounting and related banking arrangements.

6. It is noted that under GST regime, some taxes and duties may remain outside the purview of GST and will continue to be collected in the manner prescribed under existing accounting procedures/rules/manuals, etc. This means that two types of challans (one for GST and other for non-GST) will be used and accounted for by the respective Pay and Accounts Offices (PAOs)/State AGs.

7. The payment processes under proposed GST regime should have the following features:

- a) Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan;
- b) Facilitation for the taxpayer by providing hassle free, anytime, anywhere mode of payment of tax;
- c) Convenience of making payment online;
- d) Logical tax collection data in electronic format;
- e) Faster remittance of tax revenue to the Government Account;
- f) Paperless transactions;
- g) Speedy Accounting and reporting;
- h) Electronic reconciliation of all receipts;
- i) Simplified procedure for banks;
- j) Warehousing of Digital Challan.

8. With the above features in mind the following three modes of payment are proposed:

- a) Payment by taxpayers through Internet Banking through authorized banks and through credit card/debit card; (Section 45 of RBI Act, 1934 permit banks other than RBI to be appointed as agency banks for carrying out government business. Agency banks are permitted to both receive and make payments on behalf of the Government and therefore act as Banker to respective governments. However, authorized banks are only permitted to receive payment of GST on behalf of the Government, and keeping this distinction in view, the expression 'authorized bank' is used throughout this Document.)
- b) Over the Counter payment (OTC) through authorized banks;
- c) Payment through NEFT/RTGS from any bank (including other than authorized banks).

9. Mode of payment described at b) above will be available for payments up to Rs.10,000/- per challan only. Model GST law may have suitable provisions in relation to this. However, there should not be any IT system constraints for this i.e. the systems should be able to receive payments through all three modes irrespective of the amount. Other means of payment, such as payment by book adjustment as is presently being allowed by Government of India to some departments / State governments or payment by debit to export scrips, while paying tax would not be allowed. It is also noted that all taxpayers under Centre are paying taxes electronically and possibly the same situation exists in some State Tax administrations. It is desirable that under the GST regime, all taxpayers should gradually move to internet payment over an indicative

time frame.

10. The Committee recommends that RBI should play the role of an aggregator through its e-Kuber system. Such role will facilitate participation of larger number of banks in GST receipts enhancing convenience for the tax payers and provide single source of information for credit of the receipts to Government accounts and thereby simplifying accounting and reconciliation tasks. In case of any discrepancy found during the reconciliation by the Accounting Authorities, they would directly interact with RBI. Joint CGA suggested that as per the provisions of Section 20 of the RBI Act, 1934 in the proposed scenario, RBI would be the sole banker to the Governments. RBI, on the other hand, has indicated that Section 20 and Section 45 of the RBI Act, 1934 are not mutually exclusive and therefore there would not be any conflict in the role envisaged for the RBI in the proposed model.

11. Each of the above modes is discussed separately along with the role of stakeholders involved, process of reporting, accounting and reconciliation of data. As already mentioned above, it is envisaged that for each mode of payment, the challan will be generated electronically at the GSTN and no manual challan will be used under any mode of payment.

I. PAYMENT BY TAXPAYERS THROUGH INTERNET BANKING
THROUGH AUTHORIZED BANKS AND THROUGH CREDIT CARD/ DEBIT CARD:

12. With increasing spread of internet and electronic communication, this

mode has emerged as one of the preferred modes of tax payment for both the taxpayers and administrators. As the name suggests, this mode of payment involves payments by the taxpayers that utilize the electronic network, right from the generation of the challan by the taxpayer to the ultimate reconciliation of the data by the Accounting authorities. Before understanding the process involved in e-payments, it is important to list the stakeholders involved in this mode of payment. The following stakeholders will play a key role in establishing an effective e-payment network in the proposed GST scenario:

- a) GSTN (Goods and Service Tax Network);
- b) e- FPBs (Electronic Focal Point Branches) of authorized banks;
- c) e-Kuber of RBI;
- d) Central Accounts Section (CAS) of RBI, Nagpur;
- e) e-PAOs (Electronic Pay and account Offices) / e-Treasuries of State Governments;
- f) Pr. CCA, CBEC (Principal Chief Controller of Accounts) / Accountant General of the States;
- g) Tax authorities of Centre and States.

Process involved in e-payment of GST:

13. Every tax payer who wants to avail the facility of e-payment will access GSTN for generation of the Challan through which payment is to be made. The following methods for creation of draft challan for GST payments are recommended:

- a) By Registered tax payer or his authorized person by logging on to GSTN Common Portal where basic details (such as name, address, email, mobile no. and GSTIN) of the tax payer will be auto populated in the challan;
- b) By authorized representatives of tax payers by logging on to the

GSTN Common Portal whereafter the list of registered taxpayers represented by him will be displayed. He can select any tax payer on whose behalf he proposes to pay GST and challan details for such tax payer will be auto populated;

c) By grant of temporary Registration number by any one Tax authority on GSTN Common Portal which can be used by both the tax authorities for facilitating tax payments on behalf of an unregistered person. Such a situation can arise during enforcement action by a tax authority and this temporary registration can be later converted into a regular registration number (GSTIN) if the tax payer has a regular GST liability to discharge after the enforcement action (detailed procedure described in Para 78 below);

d) By creation of a challan without requirement of USER ID and Password, for enabling payment of GST by a registered or an unregistered person on behalf of a taxpayer as per the directions of the tax authority using the GSTIN (like the present provision under Service tax). In this method, GSTN would provide for a validation check (like CAPTCHA) so that challan can be created by a person and not by machine.

14. The issue whether challans should have provision for entering jurisdictional location (e.g. Commissionerate, division and range) was discussed in detail and it was decided that the same will not be mentioned in the challan. Instead, the Tax authorities would send the Taxpayers updated master data to GSTN as well as to Accounting Authorities. The incremental changes in the said master would also be sent on real time basis by the Tax authorities to GSTN and Accounting authorities. As challan would not have a jurisdictional location code, the Accounting Authorities would use the TAXPAYER Master received from Tax authorities for mapping the challans with the Jurisdictional PAOs / tax authorities' offices by having a suitable mapping mechanism.

15. Upon creation of the draft challan, the taxpayer will fill in the details of the taxes that are to be paid. The challan page will have sets of mandatory fields, which the user has to provide. The tax payer will have the option to pay CGST, IGST, Additional Tax and SGST concurrently. The tax payers can partially fill in the challan form and temporarily "save" the challan for completion at a later stage. A saved challan can be "edited" before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The remitter will have option of printing the challan for his record. The challan so generated will have a 14-digit (yymm followed by 10-digit) Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated, this will help the portal and other authorities in identifying the challan. The CPIN would be a running serial number to be initialized every calendar month. After the challan is generated, it will be frozen and will not be allowed to be modified. The CPIN/challan so generated would be valid for a period of seven days. In case of payment through Mode III, CPINs would remain live with RBI for a period of 30 days. GSTN would purge all unused CPINs on the day immediately after the date on which the validity period is over (i.e. 7 days if Mode I or II is selected and 30 days if Mode III is selected for payment). At the end of each day (EOD), GSTN would send all the CPINs generated on that day to the Accounting authority of the Centre and to those accounting authorities of the states that so desire. The suggested format of the challan is appended at Annexure – IV which is a common format for all three modes of payment. Since the challan would be prepared electronically, chances of errors will be minimal. However to deal with challan correction in exceptional circumstances, a challan correction mechanism, prepared in consultation with the office of Pr. CCA, CBEC is detailed in paras 123

and 124 below.

16. Since there are three modes of payment, the tax payer has to choose the e-payment mode. This mode will also cover payment by Credit/Debit Card which can be used only after log in on the GSTN.

17. Once e-payment mode is selected, options will be shown to taxpayer to choose between Internet Banking and Credit / Debit Cards for making payment. In case Internet Banking mode is selected, a field with drop down box detailing names of various authorized banks, registered with GSTN for Internet Banking, would be displayed. The taxpayer will have option of choosing his preferred bank for Internet Banking. Credit and Debit Cards of all banks shall be accepted. However, the payment gateway services should be obtained by GSTN from the authorised banks or their payment gateway SPVs only. To encourage competition, preferably more than one such gateway should be provided on the GSTN portal, with display of their respective charge rate and service performance level. The taxpayer can choose any of the gateways available on the portal for making the payment. The exact charge should be calculated separately by the gateway service provider. The gateway provider should collect this amount separately over and above the challan amount. The challan amount should be fully credited to respective Government accounts maintained with the authorised bank (acquiring bank for CC/DC payments), while the gateway charges should be retained back by the gateway provider. The Government/GSTN should procure the payment gateway services from the authorised banks (or their SPVs) through an appropriate competitive process to keep the charge rates low. The Committee also deliberated the issue of charge back claims in case of credit card based payment, and felt that the possibility of such claims on payments to the government is minimal and manageable, especially in view of

implementation of two-step authentication norm by the banks. In addition, the taxpayer would be required to pre-register his credit card, from which the tax payment is intended, with the GSTN system. GSTN may also attempt to put in a system with banks in getting the credit card verified by taking a confirmation from the credit card service provider. The payments using credit cards can therefore be allowed without any monetary limit to facilitate ease of doing business. In the event of such claims, recommended standard operating procedure, prepared in consultation with RBI, is enclosed as Annexure-V.

18. In case of Payment Gateway, the first choice for a taxpayer would be to select the card type to be used for making the payment. Upon choosing the card type, the taxpayer would be displayed available gateway service providers servicing the card type. Once a taxpayer chooses a gateway, the interface of the gateway would be invoked. Alongside, GSTN will forward the same electronic string as was passed for Internet Banking (details in para 19 below). The service provider will capture and verify the card details and debit the challan amount and additional gateway charges from the card holder. The Payment Gateway service providers are expected to build their interface with GSTN common portal to capture challan amount breakup in terms of CGST, IGST, Additional Tax and SGST. Along with the interface, associated accounts for CGST, IGST, Additional Tax and state-wise accounts for SGST should be created by the Authorized banks associated with the gateway service providers. The breakup received from GSTN common portal will be used to credit the amounts received under respective accounts created for the purpose. The Committee noted that in respect of credit card payments, presently the acquiring bank is permitted to transfer the amount to the merchant on T+3 basis. Thus there may arise some situations where the taxpayers account has been

debited on T+0 basis whereas Government's account in authorised bank would be credited on T+3 basis. It was informed by RBI that this time could be reduced to T+1 basis by suitable negotiations with the payment gateways. It is recommended that suitable negotiations may be carried out by the Accounting authorities and RBI with payment gateways to credit the amount on T+1 basis.

19. In case of payment through Internet Banking, once the taxpayer chooses a particular bank for payment of taxes, GSTN will direct him to the website of the selected bank. Alongside, GSTN will forward an electronic string to the selected bank carrying the following details for each challan on real time basis:

- a) GSTIN;
- b) CPIN;
- c) Challan Amount;
- d) Break Up of the Amount into CGST, IGST, Additional Tax and SGST ;
- e) State/UT Government to which SGST remittance pertains.

GSTN in consultation with banks would decide about the requirement of merchant code as a GSTN identifier.

20. Taxpayer will make the payment using the USER ID and Password provided by the bank to enter into the secured e- banking area of his bank. He will select an account for debiting the total tax amount and authorize the payment. While making the payment, the bank will display the breakup of total amount payable into CGST, IGST, Additional Tax and SGST and seek confirmation from the user. No change in the break up as well as the total amount would be allowed

on the Bank's portal. In case the user wants to change the break up or the total amount, he should abort the transaction and go back to GSTN portal from the bank's portal and reinitiate the process.

21. After the successful completion of a transaction, e-FPB of the concerned bank will create a unique Challan Identification Number (CIN) against the CPIN. This will be a unique 17-digit number containing 14-digit CPIN generated by GSTN for a particular challan and unique 3-digit Bank code (MICR based which will be communicated by RBI to GSTN). The incorporation of the date of payment in the CIN may be examined from the IT's perspective. This CIN, as a combination of CPIN and Bank Code, will be reported by the banks along with its own Unique Bank reference number (BRN). Such CIN is an indicator of successful transaction and will be used as a key field for accounting, reconciliation etc. by taxpayers, accounting authorities and tax authorities. After every successful e-payment transaction, there will be an instantaneous reverse flow of information through an electronic data string from the collecting bank to the GSTN containing the following details:

- a) CIN;
- b) GSTIN;
- c) Bank Reference number (BRN);

[Since there could be maximum of four credits against one debit, banking practice may be ascertained by GSTN. If such transactions (i.e. four credits against one debit require multiple BRNs i.e. one for each credit entry), all BRNs should be reported.]

- d) Challan amount;
- e) Date of Payment;
- f) Time of Payment

22. If the transaction cycle is not completed because of failure of credential verification, there would be no response from the bank to portal informing about the same. If a response (positive or negative) is not received by GSTN within the stipulated period (few minutes), there would be a feature in GSTN to re-ping the bank system and seek a response against CPIN. There may be a scenario in which the internet banking transaction is successful, but the connection drops before the control comes back to GSTN portal, and the re-ping facility will help in finding the status of such transactions.

23. Upon receipt of confirmation from the bank regarding successful completion of the transaction, GSTN will inform the relevant tax authorities about payment of taxes. A copy of the paid challan (downloadable/printable) with auto-populated CIN, date and time of payment and a statement confirming receipt of the amount by the bank will be provided to the taxpayer by GSTN.

24. Thereafter the tax paid challan (CIN) will be credited to the tax ledger account of the taxpayer. It was discussed and agreed by the Committee that there would be 20 ledger accounts (one for each Major heads i.e. CGST, IGST, Additional Tax & SGST and 4 Minor heads for each Major Head i.e. Interest, Penalty, Fees & Others).

Role to be played by each Stakeholder:

GSTN:

25. In the framework of GST administration, GSTN is envisaged to be a "pass through portal" that works as a common interface between taxpayers, tax authorities, authorized banks, RBI and

accounting authorities. So GSTN will play the following role in this mode of payment:

- a) Generation of challan along with CPIN;
- b) Facilitating e-payments by providing a linkage to Internet Banking interfaces of authorized banks and payment gateways of authorised banks for CC/DC based payments;
- c) Receipt of real time data from IT system (e-FPBs) of each authorized bank regarding successful completion of payment transaction by the taxpayer (CIN);
- d) Generating receipt containing BRN No. of collecting bank for taxpayer acknowledging receipt of payment by the bank. A further facility of generating receipt containing RBI's scroll number for taxpayer would also be provided;
- e) Information to the respective Tax Authorities on real time basis for each successful transaction reported by banks. The communication at this stage may contain a minimal set consisting of GSTIN, CIN (i.e. CPIN + Bank Code), BRN(s), Challan amount, break-up of the amount into CGST, IGST, Additional Tax and SGST and date of payment;
- f) At EOD, GSTN will also send the details of CPIN generated for the particular day to the Accounting Authority of the Centre (to facilitate estimation of revenue and fund management) and to such State accounting authorities that may so desire;
- g) On T+1 morning, GSTN will generate a consolidated file containing a summary as well as entire details of the challans for which successful transactions were reported by the banks on real time basis for the date value of T=0 (for this purpose, daily transactions would include transactions from 20:01 hrs on previous day to 20:00 hrs in the current day). The file will be sent to the respective accounting authorities. At this stage, the challan data will also include

CIN (i.e. CPIN + Bank Code) and BRN reported by the banks. GSTN would generate this file on all working days including the days on which no transaction took place;

h) GSTN will receive 39 consolidated e-scrolls from RBI (one each for CGST, IGST and Additional Tax and one each for SGST for each State/UT Govt, see para 26(a) below) on T+1 basis. The contents of the scrolls are mentioned in para 28 below;

i) On receipt of consolidated transaction level e-scrolls from RBI during latter part of the day, GSTN will carry out preliminary system based reconciliation with reference to the successful transactions already reported real time by the banks and consolidated by GSTN as per step (g) above. GSTN will append the RBI scroll Number on each challan and thereafter forward its reconciliation results to the respective accounting authorities;

j) Once the amount reflected in the CIN, received by GSTN from Bank on real time basis, is credited in the cash ledger of the taxpayer, GSTN will lock that CIN to prevent its further usage;

k) Purge all unused CPINs after the expiry of seven days in case of Mode I & II / 30 days in case of Mode III;

l) Receive TAXPAYER master as well as updates thereto from the respective Tax Authorities on real time basis.

e- FPBs (ELECTRONIC FOCAL POINT BRANCHES) OF AUTHORIZED BANKS:

26. There would be a single e-FPB for each Authorized bank for the entire country.

It will perform the following role:

- a) Each e-FPB will open a major head wise (CGST, IGST, Additional Tax and SGST) account of each government (total 39 accounts) to which the remittances received by it would be credited. Currently, the Constitutional Amendment Bill states that the Additional Tax will be collected by Centre and assigned to States. If this arrangement is continued, the e-FPB will maintain one account for Additional Tax for Centre. A Committee has been constituted by the EC to examine the operational issue of Additional Tax and if it is decided that this tax will be collected by the respective State Government and retained by them, separate accounts for every State will have to be maintained for Additional Tax also, on the lines of SGST;
- b) Sending real time data regarding successful completion of payment transaction by the taxpayer (CIN);
- c) At the end of each day (T+1), each e-FPB will be responsible for preparing daily luggage files Major Head wise (CGST, IGST, Additional Tax and SGST) for each government detailing receipts from all modes of payments on a particular day (including nil payment days) and forwarding it to RBI in the morning. Each luggage file will have a Unique Serial Number which will be a running serial number extending through a financial year which will facilitate identification of missing files. This luggage file number will become part of the electronic file. For operational purposes such as size of the file, it may be broken up into different parts with each part being numbered uniquely and also mentioning the total number of parts of that file;
- d) In the morning of each day (T+1), each e-FPB will also forward the daily luggage file mentioned above to accounting authorities of the Centre and the respective State, in case their accounting authorities so desire, so that they can

independently monitor delayed remittances, if any, from the banks to the Government account in RBI;

e) On the first day of every month, e-FPB will provide Datewise Monthly Statements (DMS) for each tax and government separately to RBI for the preceding month with following details:

- i) Name of Tax;
- ii) Government Name;
- iii) Datewise number of successful transactions and total credit reported to RBI; and
- iv) List of discrepancies remaining unresolved at the end of the report month (MOE UIN, CIN, BRN, Amount, Nature of discrepancy).

These statements will be simultaneously communicated to the respective Accounting Authorities, if they desire so.

27. Each authorised bank should have one or more service branch in each State to serve as GST help desk and to receive queries / e mails to resolve the issues from Taxpayers, Tax Authorities and Accounting Authorities.

e-Kuber (Core Banking System) of RBI:

28. The following functions will be performed by RBI (e-Kuber):

- a) RBI will consolidate luggage files received from all authorized banks, debit their accounts and correspondingly credit the CGST, IGST and Additional Tax accounts of Government of India and SGST accounts of each State/UT Government maintained in RBI(39 accounts);
- b) RBI would send consolidated, digitally signed e-scrolls, along

with all the challan details, for each type of Tax (one each for CGST, IGST and Additional Tax for Government of India, and separate e-scrolls of SGST for each State/UT Governments) per day (including NIL payment day) after including the amount collected by it in Mode – III to Accounting Authority of Centre (e-PAO) / each State (e-Treasury) and GSTN simultaneously. Daily Major head account-wise scroll from RBI will consist of following information:-

- (i) Merchant Code given to GSTN;
- (ii) Scroll Number and Date;
- (iii) Name of Government to which the scroll pertains;
- (iv) CIN;
- (v) GSTIN;
- (vi) BRN;
- (vii) RBI Transaction Number;
- (viii) Mode of payment;
- (ix) Tax amount;
- (x) Control parameters like total transaction, Total Amount in the scroll, etc.

- c) If any discrepancy is reported by Accounting Authority or GSTN, it would carry out the correction mechanism with the authorized bank and thereafter report the corrected data to respective Accounting Authority and GSTN.
- d) RBI will consolidate Datewise Monthly Statements (DMS) received from the banks for each tax and government, validate the consolidated statements (39) with reference to its own data of e-scrolls reported during the report month, have a systemic review of unresolved discrepancies and communicate the statements to the respective accounting authorities within 3 days from end of the report month.

Central Accounts Section (CAS) of Reserve Bank of India, Nagpur:

29. CAS, Nagpur reports daily consolidated credits and debits to each Government and Accounting Authorities. Such daily statements cover all receipts and payments for the respective governments including inter-government transactions. GST credits will be one of the items reported by CAS, Nagpur in its daily statements. The scroll number mentioned in para 28 (b) (ii) above should be the credit identifier in the daily statements.

e-PAOs (Electronic Pay and Account Offices) of Centre and e-Treasuries of State Governments:

30. In the case of Central government, the existing e-PAO (Central Excise) and e-PAO (Service Tax) can work as e-PAO (IGST), e-PAO (CGST) in the GST regime. Another e-PAO (Additional Tax) can be operated till the time that the Additional Tax remains in force. All these e-PAOs can be located at Delhi itself. The State governments will need to establish their e-PAOs / e-Treasuries (proposed Central Accounting Unit in the RBI Report of 2014). The following functions will be performed by e-PAOs/e-Treasuries:

- a) At EOD, the Central Accounting Authority and those State accounting authorities that so desire will receive details of CPIN generated by GSTN for the particular day. (Centre's accounting authorities require this to facilitate estimation of revenue and fund management);
- b) Each morning (T+1), e-PAOs / e-Treasuries will receive from GSTN a consolidated file of entire details of the challans

- (including CIN) for which successful transactions were reported by the banks to GSTN on real time basis for the previous day;
- c) Each morning (T+1), e-PAOs for CGST, IGST & Additional Tax and e-Treasuries of the State Government will get consolidated transaction level digitally signed daily e-scrolls from RBI (along with all the challan details) pertaining to the successful transactions of the previous day (date value T=0);
 - d) E-FPB of authorized banks would also send such scrolls on T+1 basis to central accounting authorities and to those e-Treasuries that may so desire;
 - e) They will also receive from GSTN, later in the day, results of reconciliation by GSTN with the bank's and its own data;
 - f) The e-PAO and e-Treasuries of the States would reconcile the challan details [received in step b) above] with the e-Scroll information [received from RBI in step c) and from GSTN in step e) above], and do the detailed revenue accounting based on the information provided in the e-scroll provided by RBI to the accounting authorities;
 - g) They will receive TAXPAYER master from the respective Tax Authorities (backend module) and the same would be required to be kept updated on real time basis by the respective Tax Authorities. The said TAXPAYER master would be used by the Accounting Authorities for mapping the challan details with the Jurisdictional PAOs by having a suitable mapping mechanism. This is a requirement of the Government of India for determining revenue from each formation. States may also follow a similar procedure, if they so desire;
 - h) They will also provide CIN wise payment / challan details to the respective Tax Authorities daily or periodically as per requirements / norms of their governments for departmental

reconciliation and for updating Tax Authorities database that the tax amount has been accounted in the government's books. Accounting Authorities should provide their accounting reference number (in Government of India, CIN is used for this purpose; some State Governments seem to be generating their own accounting reference number) for each challan accounted by them along with the tax amount as per the credit accounted by them to the jurisdictional Tax Authorities for reconciling their records.

i) They will provide verified Datewise Monthly Statement (DMS) to Pr. CCA, CBEC (Principal Chief Controller of Accounts) and Accountant General of the states:

Pr. CCA, CBEC (PRINCIPAL CHIEF CONTROLLER OF ACCOUNTS) AND
ACCOUNTANT GENERAL OF THE STATES:

31. The following functions will be performed by them:

- a) They will receive daily and monthly Put Through Statements from CAS, RBI;
- b) They will also receive verified Datewise Monthly Statement (DMS) from e-PAOs and e-Treasuries of the States respectively;
- c) The reconciliation of both the data will be carried out by them;
- d) Office of Pr. CCA CBEC will also consolidate the total collection and forward the same to the Office of CGA for further consolidation.

II. OVER THE COUNTER PAYMENT THROUGH AUTHORIZED BANKS:

32. Another mode of payment that will be employed in the proposed GST regime will be Over the Counter (OTC) payments which will enable the taxpayers to make payment of the taxes at the Authorized Bank's counter. This will be beneficial for smaller taxpayers that do not have access to internet banking facilities. CCA raised an issue that the authorized banks might be asked as to whether they would be able to scroll these OTC payments through e-FPBs. This was discussed and RBI's representative assured that the scrolling by e-FPBs of OTC payments in one scroll would be ensured. The authorized banks will be required to establish / upgrade their IT software for accepting GST receipts.

33. The following stakeholders will play a key role in establishing an effective OTC payment system in the proposed GST scenario:

- a) GSTN;
- b) Branches of Authorized Banks;
- c) e-FPBs of Authorized banks;
- d) e-Kuber of RBI;
- e) e- PAOs of Centre / e-Treasuries of State Governments;
- f) Pr. CCA, CBEC / Accountant General of the States;
- g) Tax authorities of Centre and States.

Process involved in Over the Counter payment of GST through authorized banks:

34. Every tax payer who wants to avail the facility of OTC payment (only for paying tax upto Rs. 10,000/- per challan), will access GSTN for generation of a challan through which payment is to be made.

35. Upon creation of the draft challan, the taxpayer will fill in the details of the taxes that are to be paid. From the available payment options, the taxpayer would select option of cheque, DD or cash based payment. The name of the authorized bank and its location (city/town/village) where the instrument/cash is to be presented is required to be filled in necessarily. No outstation cheques are to be accepted except those which are payable at par at all branches of bank having presence at that location. In case cheque or DD is selected as the mode of payment, entry of Instrument details is recommended, but not mandatory, as the taxpayer may not have the instrument ready at the time of challan generation. The tax payers can partially fill in the challan form and temporarily "save" the challan for completion at a later stage. A saved challan can be "edited" before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The challan so generated will have a Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated, that will help the portal and other authorities in identifying the challan. After the challan is generated, it will be frozen and will not be allowed to be modified. The CPIN / challan so generated would be valid for a period of seven days within which payment is to be tendered. GSTN will inform the challan details including validity period to the CBS (Core Banking System) of the selected bank on a real time basis.

36. Upon successful saving of the challan details, the challan will be available on the dashboard of the taxpayer in downloadable/printable form. So the taxpayer can either download the challan form and print it offline or can print the challan directly from GSTN. If the payment is made by cheque or DD, the challan itself would have a disclaimer that

the payment is subject to realization of cheque or DD.

37. Thereafter taxpayer will approach the branch of the authorized bank for payment of taxes along with the instrument or cash. Since the tax payer is required to pay four types of taxes and the amount is required to be credited in the accounts maintained by bank for each type of tax, one option for the tax payer is to submit four instruments for crediting to the respective accounts. Four instruments may not be required if pooled account for realization of instrument is maintained. The matter was discussed in detail and it was recommended, that in the interest of facilitating the payment, each e-FPB should maintain a GST pool account so that the tax payer can issue only one instrument which will be written in the name of the GST pool account of the concerned bank. The bank's IT system upon realization of the instrument, will immediately first credit that amount to the GST pool account and then immediately transfer that amount to the respective tax accounts [CGST, IGST, Additional Tax or SGST(39 accounts) as per details in challan (CPIN Data)]. However RBI representatives observed that since there would be real-time sharing of data between GSTN and Agency Banks, the details would be available to the bank official before submission of the challan by the customer. In such a situation, GSTN would have already shared the break-up of the total amount to the bank and the bank needs to credit the same in the appropriate head. The internal Accounting mechanism of bank may be left to the bank to design, as the requirement here is the proper booking and reporting of the transaction which banks would have to ensure. It was decided that those banks need not operate a GST pool account which can credit the amount in the respective tax accounts 'on the fly'.

38. There should be a linkage between the GSTN and the Core Banking System (CBS) of the authorized banks whereby the details of challan are shared with the Authorized bank selected by the tax payer on real time basis so that they can be stored in the database of banks and also to facilitate the cashier / Teller to verify the details of the challan submitted by the remitter. This will eliminate the need for manual feeding of the challan details by the cashier / Teller in the banking system and thereby reduce the errors in data processing.

39. The taxpayer should preferably carry two copies of the challan, one for the bank's record and another for himself to get acknowledgement. In the alternative, he can use a normal pay-in-slip and mention CPIN and challan amount in it. On approaching the bank, he should provide the challan itself or at least CPIN number on normal pay-in-slip to enable the cashier / teller to fetch the challan details in his system. There should be a customized IT application (software) in the bank's system to accept GST receipts on OTC basis. While each branch can accept GST receipts, the credits should always be to the GST accounts maintained and operated by e-FPB . The banks not having such system should not be allowed to accept OTC payments. The minimum requirements to be met by the banks for being authorized to accept GST receipts for all modes including OTC mode are detailed in para 85 below.

40. The cashier / teller will verify the details of challan, payment instrument and amount provided by the taxpayer with those displayed in his system and should accept the receipt only when no discrepancy is found. If the challan has crossed its validity period of seven days, the bank's system itself should bar acceptance of the payment. In any case, the challan would also not be available in the GSTN and consequently in

the bank's system because it would have been purged from the System by GSTN upon the expiry of the 7 day validity period.

41. The tax payer may make payment by cash or instruments drawn on the same bank or on some other bank in the same city. In case of cash payments or same bank instruments, the payment would be realized immediately and a transaction number (BTR/BRN) and CIN will be generated immediately at the authorized bank's system which will be unique for each and every transaction. Such successful transactions shall be intimated to GSTN on real-time basis with details similar to those mentioned in para 21 above. This message will convey to the common portal that the payment has been successfully received at the bank's counter.

42. After generation of BRN, the bank cashier may give a printed receipt from his system including the Bank's transaction number (BTR/BRN) and CIN. However, if it not found feasible to print a separate receipt, the cashier should record the BRN and CIN generated from the system, on the tax payer's copy of the challan or pay-in-slip as acknowledgment.

43. In case an instrument drawn on another bank in the same city is presented, the payment would not be realized immediately. In such case, CIN will not be generated immediately, and cashier should write only the system generated acknowledgment number on the challan / pay-in-slip and a stamp to the effect that the acknowledgment by the bank is subject to realization of the cheque / DD. The tax-payer need not visit the bank again to get CIN as the same will be communicated to him from GSTN as per the process detailed in para 47 & 48 below. However, if he does not receive any communication from GSTN

within 3 days, he should visit the bank to ascertain the status of his payment.

44. Where the instrument is drawn on another bank, there should be a validation in the bank's system to prevent out station cheques (except those payable at par across cities), and to also prevent deduction of commission charges for instruments drawn on another bank in the same city.

45. The Authorized Bank would send the instrument for collection and the transaction would be treated as complete and successful only after the actual receipt of the amount by the said bank.

46. The bank will inform GSTN on real time basis in two stages. First when an instrument is given OTC. At this stage the Authorized bank will forward an electronic string to GSTN which will contain the following details:

- a) CPIN;
- b) GSTIN;
- c) Challan Amount;
- d) Bank's acknowledgement number.

On receipt of the above first message, GSTN should send a SMS to the tax payer, in addition to showing the status of the payment on its portal as subject to realization.

47. The bank's system would send a second message to GSTN once the cheque is realized, the total amount is credited first to GST pool account and thereafter the funds are credited to the respective tax accounts as per CPIN data (as stated in para 34 above, GST pool accounts are not required to be maintained by those banks who can

credit the amount in the respective tax accounts 'on the fly'). On the day of realization, it will become a successful transaction to be reported to RBI on T+1 (T = 0 being day of realization). After the successful completion of transaction, the second acknowledgement will have the same details as mentioned in para 46 above with three additional details:

- a) CIN;
- b) Date of Realization of Cheque;
- c) Time of realization of cheque;
- d) Bank Transaction Number (BRN/BTN).

On receipt of the second message, GSTN would send a SMS to the tax payer, in addition to updating the status of the payment on its portal.

48. This 2 stage intimation by authorized banks is recommended for the following reasons:

- a) Keep a watch on delays on the part of authorized banks in realization;
- b) Maintaining a system based control as all branches of authorized banks will be allowed for OTC.

49. On receipt of the real time information for a successful transaction as per para 41 above (cash, cheque on same bank or DD) or receipt of the second message from Bank as per para 47 above (cheque drawn on another bank), the tax paid challan will be credited to the tax ledger account of the taxpayer. If the OTC payment was subject to realization (para 46), the initial status on the dashboard will state so. If the cheque is dishonoured, the presenting bank should inform GSTN about the fact of dishonour and same will be informed by GSTN to taxpayer and reflected on his dashboard.

Role to be played by each stakeholder:

50. The role played by each stakeholder in this mode of payment will be the same as mentioned in Mode I. There is an additional stakeholder in this mode, namely Branch of Authorized bank that receives the remittances and its role is discussed below.

Branch of Authorized bank:

51. Being the first point of contact for the remittance by the taxpayer, the branch of the Authorized bank receiving the payment will play a key role in the accounting and reconciliation of data with GSTN. It will perform the following functions:

- a) Accept the payment only through the customized GST software/screen in its system.
- b) Provide an acknowledgement to the tax payer;
- c) Send the instrument (if pertaining to another bank) to the clearing house for realization and record the result in the IT system as and when the response is received. Such recording should be system based rather than manual and include realization or dishonouring of the cheque, as the case may be, so that the IT software can take up further action including intimation to GSTN on real time basis;
- d) Credit the realized amount into either GST pool account, if so, maintained by the authorized bank (in its e-FPB) and thereafter transfer the said amount into the individual tax head accounts as indicated in the challan (all Authorized banks must develop a suitable GST software for this purpose) or to credit the amount directly to the respective government's account (39 accounts).
- e) In case the instrument is dishonoured, the presenting bank should

inform GSTN.

52. It is to be noted that banks will have to develop a mechanism/IT application where all these amounts tendered at individual branches of an authorized bank are only handled through the e-FPB of that authorized bank. This is because the tax accounts will be maintained only by the e-FPB. Individual branches have not been authorized by RBI to operate Government account. It is also important to provide for a mechanism in GST Law to debar those tax payers whose cheques have once bounced from using this mode of payment. The most effective mechanism will be through GSTN which should debar such defaulters from using this mode.

III. PAYMENT THROUGH NEFT/RTGS FROM ANY BANK (INCLUDING OTHER THAN AUTHORIZED BANKS):

53. The third mode of payment envisaged under the GST regime is OTC payment through all banks including other than authorized banks, i.e., a bank where a tax payer may have account but that bank may not be authorized by the Government to accept GST receipts. The payment through this mode will strictly be a matter of normal banking service of NEFT / RTGS provided by that bank to its customer. The chances of error in this mode are similar to that of any remittance done through NEFT / RTGS. However, care needs to be taken to ensure that CPIN number is correctly mentioned in NEFT / RTGS message. The Committee recommends that this mode being a new mode of remittance should be scaled up gradually starting with a pilot run by RBI. It was informed by RBI that a detailed process flow could be worked out with specific provisions for validations. RBI further informed that this concept was being tested in Karnataka and this experience would

be further used for developing this mode of payment. NEFT / RTGS mandate would have the same validity period of seven days as the CPIN and the date upto which it would remain valid would be printed on it. The Committee observed that in this mode of payment, it would not be possible to automatically ensure that a CPIN was not used beyond its validity period of 7 days. It was decided that CPIN once generated and intimated by GSTN to RBI in this mode though will have a validity period of 7 days but would remain live with RBI for a period of 30 days. In case the payment is received after the expiry of the said 30 days, RBI would return the amount to the remitter bank. Beside this, it was also decided that there should be a provision in the GST law whereby any taxpayer using this mode beyond the validity period (seven days) of the CPIN more than two times would be barred by GSTN from availing this mode of payment.

54. Although the process under this mode will be more or less similar to the OTC payment discussed earlier in paras 32-52 above, but due to involvement of a new stakeholder i.e. a non-authorized bank, certain modifications are required for this process. This process will be beneficial for those taxpayers who do not have a bank account in any of the authorized banks or find such bank to be far away for OTC payment or want to make the payment directly from their account in their own bank only. In this mode, only payment through National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS) is to be allowed as other payment instruments would require the Central and the State Governments to create accounts with non-authorized banks also which will not be desirable.

Process involved in payment through NEFT / RTGS from any Bank
(including other than authorised banks):

55. Every tax payer who wants to avail the facility of payment through NEFT/RTGS mode will access GSTN for generation of a challan through which payment is to be made.

56. Upon creation of the draft challan, the taxpayer will fill in the details of the taxes that are to be paid. As agreed by the RBI representative, RBI would itself be the recipient of the amount transferred through NEFT / RTGS, thus eliminating the need for a link-up first with an authorized branch to receive the payment and thereafter its transfer to the RBI. RBI would thus perform the role of Authorized bank and that of e- FPB in this mode of payment. In this view, the name of the authorized bank will be auto populated as RBI. As a part of the challan preparation, a tax payer will have to choose the mode of payment as NEFT / RTGS from any bank. The challan so generated will have a Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated. The generated Challan will have a NEFT / RTGS mandate associated with it. This mandate will contain NEFT / RTGS pooling bank account details (i.e. of RBI) along with IFSC for receiving money. After the challan is generated, it will be frozen and will not be allowed to be modified. The CPIN so generated would be valid for a period of seven days within which payment is to be tendered but would remain live with RBI for a period of 30 days. NEFT/RTGS mandate would have the validity period of CPIN printed on it. As mentioned above, there shall be a provision in the GST Law whereby any taxpayer using challan under this mode beyond the validity period of seven days of the CPIN more than two times would be barred from availing this facility by GSTN.

57. Upon successful saving of the challan details, the challan will be

available on the dashboard of the taxpayer in downloadable / printable form. So the taxpayer can either download the challan form or print it offline or can print the challan directly from GSTN.

58. Besides the generation of challan, GSTN will also generate NEFT / RTGS mandate form in prescribed format. The CPIN generated at the portal shall be incorporated in NEFT/RTGS mandate form in "Account Name" field. RBI would provide for suitable validations for this field. The "Sender to Receiver" field shall carry the entry "GST Payment". In case of NEFT / RTGS payments, there shall also be a disclaimer on the challan copy and the mandate form that the payment through NEFT / RTGS is a transaction between the tax payer and his bank and the payment will be deemed to be received by the government only when the amount is credited to the designated account in RBI. The payments in this mode would be permitted only against cheques and no cash payments would be permitted to initiate NEFT / RTGS transaction for the reasons mentioned in Para 67 below.

59. The following details will be available in the NEFT / RTGS mandate form:

- a) Beneficiary IFSC : IFSC of RBI hosting the NEFT / RTGS account for GST;
- b) Beneficiary Account Number : Account Number of RBI's pooled account for GST;
- c) Account Name : CPIN of relevant challan (suitable validation to be provided by RBI);
- d) Total Amount;
- e) Sender to Receiver Remarks: GST Payment.

The form will have a provision to write the NEFT/RTGS charges manually

and then record the total amount to be collected by the bank (sum of challan amount and charges). The entire NEFT/RTGS form will be auto-populated except the part relating to the charges.

60. Thereafter taxpayer can print a copy of NEFT / RTGS mandate form and approach his bank branch (any bank) for payment of taxes (within a period of seven days of the generation of CPIN, so that when the amount is received by RBI, the CPIN is still valid.) The payments in this mode would be permitted only against cheques and no cash payments would be permitted to initiate NEFT / RTGS transaction. NEFT/RTGS mandate would have validity period of CPIN printed on it. As already mentioned above, there should be a provision in GST law whereby any taxpayer using this mode beyond the validity period (seven days) of the CPIN more than twice would be barred from availing this facility by GSTN.

61. GSTN will inform RBI on real time basis the following details:

- a) CPIN;
- b) GSTIN;
- c) Challan Amount;
- d) Break Up of the Amount into CGST, IGST, Additional Tax and SGST;
- e) State/UT Government to which SGST remittance pertains

62. The accepting bank should add its charges for doing NEFT / RTGS remittance and collect gross amount from the customer. The amount indicated as GST amount for remittance should be transferred by the remitter bank to the designated account of the government in RBI. For the proper identification of the transaction, there should be a Unique Transaction Reference (UTR) that should be conveyed along

with file details to RBI. The remitter bank must also mention the CPIN in the NEFT/RTGS mandate as part of the Account Name. The Remarks field shall mention 'GST Payment'.

63. Upon successful completion of the transfer at the end of the remitter bank, the remitter will get a receipt detailing Unique Transaction Reference (UTR). Taxpayer should thereafter login back to GSTN portal and update the challan details with Unique Transaction Reference (UTR) provided by the remitter bank for NEFT / RTGS transaction. An alternate SMS based facility for such updating by the tax payer (instead of internet based) may be established by GSTN to facilitate those taxpayers who do not have an internet access. On receipt of the transaction number, GSTN will communicate this Unique Transaction Reference (UTR) (for the corresponding CPIN) also to RBI on real time basis.

64. Once the RBI receives the payment in its account with NEFT/RTGS message, it will link up the payment with the CPIN earlier received from GSTN and report the transaction to GSTN on real time basis through an electronic string which will contain the following details:

- a) CIN (CPIN and Bank Code of RBI);
- b) GSTIN;
- c) Challan Amount;
- d) BRN of RBI;
- e) Unique Transaction Reference (UTR);
- f) Time of Payment;
- g) Date of Payment.

65. Upon receipt of the electronic string regarding successful completion of the transaction by GSTN, the tax paid challan will be credited to the cash ledger of the taxpayer. The GSTN will thereafter

lock the CIN so that it cannot be used again.

66. As recommended in para 58 above, the Mode III may be implemented with arrangement of CPIN being mentioned as the "Account Name" in NEFT/RTGS message. RBI will provide for a suitable validation for this field. In such arrangement, the chances of error will be only marginal as the remitter banks take care to mention the account name correctly in any NEFT/RTGS message. In case of error, NEFT/RTGS unique transaction number (UTR) intimated by the tax payer can be used as a secondary identifier. The primary matching by RBI should be with reference to CPIN only, i.e., CPIN as contained in NEFT/RTGS message and CPIN data provided by GSTN. On successful matching, the GST pooled account should be debited and the respective 39 tax accounts (CGST, IGST, Additional Tax and SGST) should be credited simultaneously as per the challan details with generation of CIN and BRNs. At this stage, the transaction should be treated as successful and CIN and BRNs should be communicated to GSTN by RBI.

67. As stated in para 15 above, though the CPIN is valid for a period of 7 days, the same would remain live with RBI for a period of 30 days. Thus RBI can accept the payment during the said period of 30 days. In case payment is received after the expiry of 30 days, RBI would refund the said amount to the remitter bank. Keeping in view this requirement, it has been recommended, as mentioned above, that payments in cash would not be accepted for initiating NEFT / RTGS transaction.

68. The Committee deliberated the need for a pooled GST account. Based on inputs provided by RBI, a receiving account is necessary for

NEFT/RTGS process. Therefore, a pooled GST account as an operational necessity will have to be opened in RBI. This account may be opened in the name of the Accounting Authority of the Government of India solely for the operational reasons as a transit account. There should be a validation in RBI system that no funds pertaining to the transactions with date value $T=0$ are left in this account when the scroll is prepared on $T+1$.

69. If the matching based on CPIN does not succeed, the role of UTR as secondary matching identifier becomes important. However, it is possible that RBI may receive NEFT/RTGS message even before the tax payer updates his challan with UTR number and GSTN informs RBI on real time basis. In case of failure of CPIN based matching and UTR not being available, the funds will remain in the pooled account till the UTR is received or scroll is prepared, whichever is earlier. Such credit in the pooled account should be with a "CPIN mis-match" flag that a secondary level matching needs to be carried out before scroll is generated on $T+1$ basis. Once UTR is provided by GSTN, the secondary matching of all such transactions remaining in the pooled account should be carried out. If a transaction can now be linked to the correct challan, the respective Tax accounts should be credited with generation of CIN and BRNs. There should be a validation in RBI system that all the transactions with "CPIN mis-match" and date value $T=0$ in the pooled account are subjected to secondary level matching before generation of scroll for all taxes.

70. If the matching based on CPIN and UTR NEFT / RTGS transaction number UTR both fails, the entire receipt should be credited to CGST account with a "CPIN mis-match" flag so that the Accounting Authorities of Government of India can account such amount under a separate

suspense sub-head (possibly receipts awaiting transfer i.e. RAT).

71. In all such cases of CGST credits with "CPIN mis-match", the tax payer will not get a confirmation SMS from GSTN and his ledger will not reflect the payment. He can be expected to provide UTR at this stage. Once the UTR becomes available, GSTN should carry out the matching with CPIN, and communicate following details to the Accounting Authorities of Government of India and concerned State Government.

- a) RBI scroll number and date which carried the credit (CGST scroll);
- b) BRN;
- c) CIN (of credit to CGST account with "CPIN mis-match" flag);
- d) Challan amount;
- e) Breakup of total amount in CGST, IGST, Additional Tax and SGST;
- f) Name of State Government to whom SGST pertains.

72. Based on the communication from GSTN, CGST Accounting Authorities shall take steps for clearing the suspense sub-head by transferring the credit to CGST, IGST and Additional Tax accounting heads, and for carrying out inter-government transfer to the concerned State Government.

73. The reconciliation between e-Scroll sent by RBI on T+1 and the transaction details available with GSTN (provided earlier by RBI) will be performed using CIN and Unique Transaction Reference (UTR).

Role to be played by each stakeholder:

74. As for the role played by each stakeholder in this mode of

payment, it will be same as for their role in OTC payments through authorized banks. The role of Branch of remitter bank that transfers the funds to RBI and the additional role of RBI performing the functions akin to authorized banks is discussed below.

Branch of remitter bank:

75. The branch of the remitter bank would perform the following functions:

- a) Remitter bank is required to ensure that the correct CPIN is entered in the NEFT / RTGS message and also inform UTR to the taxpayer;
- b) Transfer the amount indicated in the NEFT / RTGS message [which includes Unique Transaction Reference (UTR)] to RBI.

RBI performing functions akin to authorized banks:

76. RBI's role for the Mode III will be akin to that of authorised banks for other modes, i.e, RBI will be the bank which will receive the funds directly from a taxpayer's account in a pooled account. It should be possible to have a suitable IT system which will carry out CPIN or UTR based matching (as detailed in para 66 above) for each NEFT/RTGS receipt and credit the remittance to a specially created pooled GST account and thereafter transfer it to the respective tax accounts of each government.

77. Once the remittances are received by RBI, it will perform the following functions:

- a) RBI will receive and validate the NEFT/RTGS transaction against

the Challan details received by it;

- b) RBI would communicate the receipt of payment (CIN) to GSTN on real time basis;
- c) On first day of every month, RBI as e-FPB will provide Datewise Monthly Statements (DMS) for each tax and government separately to the concerned wing of RBI for the preceding month with following details:
 - i) Name of Tax;
 - ii) Government Name;
 - iii) Date wise number of successful transactions and total credit reported to RBI;and
 - iv) List of discrepancies remaining unresolved at the end of the report month(MOE UIN, CIN, BRN, Amount, Nature of discrepancy).

These statements will be simultaneously communicated to accounting authorities of the Centre and the respective States in case their accounting authorities so desire.

- d) RBI will also be responsible for incorporating these payment details in their daily master scroll generated by them as an aggregator for amounts received through Mode I and II.

PAYMENT ACROSS DEPARTMENTAL COUNTER:

78. The issue was discussed in the Joint Committee on Business Process and it was decided that since the emphasis in GST regime is towards automation and least human interface between the tax administration and the taxpayer, therefore there is no need to provide for this mode i.e. payment across departmental counters. It was also stated that taxpayers have been provided various other modes to

facilitate anytime, anywhere payment and this mode would be retrograde especially when e-payment is being declared as the preferred mode of payment. However, the departmental officers will accept the deposit of taxes during the course of enforcement and anti-evasion investigations including by flying squads, etc. While doing so, if the concerned person is not already registered, the departmental officer will create a temporary GSTIN on the GSTN common portal. For this purpose, GSTN will provide a separate module and a GSTIN series for giving temporary GSTIN. The officer will collect the amount in respect of all types of taxes payable by him in cash/cheque/DD from the said person, issue a temporary receipt to him, generate the challan from GSTN, fill up the challan (at a later stage, if not possible at that time) and remit the amount using Mode2. GSTN will provide a facility for linking of the temporary GSTIN to the permanent GSTIN, if taken at a later stage.

PENALTY MECHANISM FOR ERRING BANKS:

79. At present, banks are subjected to penalty for delayed fund remittances only. Current system of remuneration to banks for collection of Central Excise, Service Tax and Customs duties is determined on the basis of challans. New parameters of bank performance could be developed, based on timely remittance and reporting of error-free data to all stakeholders. A system of incentives / penalties to be administered by the respective Accounting Authority (i.e. if defaults arise in remission of CGST/IGST/Additional Tax, by Accounting Authority of Centre and if defaults arise in remission of SGST, by Accounting Authority of the concerned state) can be built-in, based on a transparent evaluation mechanism of the quality

of data of collection reported by banks for accounting and reconciliation purposes. The CGA has suggested that penalties for inaccurate reporting and delayed settlement of taxes is already in place in the case of Direct Taxes and the same may be put in place in GST regime. It is further recommended that a framework of desired features and validations at Banks for collection of taxes under GST regime should be devised by RBI in consultation with the Accounting Authorities. Any bank found not having built capabilities to adhere to the framework, should not be allowed to collect GST receipts. Due care should be taken so that discontinuities arising from manual interventions in the banks' internal processes are removed. The Committee also recommends that, over a long term, Accounting Authority should develop a service quality rating for the participating banks based on identified transparent and quantifiable parameters.

BANKING ARRANGEMENTS UNDER GST:

80. At present Central Government and each State Finance Department prescribes banking arrangements for collection of government taxes. At present, Central and State governments utilize the services of Public Sector Banks/ Other Public Sector Banks (IDBI)/ Private Sector Banks (ICICI Bank, Axis Bank, HDFC Bank) for tax collection. The committee was informed that Non-Scheduled and Cooperative banks operating in State(s) are not permitted to collect taxes.

81. The list of all authorized banks participating in the GSTN should be common across all states. This can be a super set consisting of existing authorized banks of the Central Government and all State Governments and Union Territories. A list of banks that have been

presently authorized either by the Centre or State Tax Authorities has been provided by RBI and the same is enclosed as Annexure-VI. It is recommended that all these banks may be considered for authorization in the GST regime in consultation with the Department of Financial Services.

82. Only those banks should be accredited who refine their IT systems to handle GST remittances in a seamless manner obviating need for manual intervention for data entry, funds flow and exchange of data.

83. It is also noted that a participating bank in the current context has limited mandate for tax receipts as compared to that of an authorized bank. The mandate of participating banks, though essentially agents of RBI, is limited to acceptance of tax receipts through internet banking mode only. Whereas, authorized banks have a broader mandate of accepting government receipts through both internet banking mode and physical mode (OTC) of Cash, DD and Cheques, in addition to mandate of making government payments. In order to give a broader choice to the tax payers, and hence to enhance ease of doing business, it is recommended that the participating banks can also be allowed to accept GST receipts through OTC mode envisaged in this report.

84. Out of the superset of existing authorized banks and participating banks only those banks should be authorized to accept GST receipts who meet the minimum requirements suggested below. The objective of these minimum requirements is to ensure that a bank has the capability to handle GST receipts in a seamless manner in a consistent and error free manner underpinned by a robust IT system with no process flow discontinuities.

85. Minimum requirements to be met by a bank for being authorized for GST remittances are recommended to be as follows:

a) A centralized application for handling GST receipts for both modes (internet banking and OTC) in an end-to-end manner should be established.

b) There should not be any process flow discontinuities for any mode of the receipt.

c) The system should not require any post-event data entry at any stage.

d) The data entry at any stage of the process should be limited to the operations performed at the bank's end.

e) The data received from GSTN portal should not require any fresh data entry and should not be open for modification.

f) There should be functional integration with GSTN portal and banks for both modes.

g) The IT system should have the ability to receive challan data and to communicate successful remittances on real time basis to GSTN portal for both modes.

h) The collation of data and reporting to GSTN portal and to RBI should be system based and not require manual operations.

i) The standards of communication prescribed by RBI (ISO 20022) should be followed.

j) There should be an upfront (before being authorized) as well as periodic audit of the IT system and the centralized application for handling GST receipts. The system audit should cover operational, technical and security aspects as per terms of reference and periodicity set by GSTN in consultation with Accounting Authorities.

k) One branch of the concerned authorized bank in the entire

country should be established / designated as the e-FPB (Electronic Focal Point Branches) to handle all backend operations of GST receipts including operation of 39 tax accounts, data collation, reporting and reconciliation with RBI / GSTN / Accounting Authorities.

- l) In addition, one or more branch of the concerned authorized bank in each State Capital should serve as GST helpdesk (Refer Para 27 above).
- m) Three separate tax accounts for Government of India (one each for CGST, IGST and Additional Tax) and one tax account for each State/UT Government (36 in total) (for SGST) should be set up and operated by e-FPB alone.
- n) The credit to respective tax accounts should be simultaneous with debit to the tax-payer's account in case of internet banking mode, realization of a cheque or submission of DD/cash in case of OTC mode and receipt of NEFT / RTGS remittances from remitter banks into RBI's pool account and then its transfer to tax accounts.
- o) The above mentioned credit to the respective tax accounts should be by the IT system itself as per the mandate contained in the Challan data received from GSTN and not require manual intervention.
- p) In addition to tax specific 39 accounts (for CGST, IGST, Additional Tax and SGST account for each State / UT Government), a common pooled account for cheque/Draft and CC/DC payments should be set up and operated by e-FPB (but not required by those banks who can credit the amount 'on the fly').
- q) As a part of the daily consolidated but transaction level report of successful receipts in each government account to RBI, there should be an assurance that all transactions credited to respective CGST, IGST, Additional Tax and SGST Accounts are being reported

to RBI and no balances are left in these accounts meant for cheque realization. RBI will need to build a similar assurance for NEFT/RTGS remittances.

r) Suitable validations prescribed by GST Law should be inbuilt in the IT system / GST application. Some of such validations will pertain to non-acceptance of outstation cheques and non-deduction of cheque collection charges for OTC receipts, and mark up and collection of CC/DC charges (to be agreed) from tax payers.

86. It was agreed that the minimum standards to be met by the participating banks, as encapsulated above, should be communicated to the banks well in advance in consultation with RBI.

ACCOUNTING SYSTEMS UNDER GST:

87. State governments/UTs accounting system also follows, to a large extent, the general principles and procedures of Central government accounting, with minor variations in respect of classification of tax heads of accounts. While the List of Major and Minor Heads of accounts are common to both Central and State/UT Governments accounts, classification below Minor Heads may vary at the State level.

88. Under the proposed GST regime, it is recommended that a uniform system of banking arrangement for both the Central and State/UTs governments to facilitate fund flow, reporting and accounting may be framed.

PROPOSED ACCOUNTING SYSTEM UNDER GST:

89. Four different Major Heads of accounts would be required to

be opened for classifying CGST, IGST, Additional Tax and SGST along with underlying minor heads and sub-heads, wherever required, to account for various taxes.

90. There is a need to standardize these accounting codes for all items covered under GST regime among all the States and UTs, since settlement of IGST would be based on centralized reporting. SGST will be accounted for by the States and credited to individual State Treasuries, through the existing system followed in each State. SGST will not be reflected in accounts of the Central Government.

91. There may be cases of mis-classification and erroneous scrolling under Major Heads of accounts which may lead to less or excess revenue settlements between the Centre and State(s). To deal with such transactions, detailed accounting procedures should be designed. It is recognized that it is IT system issue, and not an accounting issue. The debit from tax-payers account should result in auto-credit to respective accounts of Government of India and the concerned State Government. Except in case of remittance through any authorized bank including a non-agency bank (where the funds have to necessarily come to a designated account in RBI), there should not be any mix-up of the funds belonging to two governments.

92. The CGA has suggested the following in this regard:

- a) Codal provisions of the DDO & PAO should be complied with for discharge of PAO's role. The automation as proposed should conform to this basic requirement.
- b) PAO is the sole authority for receipt, payment and reconciliation of accounts book with Bank Reconciliation statement (BRS).
- c) Any compromise on this fundamental work flow may lead to legal complications in preparation of Finance Accounts / Appropriation

Accounts which is constitutional mandate.

- d) Each challan detail must be linked with one DDO and PAO and bank account.
- e) As part of standard operating process, accounts classification should be done by the PAO in his books and no one else. Bank is not involved in classification of accounts.

93. The challan will reflect only the net tax paid amount along with related bifurcations of nature of tax liability, such as, Interest, Penalty, Fees, other charges, etc. Presently, the Tax Payment Challan information forms the basis of accounting and reconciliation between the banks, RBI, Tax authorities and Accounting authorities of the Centre/States/UTs. A list of sample tax accounting codes under GST is proposed in the table below:-

S. No.	Type of Tax Liability	Sample Accounting Code
1	CGST - Tax	00010001
2	CGST – Interest	00010002
3	CGST – Penalty	00010003
4	CGST – Fees	00010004
5	CGST – Other	00010005
6	IGST - Tax	00020001
7	IGST – Interest	00020002

8	IGST – Penalty	00020003
9	IGST – Fees	00020004
10	IGST - Other	00020005
11	SGST- Tax	00030001
12	SGST - Interest	00030002
13	SGST - Penalty	00030003
14	SGST – Fees	00030004
15	SGST – Other	00030005
16	Additional Tax – Tax	00040001
17	Additional Tax – Interest	00040002
18	Additional Tax – Penalty	00040003
19	Additional Tax – Fees	00040004
20	Additional Tax – Others	00040005

The actual accounting codes have to be finalized by CGA in consultation with CAG on the basis of proposals from Tax Authorities.

94. CGST, IGST and Additional Tax components will be accounted for

under Consolidated Fund of India (CFI). Transfers of due IGST amount and Additional Tax to the States can thereafter be made there from as per the existing procedure.

95. The interest, penalty, fees or other charges, if any, under GST will need to be accounted for separately. Hence, they would be reflected under separate heads in the Tax Payment Challan.

96. The IT audit of the process flows and settlement of funds by the FPBs / Link cells with RBI will be conducted periodically by a CERT-IN empanelled agency selected by the office of Pr. CCA, CBEC, or by a designated authority of States/UTs so as to ensure correctness of revenue collections.

RECONCILIATION OF RECEIPTS:

97. Well-developed and stabilized IT systems without manual process discontinuities in banks, RBI and common portal should eliminate/reduce possibilities of errors. However, there may still be reconciliation challenges arising due to errors encountered during the stabilization phase of the IT systems of the stakeholders and their mutual functional integration. Even in the post stabilization phase, some errors may be seen due to problems external to the IT systems, e.g., in the public network used for sharing the data. A process and standard operating procedure for handling the errors, if they arise, will have to be established, as multiple agencies would be handling funds and related information pertaining to different governments.

98. The proposed GST payment process envisages a paradigm shift from the processes and validations currently being used for payment of taxes to the Government. This shift is aimed at establishing a convenient, consistent and efficient payment process for the tax

payers as well as for the 37 governments simultaneously. This shift is possible in view of current IT capabilities in the eco-system and the experience gained in various systems for payments to the governments.

99. Following are the fundamental changes from the existing systems:

- a) Tax payer will generate the electronic challan, and therefore that challan data can be trusted for its correctness for its contents, as filled in by the taxpayer.
- b) The challan thus generated on GSTN portal will provide a unique Id (CPIN) which would be used uptill the time payment has been received by the bank and CIN (CPIN plus Bank Code) has been generated. The said CIN would be used thereafter for accounting, reconciliation, etc.
- c) All modes of payment will use the system generated electronic challan and there would not be re-digitization of the challan data, as recorded by the taxpayer, by any agency in their part of the workflow.
- d) Any agency handling the payment process will merely add its unique Id and parameter to the basic data received by it from another agency earlier in the work- flow chain, and thereafter pass on the data to the agency next in the chain.
- e) RBI will play the role of the aggregator for flow of funds as well as information from the banks.
- f) GSTN will have the primary anchor position in the payment process with responsibility for information flow to various agencies whereas RBI will have the primary anchor's role in relation to funds flow, information flow about receipts and correction of discrepancies noticed during reconciliation process.
- g) e-Scroll from RBI will be the basis for accounting, reconciliation

and other incidental activities to be carried out by the accounting authorities of both Centre and States.

100. In view of these fundamental changes, the key Id for information exchange with banks and RBI should use the unique Id generated by GSTN, i.e., CPIN. Once the payment has been made by the taxpayer and CIN is generated and reported by the recipient bank along with its transaction number (BRN), CIN which has CPIN embedded there in, would be used as key Id in subsequent stages. CIN is recommended to be used as a key Id as it is the sole indicator of the receipt of actual payment. Similarly, the transaction reported by RBI for the funds flow (credit) to government accounts through the e-scrolls should form the basis for accounting as it reflects the actual credit in the Government Accounts.

Reconciliation by GSTN:

101. GSTN through its IT system should carry out reconciliation in following two stages:

- a) When the banks report each successful transaction on real time basis, the IT system should validate the bank's message with reference to CPIN and total amount of the challan, and communicate the discrepancy, if any, immediately. This validation and real time response by GSTN is particularly relevant for Mode II and III for which the entire payment is not in a single workflow.
- b) When consolidated e-scrolls are received from RBI on T+1 basis, GSTN should carry out the reconciliation between those scrolls and the consolidated challan files communicated to the Accounting Authorities earlier in the day. The discrepancies should be communicated by GSTN to the Accounting Authorities and RBI simultaneously on the same day. The purpose of this reconciliation

is to assist those Accounting Authorities who may not have IT systems to carry out transaction level reconciliation in an automated manner, and to identify systemic and service level issues for taking up with the authorized banks and RBI.

102. The role of GSTN in the reconciliation process should be limited to the above set of activities. GSTN should not be expected to take up MOE process for any error type as that is fairly resource intensive, requires manual appreciation of facts and is time consuming. The transaction level resolution of discrepancies through the Memorandum of Error (MOE) process with RBI and banks should be the responsibility of the respective Accounting Authorities.

Reconciliation by Accounting Authorities:

103. The Accounting Authorities through their IT systems are expected to carry out the reconciliation at their level de novo based on communication by GSTN of challan data for successful transaction received on T+1 basis (State AG authorities to be assisted for setting up accounting interface with GSTN) or through Tax Authorities system (based on the integration capabilities at Central / State level) and e-scrolls received from RBI for each day on T+1 basis. The reconciliation results communicated by GSTN would act as additional validation in the reconciliation process. The reconciliation would be performed on the basis of CIN, which will be the unique identifier across all databases.

Resolution of Reconciliation Outcomes (discrepancies noted during the reconciliation process):

104. There would be to and fro data transmission between GSTN, e-FPB of Authorized Banks, banks other than authorized Banks, RBI,

Accounting Authorities and Tax Authorities. There is a scope of error occurring at each leg of communication. The process for reconciliation of such errors in each leg of communication is discussed in succeeding paras.

First leg of communication of data (CPIN linked to a GSTIN)
starts from GSTN to Authorized banks:

105. If the data forwarded by GSTN (CPIN linked to a GSTIN) itself has an error then this error will be reflected in all the later transactions. So significance of accuracy of this data cannot be overemphasized. It would be important for GSTN to maintain a robust system for maintaining data integrity and keeping the data error free by having suitable validations at the time of creation of CPIN. Key elements here are CPIN and GSTIN.

Second leg of communication of data (CIN with embedded CPIN)
starts from Authorized banks / RBI to GSTN (T=0):

106. This communication is not meant to be the basis for accounting, but act as an enabler to reduce errors in the overall process and to facilitate fleet-footed monitoring by the Tax Authorities. The IT system of the authorized banks should have the following validations to reduce possibility of discrepancies in this leg:-

- a) In any reporting of successful transactions by the banks to GSTN, CPIN field is never a blank;
- b) The response sent back to GSTN is always against a CPIN received from GSTN;
- c) Sum total of all credits to Tax accounts for a particular CPIN adds up to the challan amount.

d) CIN reported by the authorized banks/RBI should always have a CPIN embedded in it.

107. In spite of the above mentioned validations, if a discrepancy is found in a bank's response, the discrepancy will get noticed in the real time validation of the response by the GSTN. The response sent by e-FPB of authorized bank (in Mode I & II) / RBI (in Mode III) should be validated with the data sent earlier by GSTN to Authorized bank / RBI. Key elements are CPIN, GSTIN, CIN & Challan amount in case of authorized banks and CPIN, GSTIN, CIN, NEFT/RTGS UTR and Challan amount in case of RBI. This validation between CPIN available with GSTN and CIN received from e-FPB of authorized banks / RBI should be done on real time basis and the discrepancies, if found should be communicated to the concerned banks immediately by GSTN's IT system so as to enable time to the banks for correction, if possible, before communicating the receipts to RBI on T+1 basis.

108. The validation by GSTN may throw up following discrepancies in the transaction being reported (with CIN added by the bank) by e-FPB of authorized bank / RBI:

- a) without CPIN;
- b) with incorrect CPIN;
- c) with challan amount mismatch.

109. In all these cases, the resolution at e-FPB may require manual intervention. The bank may resend the data to GSTN after correction. If the bank is unable to resolve by T+1 reporting time to RBI, the bank should include the transaction in the luggage file with whatever CPIN data it may have for that transaction. It will be type (c) error in the third leg.

Third leg of communication of data (luggage file) starts from Authorized banks to RBI (T+1):

110. In this leg, the data is being collated and transferred by authorized banks to RBI in daily luggage files for each type of tax of Government of India (CGST, IGST & Additional Tax) and SGST (state wise; for 29 states and 7 UTs) separately [there will be total thirty nine luggage files (3+29+7)]. The key element here is CIN. So the accurate reporting of the same by the authorized bank to RBI has to be underlined. As RBI would prepare e-scrolls based on this data, correctness and cleanliness of this data is crucial. RBI collates daily luggage files (thirty nine) received from all the authorized banks, includes payments received directly by it in Mode III, adds RBI Transaction Id for all modes, prepares and sends daily e-scroll (one for each major head for Centre and each State) to GSTN and Accounting Authorities. Reconciliation by GSTN and Accounting Authorities (of the Centre and the States) will be initiated after they receive their respective files (Government of India authorities will receive three files while State Authorities will receive a file each). Errors in this leg of communication would be detected at this stage. Various situations that can be envisaged in this leg are as follows:

a) Transaction reported to GSTN by authorized banks but not to RBI (CIN reported to GSTN but not included in luggage file):

111. To prevent/minimize this type of error, the bank's IT system should have a validation that all credits to the Tax accounts for the date value being the previous day should get reported to RBI in the luggage file. This discrepancy will be detected at the stage when GSTN and Accounting Authorities compare the challan data (CIN) of the day received from authorized banks with the e-scroll of the corresponding date received from RBI on T+1 basis. If GSTN detects

such a discrepancy, it will communicate the same to the relevant Accounting Authority and RBI. On the basis of this information or on the result of their own reconciliation with reference to CINs reported earlier by GSTN, the Accounting Authority will generate a Memorandum of Error (MOE) with a Unique Identification Number (UIN) and communicate the same to the RBI and copy the same to the concerned authorized bank and GSTN. GSTN being only a pass through portal, should not be entrusted the work of MOE and its resolution. Moreover, MOE process requires manual appreciation of facts, accounting expertise and decision making on behalf of each Government, which will be beyond GSTN's mandate/capacity. The steps involved in the correction mechanism in the aforesaid situation are as follows:

- i) GSTN to report the error to the relevant Accounting Authority (and Tax Authority, if GOI or concerned State so wants) and RBI, if the discrepancy is detected by GSTN;
- ii) The relevant Accounting Authority to generate a MOE with a UIN and communicate the same to RBI with a copy to concerned authorized bank for resolution (Accounting Authorities of the Centre and States will have to initiate MOE in respect of their respective taxes) (This may be on the basis of discrepancy detected and communicated by GSTN or by the Accounting Authorities themselves);
- iii) RBI to ascertain from e-FPB of the concerned authorized bank / RBI and get the discrepancy corrected. E-FPB of the concerned Authorized bank / RBI must rectify this discrepancy within a period of two days from the date of receipt of MOE from the Accounting Authority;
- iv) Rectification by the concerned e- FPB / RBI will be by way of identifying the missing transaction, putting it in a separate luggage

file containing the UIN of the relevant MOE and then transmitting the same to RBI;

v) RBI will send a separate e-scroll relating to MOE to the concerned Accounting Authority containing the missing transaction; Points at iv) and v) are design issues, which can be decided by GSTN in consultation with RBI. The reporting by e-FPB and thereafter by RBI can be through separate files as mentioned above, or the normal luggage file from banks and scroll from RBI can contain the now resolved transaction with a MOE resolution flag and UIN as additional field for the relevant record.

vi) Accounting Authority to note the correction of MOE and report the same to GSTN and the concerned Tax authority thereby completing the transaction cycle;

vii) RBI to take steps to penalize the e-FPB of the concerned Authorized bank.

b) Transaction reported by Bank to RBI but not to GSTN (CIN included in luggage file but CIN not reported to GSTN):

112. In case of payment through internet banking (Mode I), this seems to be an unlikely scenario, as all payments will be processed at the Core Banking Solution (CBS) of the concerned e-FPB of authorized bank and therefore the compiled data that it reports to RBI on T+1 basis will be nothing but the compilation of data (CIN) already reported by e-FPB of authorized bank on real time basis to GSTN. This discrepancy may however arise due to communication failure even after the prescribed rounds of pinging.

113. This discrepancy can arise in other modes of payment (Mode II and III), because the payment cycle is not a single workflow, is spread

over a longer period of minimum two days and requires participation of various banking officials even though the entire cycle is supposed to be done on the IT system customized for GST payments. Such a discrepancy will be detected by GSTN when it undertakes a reconciliation of the challan details (CIN) of a day available with it with the e-scroll of the same day received from RBI on T+1 basis. In such cases, the correction mechanism will involve the following steps:

- i) If CPIN and associated data reported in the scrolls received from RBI matches with GSTN's CPIN data, GSTN can forward the entire challan details of that CPIN to the concerned Accounting Authorities with a copy to Tax Authorities. There will not be any need for MOE in such case. The Accounting Authorities will carry out the accounting based on scroll data received from RBI and tally it with the challan data (CIN) now received from GSTN. GSTN would also update the taxpayer's cash ledger after confirming the payment from the authorized bank / RBI;
- ii) If e-FPB of an authorized bank has reported a transaction to RBI in GST luggage file, without it being a GST transaction or without realization of the amount, it should take up such cases for refund outside the MOE process as a more comprehensive verification will be needed before allowing the refund. For minimizing this kind of error, the bank's IT system should have validations/controls mentioned in para 85 above;
- iii) Only if the CPIN and associated data in the scroll does not match with GSTN's data there will be a need for MOE. That will be type c) error, discussed in the paragraph below. In those cases, the Accounting Authority should create MOE with a UIN and

communicate it to RBI with a copy to e-FPB of the concerned authorized bank. (The Accounting Authorities will identify the concerned bank on the basis of bank code contained in the CIN reported against the successful CPIN in the e-scroll received from RBI).

c) Transaction reported to RBI but with incorrect details of CIN (CIN level mismatch):

114. This kind of error can be minimized through suitable validations in the bank's IT system. If the error still occurs, it will be noted when the scroll data is processed by GSTN / Accounting Authorities. Even if the error gets noticed earlier as mentioned in para 109 above but remains unresolved till the time of reporting to RBI on T+1 basis, the bank should report the transaction to RBI with whatever CIN data it has received from the e-FPB of authorized bank. The bank should not hold back any balance in the tax accounts beyond the reporting time to RBI in respect of transactions of the previous day. When such unresolved transaction is reported to RBI, it should carry a flag indicating type of discrepancy. RBI should credit the amount to the account of the respective government as mentioned in the luggage file. As the scroll from RBI will have an unresolved CPIN discrepancy, the Accounting Authorities may credit the amount to a separate sub-head under the relevant major head and simultaneously take up MOE process. If the discrepancy pertains to the total challan amount, its impact on individual taxes will get known during reconciliation of the scroll data with the challan data, and the Accounting Authorities of the affected government should take up MOE process.

d) Money transferred to wrong government accounts though CIN matches with data in e-scroll received from RBI (major head level):

115. It may so happen that while sending the luggage file to RBI, the e-FPB of the authorized bank / RBI reflects the amount received in a tax head different from the one specified in the challan (major head level) (CPIN).

116. In such a situation, Accounting Authorities will play a crucial role as they are statutorily responsible not only for proper accounting of money but also for its credit into the correct government account. This discrepancy will be ascertained by the Accounting Authorities while carrying out reconciliation between the challan data obtained from GSTN on T+1 basis (detailing major heads) and e-scroll (for each major head separately) received from RBI. Steps involved in the correction mechanism are as follows:

- i) The relevant Accounting authority would generate MOE with UIN and communicate the same to RBI. Accounting Authorities of the Centre and States will have to initiate MOE in respect of their respective taxes;
- ii) RBI to ascertain from e-FPB of the concerned Authorized bank / RBI (in case of Mode III) and get the discrepancy corrected within a time period of 2 days from the receipt of MOE from the Accounting Authorities;
- iii) E- FPB of the concerned Authorized bank / RBI would verify the details in the CIN transmitted to GSTN with the details transmitted to RBI in the daily luggage file. Thereafter correction entry would be transmitted to RBI in a separate luggage file with UIN of MOE;
- iv) On the basis of information transmitted by e-FPB of the concerned Authorized bank, RBI would carry out the corrective Debit/Credit entries in the accounts of the concerned governments;

v) Thereafter RBI would send a separate e-scroll relating to MOE to the relevant Accounting authority about the corrective entry carried out resulting in reconciliation and correction;

vi) Relevant Accounting Authority to account for the corrective entry in its records and report correction of MOE to GSTN and relevant Tax authority thereby completing the transaction cycle;

vii) RBI to take steps to penalize e-FPB.

e) CIN neither transmitted to GSTN nor conveyed in luggage file from authorized bank to RBI and therefore not included in e-scroll received from RBI:

117. This scenario will reflect the failure of the system at two ends. In this scenario the taxpayer has properly paid taxes into the government account through authorized / non-authorized banks but the same has neither been reported to GSTN nor to RBI thereby in effect eliminating the transaction from the system itself. So it is crucial that suitable protocol should be developed for dealing with this kind of errors. It has to be kept in mind here that CPIN generated at GSTN has a validity period of only 7 days within which the payment is to be tendered. This error cannot be ascertained on the basis of any reconciliation as there will not be any flow of information from authorized banks / RBI. The error will be noticed only when the taxpayer on not receiving a credit confirmation SMS from GSTN or not finding the credit in his ledger inform GSTN. Steps involved in correction are:

i) In case of OTC payment through authorized banks in cash or by instruments drawn on the same bank, taxpayer will be provided with an instantaneous acknowledgement by the bank containing CIN.

As CIN is available with the taxpayer, he should inform GSTN about the transaction (CIN, bank branch where OTC payment was made and date of payment). On the basis of this information, GSTN should ascertain from e-FPB of the concerned authorized bank regarding receipt of payment. Once the confirmation is received through an electronic string, GSTN will validate the same against CPIN and thereafter the tax paid challan (CIN) will be credited to the taxpayer's ledger. e-FPB of the Authorized bank is now expected to include this receipt in the luggage file for the day for transmission to RBI.

ii) In case of OTC payment through authorized banks by instruments drawn on another bank in the same city, the process of giving acknowledgement would be in two steps. In case CIN is not reported to GSTN by the e-FPB of the authorized bank, the taxpayer may follow the procedure detailed in sub-para i) above. E-FPB of the authorized bank is now expected to include this receipt in the luggage file for the day for transmission to RBI.

iii) In case of OTC payment through banks via NEFT/RTGS, upon successful completion of the transfer at the end of the bank, the taxpayer will get a receipt detailing Unique Transaction Reference (UTR). Taxpayer can thereafter login into GSTN and update the details of UTR provided by the bank for NEFT/RTGS transaction in the challan. GSTN is expected to communicate the UTR to RBI. In case the CIN is not communicated by RBI, GSTN will now take up the matter with RBI (instead of with authorized bank) in the manner detailed in sub para i) above. RBI is now expected to include this receipt in the e-scroll for the day, if NEFT/RTGS remittance was received. If the remittance was not received, RBI will inform GSTN

accordingly. In turn, the tax payer will be intimated by GSTN for taking up the matter with his bank (through which NEFT / RTGS was effected by him) for deficiency of service.

f) Sum total of amount for a CIN reported in e-scroll by RBI is lesser / greater than that reported by e-FPB of authorized bank / RBI to GSTN:

118. This error relating to the shortfall can occur if a bank has deducted collection charges in Mode II and a bank has collected remittance charges for NEFT / RTGS transaction from the challan amount Mode III . Such errors in Mode II can be minimized through suitable validations in the bank's IT system. In such case, one of the tax amounts will be less than the amount indicated in the challan. The relevant Accounting Authority (for whom the amount received is less than the amount mentioned in challan) will have to take up MOE process with RBI with a copy to the concerned bank as detailed in para 116 above for getting the shortfall amount.

119. In case the amount in the scroll is more than the challan amount for any tax, the bank will have to raise the MOE with the concerned Accounting Authority for the refund. Without approval of the Accounting Authority, the banks should not be allowed to adjust the excess amount against future receipts.

Fourth leg of communication of data is between RBI and GSTN & Accounting Authorities:

120. RBI is collating luggage files from e-FPBs of various authorized banks, including amount received by it in Mode III and thereafter generating and transmitting e-scrolls Major head wise to Government of India and SGST (state wise). During collation of the data, an error can

creep into e-scroll resulting in missing / additional transaction. Since there is simultaneous flow of information to two different agencies i.e. GSTN and Accounting Authorities, following situations may arise:

- a) Transaction reported to GSTN by e-FPB of authorized banks but not by RBI in its e-scroll (CIN level);
- b) Transaction reported by RBI in its e-scroll but not by e-FPB of authorized bank /RBI to GSTN (CIN level);
- c) Transaction reported by RBI but with incorrect details of CIN (CIN level);
- d) Sum total of the amount for CIN reported to RBI is lesser/greater than that received by GSTN/Accounting Authority.
- e) There is mismatch between tax wise amounts while the total challan amount matches.

121. In all the situations mentioned above, the reconciliation and error correction mechanism would be similar to that in the third leg of communication (para 110 to 119 above) as the source of discrepancy cannot be identified. It can be at the bank level or at RBI level. Therefore, the concerned Accounting Authorities should take up MOE with RBI with a copy to concerned authorized bank. RBI should first verify the data at its own end for corrective measure, if the error had arisen from its actions, if the source of error is found by RBI to be the one of the authorized bank, it should facilitate/ensure corrective measure by the identified bank in a time bound manner.

Recording by Tax Authorities:

122. After reconciliation and successful accounting of each payment, the transaction level data with unique accounting number, if required by a State Government (some governments have that practice) should be communicated by the Accounting Authorities to the Tax

Department's system for updating the records, which would finally contain following unique Ids for each receipt:

- a) CIN;
- b) GSTIN;
- c) Bank Transaction Number (BRN);
- d) RBI Transaction Number;
- e) Accounting Entry ID Number/confirmation flag.

The presence of all the above mentioned five fields would constitute the assurance for credit to the government account with RBI, and the reconciliation and accounting in the government books.

Challan Correction Mechanism:

123. In view of the presumptions listed above, the requirement of providing for a challan correction mechanism would be minimal though not completely ruled out. The Committee recommends for providing the correction mechanism in following situations:-

- a) ERROR IN GSTIN: This may happen in situations where the payment of tax is being made by either authorized representative such as CA or any other person on behalf of the taxpayer. Such kind of error will have no impact on the transfer of the funds to the account of the concerned governments as the money will be correctly transferred on the basis of the CIN. Further once the payment confirmation is received by GSTN from the concerned bank then the amount will be credited to the ledger of the taxpayer whose GSTIN is mentioned in the electronic string that is relayed by the bank to GSTN (earlier the same GSTIN was communicated by GSTN to bank). Therefore taking into account both the above factors as well as the fact that Challan has been generated either by the taxpayer himself or through his authorized representative and the mistake

being committed has no impact on the funds with tax administration, there is no need for providing an error correction mechanism for the same. The authorized representative, acting as an agent for the taxpayer should be responsible to the principal for any error committed while performing authorized acts and tax administration should have no role to play in this matter.

b) ERROR IN MAJOR HEAD: In such a scenario, the bank though has collected the correct amount but has credited the wrong head of tax account. This would impact the transfer of funds to the account of the respective governments as bank has transferred the funds on the basis of the data not detailed in CPIN. Thus bank would be required to withdraw funds from one account and credit the other account(s). It is proposed to permit banks to rectify such error before the end of the day during which the amount has been received by the bank as at the end of the day, the amount would have been credited in respective government accounts and thereafter the same would also have been accounted by Accounting Authorities of the Centre and State. No correction in the challan data is required even in this case. If the error is noted after reporting of the credit on T+1 basis, the normal MOE process should be used.

c) ERROR IN TOTAL AMOUNT: If the amount paid is in excess then there is provision for either claim of refund by the taxpayer or the amount can be carried forward to the next period and therefore there is no need to provide for correction mechanism.

124. In view of recommended maintenance of cash ledger, the fields relating to 'Tax period' and 'purpose' will not be captured in the challan as being done presently and therefore correction mechanism for correcting these two fields has not been provided for.

CHALLAN FORMAT:

125. e-Challan will remain the source document for the purpose of accounting and reconciliation by the accounting authorities of the Centre/States/UTs. The Office of C & AG has stressed upon the need for ensuring the availability of e-Challan for accounting and reconciliation purposes. A proper Challan format (Annexure -IV) that covers all the details required for accounting and reconciliation is essential to be prescribed, that will be treated as proof of payment to the government.

126. In the GST regime, the existing practice of entry of challan data at the bank branch level will be dispensed with as the challan would be shared on real time basis from the GSTN portal to the CBS of the authorized bank / RBI indicated in the challan.

127. Central Government Accounts (Receipt and Payment) Rules, 1983 provides for submission of Challan in form GAR 7 along with the payments to facilitate the Pay and Accounts Officer to classify the receipts accurately in his accounts. The form will need to be suitably modified for use in the electronic systems envisaged for GST payments. Almost all the information currently required in GAR 7 has been provided in proposed GST challan form. However, as discussed in para 14 above, the jurisdictional location code will not be available in the challan and the same would need to be mapped with the help of the backend system of each tax administration.

(Satish Chandra)
Member Secretary
Empowered Committee
of State Finance Ministers

(Rashmi Verma)
Additional Secretary
Department of Revenue
Government of India

Annexure-I

**EMPOWERED COMMITTEE OF STATE FINANCE
MINISTERS DELHI SECRETARIAT, IP ESTATE, NEW
DELHI – 110002**

Tel. No. 2339 2431, Fax: 2339 2432 e-mail: vatcouncil@yahoo.com

No.15/45/EC/GST/2014/32

Date: 7th April, 2014

**JOINT COMMITTEE ON BUSINESS PROCESSES
FOR GST**

During the last Empowered Committee meeting held on 10th March, 2014, it was decided that a Joint Committee under the co-convenership of the Additional Secretary (Revenue), Government of India and the Member Secretary, Empowered Committee should be constituted to look into the Report of the Sub-Group-I on Business Processes for GST and make suitable recommendations for Registration and Return to the Empowered Committee. It was also decided that the Joint Committee should also keep in view the Registration and Return requirements necessary for IGST Model. Accordingly, a Joint Committee, in consultation with the Government of India, is constituted with the following members:

Government of India

- (1) Smt. Rashmi Verma, Additional Secretary (Revenue) -- Co-convenor
- (2) Shri P.K. Mohanty, Joint Secretary (TRU-I)
- (3) Shri M. Vinod Kumar, Joint Secretary (TRU-II)
- (4) Shri J.M. Kennedy, Director (TRU-II)
- (5) Director/Deputy Secretary holding the charge of
State Taxes Section

States Government

- (1) Dr. J.B. Ekka, Commissioner of Taxes, Assam
- (2) Shri Prashant Goyal, Commissioner, Trade & Taxes, Delhi
- (3) Shri H.V. Patel, Commissioner, Commercial Tax, Gujarat
- (4) Shri Sudhir Rajpal, Commissioner, Excise & Taxation, Haryana
- (5) Shri Kifayat Hussain Rizvi, Commissioner, Commercial Tax, J&K
- (6) Shri Ajay Seth, Commissioner, Commercial Tax, Karnataka
- (7) Shri Shyam Jagannathan, Commissioner, Commercial Tax, Kerala
- (8) Shri Amit Rathore, Commissioner, Commercial Tax, Madhya Pradesh
- (9) Dr. Nitin Kareer, Commissioner, Sales Tax, Maharashtra
- (10) Shri Abhishek Bhagotia, Commissioner, Commercial Tax, Meghalaya

- (11) Shri Manoj Ahuja, Commissioner, Commercial Tax, Odisha
- (12) Shri Sanjay Malhotra, Commissioner, Commercial Tax, Rajasthan
- (13) Shri K. Rajaraman, Commissioner, Commercial Tax, Tamil Nadu
- (14) Shri M.K. Narayan, Commissioner, Commercial Tax, Uttar Pradesh
- (15) Shri Dilip Jawalkar, Commissioner, Commercial Tax, Uttarakhand
- (16) Shri Binod Kumar, Commissioner, Commercial Tax, West Bengal

Empowered Committee of State Finance Ministers

(1) Shri Satish Chandra, Member Secretary -- Co-convenor

2. The Committee will submit its report to the Empowered Committee in two months time.

Sd/-
(Satish Chandra)
Member Secretary
Empowered Committee of
State Finance Ministers

Copy to: All the Members of the Joint Committee

Copy also to:

- (1) PS to Chairman, Empowered Committee of State Finance Ministers
- (2) Adviser to Chairman, Empowered Committee of State Finance Ministers
- (3) Sr.A.O./OSD/F.O./A.O., Empowered Committee of State Finance Ministers

Annexure-II

EMPOWERED COMMITTEE OF STATE FINANCE
MINISTERS DELHI SECRETARIAT, IP ESTATE, NEW
DELHI – 110002

Tel. No. 2339 2431, Fax: 2339 2432 e-mail: vatcouncil@yahoo.com, vatcouncil@gmail.com

No.15/45/EC/GST/2015/20

2015

Date: 3rd February,

SUB-COMMITTEE ON PAYMENT PROCESSES UNDER GST

During the meeting of the Joint Committee on Business Processes for GST held on 2nd February, 2015, it was decided that a Sub-Committee should be constituted to consider the Report of the Committee for Finalizing Payment Processes under GST and to give its recommendations for the consideration of the Joint Committee on Business Process for GST. Accordingly, a Sub-Committee consisting of the following officers was constituted:

Government of India

1. Shri Shashank Priya, Commissioner, GST Cell, CBEC, Government of India	Co-convener
2. Shri Upender Gupta, Additional Commissioner, CBEC Government of India	Member
3. Shri Manish Saxena, Additional Director, Directorate General of Systems, Government of India	Member

States

1. Shri Ritvik Ranjanam Pandey, Commissioner, Commercial Tax, Karnataka	Co-convener
2. Shri K. Rajaraman, Principal Secretary/Commissioner, Commercial Taxes, Tamil Nadu	Member
3. Shri Manoj Ahuja, Commissioner, Commercial Tax Odisha	Member
4. Dr. P.D. Vaghela, Commissioner, Commercial Tax, Gujarat	Member

Goods and Services Tax Network

1. Shri Prakash Kumar, Chief Executive Officer, GSTN	Member

Special Invitee

1. Shri Ajay Seth, former Commissioner, Commercial Tax, Karnataka	Member

2. It was also decided to request RBI, Principal Chief Controller of Accounts, CBEC and Controller General of Accounts to nominate senior officers to attend the meetings of the Sub-Committee/Committee.

3. It was further decided that the first meeting of the Sub-Committee will be held at 10.00 am on 14th February, 2015 at Hotel Le Meridien, Bangalore. All the members of the Sub-Committee are requested to kindly make it convenient to attend the meeting of the Sub-Committee. They are also requested to intimate their travel programme to Shri Ritvik Ranjanam Pandey, Commissioner Commercial Tax, Karnataka (Tel: 080-22264495, Fax: 080-22263595 and e-mail: ritvik@gov.in) so that necessary arrangements for their boarding, lodging and transport could be made under intimation to the Empowered Committee.

Sd/-
(Satish Chandra)
Member Secretary
Empowered Committee of
State Finance Ministers

Copy to: Additional Secretary (Revenue), Government of India with the request to kindly request RBI, Principal Chief Controller of Accounts, CBEC and Controller General of Accounts to nominate suitable officers to attend the meeting in Bangalore and subsequent meeting of the Joint Committee on Business Process for GST, when the Business Process for payment is considered by the Committee.

Copy to: All the members of the Sub-Committee

Copy also to:

Adviser/OSD/Sr.A.O./A.O., Empowered Committee of State Finance Ministers.

Annexure-III

LIST OF PARTICIPANTS OF THE MEETING HELD ON 16TH AND 17TH APRIL, 2015

Government of India

1. Smt. Rashmi Verma, Additional Secretary (Revenue), Government of India
2. Shri Manish Saxena, Additional Director, Director General of Systems, CBEC, Government of India
3. Shri M.K. Sinha, Director (Central Excise), Government of India
4. Shri Rajeev Yadav, Director (Service Tax), CBEC, Government of India
5. Shri Shashank Priya, Commissioner, GST, CBEC, Government of India
6. Shri Ravneet Singh Khurana, Deputy Commissioner, CBEC, Government of India
7. Shri Upender Gupta, Additional Commissioner, GST, CBEC, Government of India

States

1. Dr. Ravi Kota, Commissioner of Taxes, Assam
2. Shri Sanjeev Khirwar, Commissioner (VAT), Trade and Taxes, Delhi
3. Shri Jagmal Singh, Deputy Director, Trade and Taxes, Delhi
4. Shri Umesh Kumar Tyagi, Special Commissioner, Trade and Taxes, Delhi
5. Dr. P.D. Vaghela, Commissioner, Commercial Tax, Gujarat
6. Shri Riddhesh P. Raval, Assistant Commissioner, Commercial Tax, Gujarat
7. Shri Shyamal Misra, Commissioner, Excise & Taxation, Haryana
8. Shri Hanuman Singh, Additional Commissioner, Excise & Taxation, Haryana
9. Shri Zaffar Ahmad Bhat, Commissioner, Commercial Tax, Jammu & Kashmir
10. Dr. Shamim Ahmad, Additional Commissioner, Commercial Taxes, Jammu & Kashmir
11. Shri Ritvik Ranjanam Pandey, Commissioner, Commercial Tax, Karnataka
12. Dr. M.P.Ravi Prasad, Joint Commissioner, Commercial Tax, Karnataka
13. Shri M. Girees Kumar, Commissioner, Commercial Tax, Kerala
14. Shri M.I. Mansur, Assistant Commissioner, Commercial Tax, Kerala
15. Shri Sudip Gupta, Deputy Commissioner, Commercial Tax, Madhya Pradesh
16. Shri Rajiv Jalota, Commissioner, Sales Tax, Maharashtra
17. Shri P. Velrasu, Special Commissioner, Sales Tax, Maharashtra
18. Shri Manoj Ahuja, Commissioner, Commercial Tax, Odisha
19. Shri Sahadev Sahoo, Joint Commissioner, Commercial Tax, Odisha
20. Shri Vaibhav Galriya, Commissioner, Commercial Tax, Rajasthan
21. Shri K. Rajaraman, Principal Secretary/Commissioner, Commercial Taxes, Tamil Nadu

22. Shri K.Gnanasekaran, Additional Commissioner, Commercial Taxes, Tamil Nadu
23. Shri Mritunjay Kumar Narayan, Commissioner, Commercial Tax, Uttar Pradesh
24. Shri Rakesh Verma, Joint Commissioner, Commercial Tax, Uttar Pradesh
25. Shri Puneet Tripathi, Assistant Commissioner, Commercial Tax, Uttar Pradesh
26. Shri N.C. Sharma, Additional Commissioner, Commercial Tax, Uttarakhand
27. Shri Vipin Chandra, Joint Commissioner, Commercial Tax, Uttarakhand
28. Shri Khalid Aizaz Anwar, Joint Commissioner, Commercial Tax, West Bengal

Goods and Services Tax Network (GSTN)

1. Shri Navin Kumar, Chairman, Goods and Services Tax Network
2. Shri Prakash Kumar, Chief Executive Officer, Goods and Services Tax Network

Special Invitee

1. Smt. Nidhi Khare, Commissioner, Commercial Tax, Jharkhand

CCA

1. Mrs. Krishna Tyagi, Chief Controller of Accounts, CBEC
2. Alok Kumar Verma, Controller of Accounts, CBEC

CGA

1. Shri Chandan Mishra Dwivedi, Deputy Comptroller and General of Accounts

RBI

1. Shri G. Sreekumar, CGM, RBI
2. Shri Manish Parashar, Deputy GM, RBI

Empowered Committee of State Finance Ministers

1. Shri Satish Chandra, Member Secretary, Empowered Committee
2. Shri Bashir Ahmed, Adviser, Empowered Committee

PWC

1. Shri Kalyan K. Pal, PWC

Annexure-IV

GST CHALLAN

CPIN	<<Auto Generated after submission of information>>

GSTIN	<<Filled in/Auto populated>>
Name	<<Auto Populated>>
Address	<<Auto Populated>>

Date	
Email address	<<Auto Populated>>
Mobile No.	<<Auto Populated>>

Tax Liability					
	Tax	Interest	Penalty	Others	Total
Government of India					
CGST					
IGST					
Additional Tax					
Government of <State>					
SGST					
				Total Challan Amount	

Note :

1. Different colors to reduce possibility of data entry errors to be provided.
2. Accounting Codes are to be provided for at the backend

Mode of Payment (relevant Portion to become active when selected)

☐ e-Payment
Net Banking ☐ Credit Card ☐

☐ Authorised Bank OTC	
Name of Receiving Bank (where	

Debit Card ☐	
Name of Bank	
Name of Payment Gateway (in case of payment through CC /DC)	

instrument is proposed to be deposited)		
Name of Branch (Optional)		
Name of City/Town/Village where payment is proposed to be made		
Details of instrument(optional)		
Cash ☐	Ch/DD No.	
	IFSC Code	
Cheque ☐	Bank	
DD ☐	Branch	

Note : Only local cheques (not outstation cheques to be accepted)

☐ NEFT/RTGS Remitting Bank	
Name of Bank	
Name of Branch	
IFSC Code	
Name and Code of Beneficiary Bank (RBI and its code)	
Name of the beneficiary account (Description 'GST payment' to be auto Populated)	

Beneficiary Account Number (CPIN Auto Populated)	

Note:

1. Payments through RTGS / NEFT
2. Beneficiary to be defined as the RBI and its account. This would be auto populated by GSTN
3. Charges to be over and above Tax amount

Paid Challan Information

Bank Reference No.	
CIN	
Date of Clearing	
NEFT/RTGS Unique Ref No.	

Challan Received at

Annexure V

Issue of charge back in CC/DC Payment

1. Under the charge back claim, a taxpayer after making payment through credit card may seek refund of the money till 60 days of the transaction. Usually such refunds can be sought under three scenarios:
 - (i) Payment was made fraudulently by someone using the card of others;
 - (ii) Extra payment was made because of some technical error during payment; (iii) Some service was not delivered for the payment made.
2. During the past few years, there have been significant changes in the security systems surrounding a transaction done through credit cards. The nature of such transactions has undergone changes because of introduction of two factor authentication and OTP (one time password) as per RBI's regulations. Under such circumstances it has become more improbable to have fraudulent transactions. Banks also have stopped entertaining claims caused by fraudulent transactions. As such scenario (i), i.e., payment through fraudulent use can be practically ruled out.
3. In scenario (ii) arising from technical errors, the errors can be detected even before any transaction is reported to RBI on T+1 basis. The acquiring banks should have a validation in their IT system that no double payment is reported for a tax against the same CPIN. If a credit card has been charged twice for the same challan total amount, the additional collection may be refunded by the acquiring bank.

4. In case the technical error of charging the card twice is noticed after the transaction has been reported to GSTN on real time basis but before the reporting to RBI on T+1 basis, the acquiring bank can refund the amount under real time intimation to GSTN. Thereafter, such double payment should not be reported to RBI.
5. In case the technical error is detected after reporting to RBI on T+1, the acquiring bank should send the claim to GSTN with full details. GSTN should verify its database, and confirm to the bank regarding double payment received against the same CPIN.
6. There should be a validation in GSTN's system that such double payments (para 4 and 5 above) are either not reflected in the tax payer's ledger or the second payment against the same CPIN is barred from utilization. Based on the confirmation from GSTN, the acquiring bank can refund the extra payment.
7. For scenario (iii) arising from claim of non-delivery of service, the acquiring bank should send the claims to GSTN with full details. GSTN can rebut the claim by providing a copy of the Challan (pdf file generated from its system) used for making the payment and details of the tax-payer's ledger account in which credit was made to show that the service was provided. The bank can use the above details /document as a sufficient basis to repudiate any charge back claim for non-delivery of service. Such evidences have to be provided to banks within 48 hours of the claim.
8. Even if the charge back request for scenario (iii) is received by the acquiring bank before reporting of the transaction to RBI on T+1, the bank should send the claim to GSTN for a response. GSTN should verify its record, and rebut the claim as mentioned in para 7 above. GSTN will have 48 hrs to send its response. In the meantime at T+1 event, the

acquiring bank should report the transaction to RBI in normal course. The bank

should not hold back the funds. Subsequently when the response is received from GSTN, the bank may either decide to reject the claim (most likely as it is fairly easy to establish that the tax was actually paid to the Government and there was no denial of service) or accept the claim. If the claim is accepted, the process suggested in para 9 below may be followed.

9. In case the charge back is accepted after reporting to RBI (either in case of scenario (ii) or in case of scenario (iii) when GSTN's rebuttal is not accepted) and refund is made by the acquiring bank to the issuing bank, such refund should be reported as a new transaction to RBI. The report to RBI as well as the entry in RBI's scroll should be as a debit entry identified using the original CPIN. On receipt of such information, GSTN should debit the taxpayer's ledger and inform the Tax Authorities who should recover the amount from the said taxpayer.

Annexure VI

List of Banks presently authorised in Centre and States

S. NO.	Name of Bank
1.	ALLAHABAD BANK
2.	ANDHRA BANK
3.	BANK OF INDIA
4.	BANK OF BARODA
5.	BANK OF MAHARASHTRA
6.	CANARA BANK
7.	CENTRAL BANK OF INDIA
8.	CORPORATION BANK
9.	DENA BANK
10.	INDIAN BANK
11.	INDIAN OVERSEAS BANK
12.	ORIENTAL BANK OF COMMERCE
13.	PUNJAB NATIONAL BANK
14.	PUNJAB & SIND BANK
15.	SYNDICATE BANK
16.	UNION BANK OF INDIA
17.	UNITED BANK OF INDIA
18.	UCO BANK
19.	VIJAYA BANK
20.	STATE BANK OF INDIA

21.	STATE BANK OF BIKANER & JAIPUR
22.	STATE BANK OF HYDERABAD
23.	STATE BANK OF MYSORE
24.	STATE BANK OF PATIALA
25.	STATE BANK OF TRAVANCORE
26.	IDBI Bank Ltd

7.5 Report on Rate

Report on the Revenue Neutral Rate and Structure of Rates for the Goods and Services Tax (GST)

December 4, 2015

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Foreword

Ahead of the possible implementation of the Goods and Services Tax (GST), the government appointed a Committee with the following terms of reference:

- (a) The Committee may recommend possible tax rates under GST that would be consistent with the present level of revenue collection of Centre and States.
- (b) While recommending GST rates the Committee may develop a dynamic model to assess the impact of the following parameters on the tax rates viz. expected levels of growth of economy, different levels of compliance and broadening of tax base under GST.
- (c) Analyse the sector-wise and State-wise impact of GST on the economy.
- (d) The Committee may invite experts and stakeholders for consultations as it deems fit.

The composition of the Committee is the following:

Dr. Arvind Subramanian, Chief Economic Adviser, Ministry of Finance (Chairman)
Dr. W R Reddy, Principal Secretary, Taxes, Government of Kerala

Dr. P D Vaghela, Commissioner, Commercial Taxes, Government of Gujarat

Shri K Rajaraman, Principal Secretary and Commissioner, Commercial Taxes, Government of Tamil Nadu (since transferred from the post)

Shri Ritvik Pandey, Commissioner, Commercial Taxes, Government of Karnataka

Shri Udai Singh Kumawat, Joint Secretary, Department of Revenue

Shri Alok Shukla, Joint Secretary, Tax Research Unit, Central Board of Excise and Customs

Shri Upender Gupta, Commissioner, GST, Department of Revenue

Ms. Aarti Saxena, Deputy Secretary, State Taxes, Department of Revenue

The Committee met several times and had wide ranging consultations with experts in the field. The experts included Arbind Modi and G D Lohani from the Department of Revenue, Kavita Rao from the National Institute of Public Finance and Policy, Neelkanth Mishra from Credit Suisse, Satya Poddar from Ernst and Young, Rinku Murgai, Fredrico Gil Sander and Urmila Chatterjee from the World Bank, and Mario Mansour and David Wentworth from the Fiscal Affairs Department of the IMF. I would like place on record my deep appreciation for the consultations and material provided by the Committee members and other experts. These insights have served as valuable inputs for the Report. The comments from the members of the Committee have been appropriately reflected in the Report.

I would also like to thank Aakanksha Arora, Antony Cyriac, Narendra Jena, Kapil Patidar, Pradyut Kumar Pyne, and Arvinder S. Sachdeva of Economic Division of the Department of Economic Affairs for their efforts in the preparation of the Report.

(Arvind Subramanian)
Chief Economic Adviser
&
Chairman of the Committee

I.INTRODUCTION

1.1 As the world economy slows, and increasing financial volatility and turbulence become the "newest normal," only a few economies have the resilience to be a refuge of stability and the potential to be an outpost of opportunity. India is one of those few. As oil and commodity prices continue to be soft, and in the wake of actions taken by the government and the Reserve Bank of India, macro-economic stability seems reasonably assured for India. This bedrock of stability coupled with reforms to unleash the entrepreneurial energies of India can create the policy credibility and business environment that India is indeed seizing the historic opportunity afforded by domestic and international developments to propel the economy to a high growth trajectory. Key amongst these reforms is the goods and services tax (GST), which has, in some ways, been "priced" into expectations of the government's reform program.

1.2 For nearly ten years, India has been on the verge of implementing a GST. But now, with political consensus close to being secured, the nation is on the cusp of executing one of the most ambitious and remarkable tax reforms in its independent history. Implementing a new tax, encompassing both goods and services, to be implemented by the Centre, 29 States and 2 Union Territories, in a large and complex federal system, via a constitutional amendment requiring broad political consensus, affecting potentially 2-2.5 million tax entities, and marshalling the latest technology to use and improve tax implementation capability, is perhaps unprecedented in modern global tax history.

1.3 It is easy to overlook how ambitious the Indian GST will be, and a cross-country comparison highlights the magnitude of ambition. According to the World Bank (2015), over 160 countries have some form of value added tax (VAT), which is what the GST is. But the ambition of the Indian GST experiment is revealed by a

comparison with the other large federal systems——European Union, Canada, Brazil, Indonesia, China and Australia--that have a VAT (the United States does not have a VAT).

1.4 As Table 1 highlights, most of them face serious challenges. They are either overly centralized, depriving the sub-federal levels of fiscal autonomy (Australia, Germany, and Austria); or where there is a dual structure, they are either administered independently creating too many differences in tax bases and rates that weaken compliance and make inter-state transactions difficult to tax (Brazil, Russia and Argentina); or administered with a modicum of coordination which minimizes these disadvantages (Canada and India today) but does not do away with them.

Table 1: Comparison of Federal VAT Systems

Nature of VAT	Country Examples	Disadvantages
Independent VATs at Centre and States	Brazil, Russia, Argentina	Differences in base and rates weaken administration and compliance. Inter-state transactions difficult to manage.
VAT levied and administered at Centre	Australia, Germany, Austria, Switzerland, etc.	State government relieved of responsibility of raising taxes which also takes away fiscal discretion of States
Dual VAT	Canada and India today	A combination of the above two and hence limits both their disadvantages
"Clean" dual VAT	India's GST	Common base and common or similar rates facilitate administration and compliance, including for inter-state transactions, while continuing to provide some fiscal autonomy to States
<i>Source: World Bank (2015)</i>		

1.5 The Indian GST is expected to represent a leap forward in creating a much cleaner dual VAT which would minimize the disadvantages of completely independent and completely centralized systems. A common base and common rates (across goods and services) and very similar rates (across States and between Centre and States) will facilitate administration and improve compliance while also rendering manageable the collection of taxes on inter-state sales. At the same time, the exceptions—in the form of permissible additional excise taxes on sin goods (petroleum and tobacco for the Centre, petroleum and alcohol for the States)—will provide the requisite fiscal autonomy to the States. Indeed, even if they are brought within the scope of the GST, the states will retain autonomy in being able to levy top-up taxes on these "sin/demerit" goods.

1.6 Provided it can be reasonably well-designed, the Indian GST will be the 21st century standard for VAT in federal systems.

1.7 It is, therefore, imperative to ensure that the design and implementation of this policy is done right. And, one important, perhaps critical, dimension of this is the level and structure of tax rates on which this Committee has been asked to make recommendations.

II. BENEFITS OF PROPOSED GST

2.1 Many benefits are claimed for the GST: that it will increase growth¹; that it will increase investment by making it easier to take advantage of input tax credits for capital goods; and that it will reduce cascading.² While these are important, in our view three benefits stand out in today's context: governance/institutional reform and "Make in India by Making one India," which are two key pillars of the government's reform efforts. The investment,

and hence growth, benefits could also be substantial.

Governance

2.2 The government has placed a great deal of emphasis on curbing black money reflected in the Black Money Bill. These measures can be very significantly complemented by a GST, which, especially if it is extended to as many goods and services as possible (especially alcohol, real estate and precious metals), can be a less intrusive, more self-policing, and hence more effective way of reducing corruption and rent-seeking.

2.3 Under the GST, this can happen in two ways. The first relates to the self-policing incentive inherent to a valued added tax. To claim input tax credit, each dealer has an incentive to request documentation from the dealer behind him in the value-added/tax chain. Provided, the chain is not broken through wide ranging exemptions, especially on intermediate goods, this self- policing feature can work very powerfully in the GST.

2.4 According to Pomeranz (2013), "The Value Added Tax (VAT) is a stark example of a tax believed to facilitate enforcement through a built-in incentive structure that generates a third- party reported paper trail on transactions between firms, which makes it harder to hide the transaction from the government (e.g. Tait, 1972; Burgess and Stern, 1993; Agha and Haughton,1996; Kopczuk and Slemrod, 2006). This belief has contributed to one of the most significant developments in tax policy of recent decades (Keen and Lockwood, 2010): a striking increase in VAT adoption from 47 countries in 1990 to over 140 today (Bird and Gendron, 2007)."

¹ An oft-cited study by the NCAER (2010) suggested that growth would increase by 0.9-1.7 per cent of GDP, purely based on the elimination of the cascading of taxes on exports. What is unclear is the quantitative importance of the elimination of the embedded taxes on exports under the GST relative to the current regime of zero-rating of exports. In other words, how incomplete is the current zero-rating of exports and how much will the GST improve upon it are questions that need further investigation.

² Whether cascading is a serious problem and why is discussed by Keen (2013)

2.5 The best evidence of the impact of the paper trail on evasion comes from an experiment in Chile which shows that firms that are part of the VAT chain are less responsive (in terms of evasion) to announcements of an increase in audit, suggesting that being part of the VAT itself performs the self-auditing function (Pomeranz, 2013). Moreover, the study finds that increasing the audit probability of firms suspected of evasion generates spillovers up the VAT paper trail that lead to an increase of their suppliers' tax payments. In a sense, the supplier, because of the paper trail left by the VAT, knows that his evasion will be more likely to be detected once his client is audited.

2.6 Second, the GST will in effect have a dual monitoring structure — one by the States and one by the Centre. Hence, there will be a greater probability that evasion will be detected. Even if one set of tax authorities overlooks and/or fails to detect evasion, there is the possibility that the other overseeing authority may not.

Make in India by Making one India

2.7 The current tax structure unmakes India, by fragmenting Indian markets along state lines. This has the collateral consequence of also undermining Make in India, by favouring imports and disfavouring domestic production. The GST would rectify it not by increasing protection but by eliminating the negative protection favouring imports and disfavouring domestic manufacturing.

2.8 These distortions are caused by three features of the current system:

the central sales tax (CST) on inter-state sales of goods; other numerous inter-state taxes that will be replaced by the (one) GST; and the extensive nature of countervailing duty (CVD) exemptions.

CST³

2.9 The 2 per cent CST on inter-state sales of goods leads to inefficiencies in supply chain of goods. Goods produced locally within the jurisdiction of consumption attract lower tax than those produced outside. This tax encourages geographic fragmentation of production. The tax can be avoided partially through branch/stock transfers by manufacturers. However, the tax savings from branch transfers get substantially offset by the incremental costs of logistics and warehousing of goods in multiple locations.

2.10 Consider a simple example, where intermediate goods produced in Maharashtra go to Andhra Pradesh for production of a final good which in turn is sold in Tamil Nadu. Effectively, the goods will face an additional tax of 4 per cent, which will reduce the competitiveness of the goods produced in Andhra Pradesh compared with goods that can be imported directly to say Chennai from South and East Asian sources.

2.11 How quantitatively significant is the impact of the CST? We have some suggestive evidence based on data provided by six States: Maharashtra, Andhra Pradesh, Karnataka, Gujarat, Tamil Nadu and Kerala. In these States, stock transfers, on average, account for as much of inter-state trade as the trade subject to the CST (in the case of Gujarat and Andhra Pradesh, stock transfers are more than twice as much) (Table 2). In other words, the distortion affects fifty per cent of the total trade that

flows between States.

³ The proposed Constitutional Amendment bill provides for a 1 percent duty on inter-state sales for a limited period. We strongly recommend that this provision be deleted for the very reason that the CST militates against Make in India.

Table 2: Impact of the Central Sales Tax (In Rs. Crore)

	Maharashtra	Tamil Nadu	Kerala	Karnataka	Andhra Pradesh	Gujarat	Total
Taxable turnover	316598	214771	293151	186045	60669	304479	1375713
Non-taxable turnover (stock transfer + consignment sales)	241319	142321	44683	98300	160910	651620	1339154
Ratio of non-taxable to taxable turnover	76%	66%	15%	53%	265%	214%	97%

Source- Respective States Government's Revenue Division.

Eliminating other inter-state taxes

2.12 Currently, there are a number of inter-state taxes that are levied by the States in addition to the CST. These include: entry tax not in lieu of octroi and entry tax in lieu of octroi.

2.13 Under the GST, all these taxes would be folded into the GST with enormous benefits. What are the benefits?

2.14 There is ample evidence to suggest that logistical costs within India are high. One study suggests that, for example, in one day, trucks in India drive just one-third of the distance of trucks in the US (280 kms vs 800 kms). This raises direct costs (wages to drivers, passed on to firms), indirect costs (firms keeping larger inventory), and location choices (locating closer to suppliers/customers instead of lowest-cost location in terms of wages, rent, etc.). Further, only about 40 per cent of the total travel time is spent

driving, check points and other official stoppages take up almost one-quarter of total travel time. Eliminating check point delays could keep trucks moving almost 6 hours more per day, equivalent to additional 164 kms per day – pulling India above global average and to the level of Brazil. So, logistics costs (broadly defined, and including firms' estimates of lost sales) are higher than the wage bill or the cost of power, and 3-4 times the international benchmarks.⁴

⁴ JPS Associates (2011), "Economic Cost of Inter-State Barriers in Goods Traffic,"

2.15 Another study shows that inter-state trade costs exceed intra-state trade costs by a factor of 7-16, thus pointing to clear existence of border barriers to inter-state movement of goods. Further, inter-state trade costs in India exceed inter-state costs in the US by a factor of 6, suggesting that India's border effects are large by international comparison. Bringing India's inter-state trade costs down to the US level (reducing by a factor of 6) increases welfare by 15 per cent; conversely, completely eliminating intra-state trade frictions raises welfare by 5 per cent.⁵

2.16 All of these barriers to inter-state trade become even more important in India because the share of roads in freight traffic is high (about 72 per cent) and much higher than in comparable countries and rising over time because of under-investment in the Railways (Economic Survey,

2.17 Now, all of these costs are not due to taxes. But, the World Bank estimates that about 20-30 per cent are (World Bank).⁶ It is these costs that can be expected to decline with the introduction of the GST, providing a boost to inter-state trade and hence productivity growth within India.⁷

CVD and SAD Exemptions

2.18 It is insufficiently appreciated that India's border tax arrangements undermine Indian manufacturing and the "Make in India" initiative. Eliminating exemptions in the countervailing duties (CVD) and special

additional duties (SAD) levied on imports will address this problem. How so?

⁵ Leemput (2014), "A Passage to India: Quantifying Internal and External Barriers to Trade." 2015, pp.92-94). The implication is that it is especially important for India to reduce costs to inter-state trade because of the excessive reliance on roads for movement of goods.

⁶ World Bank (2014), "Supply Chain Delays and Uncertainty in India: The hidden constraint on manufacturing growth." ReportNo: ACS14223, Republic of India Manufacturing Plan Implementation.

⁷ There will also be gains stemming from simplification of the documentation requirements under the GST.

2.19 It is a well-accepted proposition in tax theory that achieving neutrality of incentives between domestic production and imports requires that all domestic indirect taxes also be levied on imports. So, if a country levies a sales tax, VAT, or excise or GST on domestic sales/production, it should also be levied on imports. In India, this is achieved through the CVD/SAD which is levied on imports to offset the impact of the excise duty levied on domestically manufactured goods.

2.20 However, CVD/SAD exemptions act perversely to favour foreign production over domestically produced goods; that is, they provide *negative protection* for Indian manufacturing. Table-3 illustrates the impact of CVD/SAD and excise exemptions. When there are no CVD/SAD and excise exemptions (Scenario 1), neutrality of incentives between domestic goods and imports is achieved which is desirable. In scenario 2, there is no excise exemption but there is a CVD/SAD exemption which results in a large penalty on domestic producers (of 12.36 per cent under certain assumptions about costs). But the important and subtle point relates to scenario 3 when the excise and CVD/SAD are both exempted. This may seem apparently neutral between domestic production and imports but it is not. The imported good enters the market without the CVD/SAD imposed on it; and, because it is zero-rated in the source country, is not burdened by any embedded input taxes on it. The corresponding domestic good does not face the excise duty,

but since it has been exempted, the input tax credit cannot be claimed. The domestic good is thus less competitive vis-a-vis the foreign good because it bears input taxes which the foreign good does not. In the example, the penalty on domestic producers is over 6 per cent. In effect, a policy designed to promote domestic manufacturing through excise exemption creates a perverse incentive for the exempt industry and its eventual decline.

2.21 The CVD/SAD, which is levied to offset the excise duty imposed on domestic producers, is not applied on a whole range of imports. These exemptions can be quantified. The effective rate of excise on domestically-produced non-oil goods is about 9 per cent. The effective collection rate of CVDs should theoretically be the same but is in actual fact only about 6 per cent. The difference not only represents the fiscal cost to the government of Rs 40,000 crore, it also represents the negative protection in favour of foreign produced goods over domestically produced goods.

2.22 Two defenses of CVD exemptions are typically made. First, that CVD exemptions on inputs help manufacturers by reducing their input costs. But under the current system and in future when the GST is implemented, the CVD on inputs can always be reclaimed as an input tax credit. So, CVD exemptions do not provide additional relief. In fact, they help collection efficiency because they are levied at customs. ⁸

2.23 The second rationale advanced for exempting many imported goods from CVD is that there is no competing domestic production. This argument is faulty because the absence of competing domestic production may itself be the result of not having the neutrality of incentives that the CVD creates. Domestic producers may have chosen not to enter because the playing field

is not level.

⁸ The CVD exemption strips the tax from its effective way of taxing the informal sector – where imported inputs are used directly or indirectly by the sector.

Table 3: Effect of Countervailing Duty (CVD) Exemptions: An Illustration

Scenario 1:
No excise exemption for
domestically produced
good, no CVD exemption
for imported good

Scenario 2:
No excise exemption for
domestically produced
good, CVD exemption for
imported good

Scenario 3:
Excise exemption for
domestically produced
good, CVD exemption for
imported good

	<i>Domestic good</i>	<i>Imported good</i>	<i>Domestic good</i>	<i>Imported good</i>	<i>Domestic good</i>	<i>Imported good</i>
Cost of raw materials	100	100	100	100	100	100
Input tax 1/	12.36	NA	12.36	NA	12.36	NA
Total cost of raw materials	100	100	100	100	112.36	100
Value added	100	100	100	100	100	100
CVD (@12.36 per cent) 3/	NA	24.72	NA	0	NA	0
Excise duty (@12.36 per	24.72	NA	24.72	NA	0	NA
Total cost	224.72	224.72	224.72	200	212.36	200
Protection for domestic good	0%		-12.36%		-6.16%	

1/ Excise tax rate = 12.36 per cent. Input tax does not apply for imported good because it is zero rated in the exporting country

2/ In scenarios 1 and 2, total cost of raw materials for domestic good is unaffected by input tax because there is no excise exemption and hence credit is available for the tax. Customs duty is assumed to be 0 per cent

3/ CVD applied on total base of 200; 12.36 % of 200 = 24.72

Source: Committee's calculations

2.24 Indian tax policy is therefore effectively penalising domestic manufacturing. How can this anomaly be remedied? Simply by enacting an exemptions-free GST. In one stroke the penalties on domestic manufacturing would be eliminated because the GST (central and state) would automatically be levied on imports to ensure neutrality of incentives. In effect, India would be promoting domestic manufacturing without becoming protectionist and without violating any of its international trade obligations under the World Trade Organization (WTO) or under India's free trade agreements (FTAs).

2.25 In the meantime, the effect of the GST can be partially simulated even now by eliminating the exemptions applied to CVD/SAD. The default situation should be an exemptions-free regime. If particular sectors seek relief

from the CVD/SAD, they should be required to make their case at the appropriate forums.

2.26 In a sense, India finds itself in a de facto state of negative protection on the one hand, and calls for higher tariffs on the other. It is win-win to resist these calls that would burnish India's openness credentials and instead eliminate the unnecessary and costly penalty on domestic producers.

2.27 All these three sets of costs—the CST, the CVD exemptions, and other inter-state taxes—should be viewed as undermining Make in India because in all cases, they favour foreign production to domestic production. GST can then be thought of as a trade and productivity shock and one that can be harnessed without recourse to protectionism: in effect, the GST will be eliminating negative protectionism.

2.28 This increase in inter-state trade will then have another powerful consequence. A common market will help attain convergence within India because production can be based on comparative advantage. In other words, implementing the GST will help the lagging regions catch up with the more advanced regions by making the former more profitable production destinations.

The growth effect via the boost to investment

2.29 Under the current tax system, while the Union excise duties and State VAT applies to all capital goods, input tax credits are generally limited to manufacturing plant and equipment. For example, no input tax credits are allowed for the Union excise duties on capital equipment acquired for use in transportation, infrastructure, distribution, or construction sectors because these sectors are all outside the scope of excise duties which are applicable to manufacturing only. Similarly, no credit is allowed for the State VAT on capital goods acquired by the service sector (e.g., telecommunications, transportation, finance, insurance, and IT services).

2.30 Estimates vary on how much of current investment in a given year suffers from non-creditable excise duties and/or VAT. For example, indirect tax collection data for 2014-15 indicate that the total amount of capital goods purchases for which CENVAT credit was claimed was Rs. 1.6 lakh crore, divided between goods (Rs. 1 lakh crore) and services (Rs. 0.6 lakh crore). National income accounts data suggests that investment in plant and equipment for the same year by the non-government, non-household sector was about Rs. 7.4 lakh crore. Apparently, the blocked input taxes could amount to as much as 75 per cent of total investment. What could account for the difference and could the GST fill this gap?

2.31 If the GST could provide for a more seamless and efficient crediting of taxes paid on capital goods, then capital goods prices would become effectively 12-14 per cent cheaper (because they are taxed at the standard rate of 12.5 per cent currently by the Centre), increasing the demand for capital goods, raising investment and hence growth.

2.32 Assuming an elasticity of investment demand with respect to price to be -0.5, GST, by allowing full input tax credit for capital goods, could higher investment in capital goods by 6 per cent, resulting in 2 per cent higher investment (as machinery and equipment account for around one-third of total investment), which in turn could lead to incremental GDP of 0.5 per cent, assuming an incremental capital output ratio of 4.

2.33 Prior to the introduction of GST in 1991, Canada also had an excise duty regime similar to that in India. Studies for Canada estimated this beneficial impact of GST to be 0.5 per cent as a result of the GST at the federal level only. The extent of tax cascading in India is much greater because of more stringent rules in India for claiming tax credits.

2.34 In sum, investment is discouraged under the current system through the application of excise duties and VAT to capital goods, for which no set off

or input tax credit is provided. This increases the cost of capital goods and reduces investment, which in turn leads to lower employment and output.

III. CURRENT STRUCTURE OF INDIRECT TAXES: HIGHLIGHTS

3.1 This section describes briefly the structure of current rates of domestic indirect taxes at the Centre and the States. The key takeaways are that the current tax structure is highly complex, highly leaky (riddled with exemptions in goods that we estimate to be about 2.7 per cent of GDP for the Centre and States together) characterized by significant differences between the Centre and the States, and by a rate structure that does not confirm to what the evidence suggests might be good policy. The GST, therefore, affords a unique opportunity to simplify and rationalize the structure and also eliminate serious anomalies to make it consistent with policy objectives (see paragraphs 5.56 to 5.60 and Box 3).

3.2 The details, also summarized in the Table 4, are the following:

Centre

3.3 In relation to goods, the Centre has a very complicated tax structure (Table-4), more complex than that of most of the States, characterized by:

- › a multiplicity of rates, including central excise (the most important), cesses, countervailing and special additional duties;
- › a multiplicity of central excise rates-8 ad valorem and several specific rates;
- › extensive exemptions, amounting to about 300 items compared to say 90 for most of the States. These exemptions amount to about 1.8 lakh crore, amounting to about 1.5 per cent of GDP;
- › an incomplete base that stops at the manufacturing stage; and
- › an exemptions threshold of 1.5 crore with exports and exempted goods not counting towards the threshold

3.4 In relation to services too, the Centre has a complicated rate

structure. Although there is one statutory rate, in practice, there are 10 other rates because of so-called "abatements" which amounts to fixing a rate different from the standard rate and not allowing further input tax credits. Abatement is necessitated in some part because of uncertainty in the base, and specifically being unable to distinguish "goods" from "services." The exemptions threshold is Rs. 10 lakh.

3.5 At the Centre, there is incomplete provision of input tax crediting for goods, and incomplete cross-crediting between goods and services.

States

3.6 In relation to goods, the States have structures characterized by:

- › a base that is complete in extending all the way to the retail stage
- › an exemptions threshold that varies across States between 5 and 10 lakh with a provision for "compounding" that also varies across States in design⁹
- › a multiplicity of rates, including the VAT but additional taxes on inter-state trade (octroi, entry tax)
- › fewer VAT rates (4 plus) and fewer exemptions (than at the Centre), with both rates and exemptions varying across States. On exemptions, there is both a set that is broadly common to all States and some state-specific ones like agriculture equipment, aquatic feed, cereals and pulses are mostly common across the States whereas Agate (Akik) stones and articles are state specific.
- › a standard VAT rate for goods that in most of the States is typically about 12.5-15 per cent (compared with the standard rate of 12 per cent at the Centre)

⁹ Compounding refers to the exemption of firms from the VAT chain; instead they are charged a small turnover tax without allowing for any input tax credits

Table 4: Summary of India's Indirect Tax System

Type	Base	Number of	Rates (%) 2I			Base (%)		Collections (%)			Average rate (%)		Description of Commodities xI			Threshold 3I	Exemptions	
			Rates II	Standard	Lower	Standard	Lower	Standard	Lower	Base-weighted	Collections-weighted	Exempted	Lower rate	Higher rate		Number 4I	value	
Goods																		
5/																		
Centre (Excise)	manufacturing	8	12.0	6.0	59.2	39.6	84.9	11.1	8.4	11.7	Food	Textiles, mobile phones; fertilizers; some intermediates	Tobacco, petroleum products, automobiles, aerated water	1.5 crores	300	1.8 lakh crore (a)		
States (VAT)	up to retail	3+	12.5-14.5	4-5.5	28.5	67	32.8	54.8	7.5	9.6	Food, goods of local importance	Intermediates; capital goods; gold & precious metals	Alcohol, petroleum, tobacco	5-10 lakhs	90	1.5 lakh crore(b)		
Services																		
Centre	negative list	11	12.4	4.1	65.2	34.8	86.2	13.8	9.4	11.2	Education, health, public services	construction, work contract, restaurant, transport, life insurance		10 lakhs				
States 7/		None	None															

1/ Number of ad valorem rates. There are also numerous specific rates on goods charged by the centre. For services, there is one standard rate and 10 abatements.

2/ At the centre, there are 2 lower rates which are akin to a turnover tax; the states levy a lower rate of 1 percent on gold; the center levies higher rates on luxury cars and aerated drinks

3/ Does not apply to exports and exempted goods for goods at the centre

4/ Approximate; precise amounts vary by state. Exemption lists are not identical across states.

5/ Other excises on goods include cesses, countervailing duties and special additional duties (at the Centre) and octroi (in the States).

6/ Incomplete provision of input tax crediting for goods, incomplete cross-crediting between goods and services.

7/ Authority to tax services rests with the Centre but states tax services de facto, e.g. restaurants.

xx/ negative list of services includes health care services, veterinary clinic, charitable activities (under section 12AA of the Income tax Act, 1961) and others. (a) From tax expenditure statement.

(b) Estimated by the committee

(*)=based only on Gujarat data

Source: Compiled by Committee.

Centre and States

3.7 Another key difference between the Centre and the States, with implications for any future standard rate is that the States have a much larger portion of the base (more than 65 per cent)¹⁰ taxed at the lower rate while the comparable number for the Centre is about 40 per cent. One reason is that States typically place intermediate goods in the lower rate category. The higher standard rate is therefore almost compelled by the fact of placing so much of the base at the lower rate.

3.8 One corollary is that the weighted average statutory rate for goods is 8.4 per cent and 7.5 per cent for the Centre and States, respectively.

IV. ESTIMATING INDIA'S REVENUE NEUTRAL RATE (RNR) UNDER THE GST

4.1 The Committee had the benefit of 3 technical approaches to estimating the RNR which are described in detail in Annexes 1-3. These will constitute the basis for the Committee's recommendations on the RNR.¹¹ These are briefly summarised in this section.

4.2 Before describing the recommendations, it is important to make a point relating to terminology. Throughout this report, the term RNR will refer to that single rate, which preserves revenue at desired (current) levels. In practice, there will be a structure of rates, but for the sake of analytical clarity and precision but also to facilitate comparisons across methodologies, it is more useful and appropriate to think of the RNR as a single rate. It is a given single rate that gets converted into a whole rate structure, depending on policy choices about exemptions, what commodities to charge at a lower rate (if at all), and what to charge at a

¹⁰ Based on data for Karnataka, Maharashtra, Andhra Pradesh, Gujarat, Tamil Nadu, Bihar, Odisha, Chhattisgarh, Delhi, Uttar Pradesh, Jharkhand, Rajasthan, Madhya Pradesh, West Bengal, Harayana and Puducherry accounting for 78.5 per cent of the VAT base.

¹¹ There have been other attempts at estimating the RNR, including by the Thirteenth Finance Commission and NIPFP. We restrict the scope of our technical inputs to the three studies described in this section as they are the most recent by way of data and methodology; they are also the three that were discussed within the Committee. very high rate. That single rate will be the focal point for the RNR. The RNR should be distinguished from the "standard" rate defined as that rate in a GST regime (which has more than one rate), which is applied to all goods and services whose taxation is not explicitly specified. Typically, the majority of the base will be taxed at the standard rate, although this is not true for the States under the current regime.

4.3 The essence of calculating the RNR is highlighted in the simple equation:

$$t = R/B$$

where t is the RNR, R is equal to revenues (both Centre and state) generated from existing sales and excise taxes, which will be replaced by the GST. The revenues to be replaced are estimated to be Rs. 3.28 lakh crore for the Centre, and Rs. 3.69 lakh crore for the States, including the revenues that will have to be compensated for the elimination of the Central Sales Tax (CST). The total amounts to Rs. 6.97 lakh crore (excluding revenues from petroleum and tobacco for the Centre, and from petroleum and alcohol for the States) or 6.1 per cent of GDP, with all numbers pertaining to 2013-14 (the date chosen for all the technical studies) and for 29 States and 2 UTs.

What all the RNR exercises attempt to do is to calculate B , the total tax base for generating the required GST revenues. The three approaches presented to the Committee can be called, respectively, the macro, the indirect tax turnover (ITT), and the direct tax turnover (DTT) based approaches.

Macro approach

4.4 The macro approach—presented by the staff of the International Monetary Fund—makes use of national income accounts data and supply-use tables to arrive at the base B. It uses the following formula:

$$B = \sum (Y + M - X) - [(1 - e) \sum (N + I)]$$

Where B is the potential GST base; Y is domestic output, (M-X) is net imports (imports minus exports); (N+I) is consumption of intermediate and capital inputs; e is the exempt output ratio (i.e. the tax base associated with inputs used in the production of exempt final consumption); and the summation is over 140 goods and services and 66 sectors, based on the 2011-12 national accounts. The following assumptions were made: (1) full compliance; (2) full pass-through of the GST into prices; (3) no behavioral response; (4) the GST has a single positive rate, and a zero rate on exports.

4.5 Under a standard scenario exempting health, education, financial intermediation and public administration, the GST's potential base is 59 per cent of GDP. Exempting basic food items in addition (essentially unprocessed foods) reduced the potential base to 55 per cent of GDP. However, exempting petroleum or electricity increases the potential base to 67 per cent of GDP—given that such items are largely consumed as inputs rather than final consumption, their exemption increases the base due to cascading. Assuming that the maximum revenue to be replaced is 6.1 per cent of GDP, these estimates for the GST tax base, ranging from 55 per cent to 67 per cent of GDP, suggest that the GST RNR rate, itself ranges between 9.1 (0.06110.67) and 11.1 per cent (0.0611.55).

4.6 Losses in the order of 10 to 20 per cent of potential revenues are common in OECD countries; assuming 20 per cent increases the range of the

RNR from 9-11 per cent to 11-14 per cent.

4.7 In summary, this analysis suggests that the GST RNR rate ranges between 11 to 14 per cent, depending on key policy choices regarding exemptions. The scenario that corresponds closest to the proposed eonstitutional Amendment bill yields an RNR of 11.6 percent after factoring in a compliance rate of about 80 per cent of potential GST revenues.

Indirect Tax Turnover Approach

4.8 This approach, presented by the National Institute of Public Finance and Policy, estimates the base in a three step process. First, it estimates the goods base at the level of the States. This base is estimated by converting data on actual collections and statutory rates into a goods base. In other words, the effective rate becomes the basis for the estimation of the goods base. In the absence of data for all the States, the key assumption is that States collect revenues at the three rates (1 per cent, 6 per cent, and 14 per cent) in such a proportion so as to yield a total taxable base of Rs. 30.8 lakh crore.

4.9 In the second stage, the services base is estimated based on turnover data of 3.25 lakh firms from the newly available MeA database (this base is estimated at Rs. 40.8 lakh crore).

4.10 In a third stage, adjustments are made to this base to remove IT-related services, because a large part of them are exported, and to remove most of real estate and financial services from the base because of the manner in which these items will be treated under the GST. This adjusted base is then subject to an input-output analysis to deduct from the base taxable inputs used for service provision and also deduct services used as inputs into taxable manufacturing. All these adjustments result in an incremental services base

(incremental to whatever has already been incorporated in goods) of Rs. 8.5 lakh crore and a combined base (goods and services) of Rs.39.4 lakh crore.

4.11 This base, in turn yields a single RNR of 17.69 per cent under the scenario of having to compensate the States for the 2 per cent eST. The corresponding standard rate under current structures of taxation is estimated at 22.76 per cent. It is worth recalling that an earlier analysis based on the same methodology by NIPFP was presented to the Empowered eommittee of the GST in February 2014. That analysis yielded an estimate of the RNR of 18.86 percent and a standard rate of 25 per cent.¹²

Direct tax turnover Approach

4.12 A third approach—which was described in the Thirteenth Finance eommission--is based on using income tax data which are available for about 94.3 lakh registered entities (including companies, partnerships, and proprietorships but not charitable organizations). The data are classified into 10 sectors and 75 sub-sectors. These data allow the potential base for the GST to be calculated. Unlike the indirect tax turnover approach but like the macro approach, this approach yields a combined base for goods and services, rather than separate bases for goods and services.

4.13 The profit and loss accounts provide data on value of supply of goods and services (which is equivalent to turnover) to which can be added imports of goods and services. This yields the tax base of at about Rs. 222 lakh crore in turnover terms. Deducting the exempt sectors from this base (petroleum, land component of real estate, the interest component of the financial sector, electricity, gem and jewellery, education, health, and agricultural produce) narrows the output tax base down to about Rs. 194 lakh crore.

¹² “Revenue implications of GST and estimation of revenue neutral rate: Estimates for 2011-12” submitted to the Empowered committee of State Finance Ministers in February 2014

4.14 Next, purchases are divided into 2 categories, those that reduce the base because of the availability of input tax credits and those that add to the base either because they are purchases by or from exempt sectors.¹³ The former include intermediate goods and services (Rs. 183 lakh crore) and capital goods (Rs. 6 lakh crore). The latter include purchases by exempt sectors (Rs.25 lakh crore), purchases of primary goods (Rs. 11 lakh crore) and purchases from unregistered dealers Rs. 24 lakh crore). This yields an input tax base of Rs. 130 lakh crore.

4.15 Further adjustments are made to take account of the value added of firms that will fall below the exemptions threshold (removed from the taxable base); of the alcohol sector (removed from the taxable base); and the rail sector (added to the base because this sector is not part of the data set in the first place).

4.16 Putting all these together gives a potential tax base of Rs. 58.2 lakh crore, yielding a combined RNR of 11.98 per cent.

4.17 Table 5 highlights the estimated GST base and corresponding RNR of the three approaches to estimating RNR.

Table 5: Summary of approaches to estimating RNR

Approach	GST Base (in lakh crore)	RNR (per cent)
Macro	59.9	11.6
ITT	39.4	17.7
DTT	58.2	12.0

ITT= Indirect Tax Turnover

DTT=Direct Tax Turnover

Source: Based on three approaches to estimating RNR

¹³ The export sector is exempt with full refund (i.e. zero-rated).

V.RECOMMENDATIONS

5.1 Consistent with the Committee's terms of reference, we make recommendations on a number of issues: the RNR; the distribution of RNR between the Centre and States; the structure of rates; and the potential price impact of the GST. In addition, we make recommendations on other relevant issues: the bands for the GST; compensation, the treatment of precious metals, and the tax treatment of certain commodities such as alcohol, electricity, education, and health.

The Magnitude of the RNR

5.2 Three different approaches have been presented to determine the RNR. Each has its merits and drawbacks because of the underlying assumptions made and the data used. Coming up with an RNR is as much soft judgement as hard science. We cannot be confident that any one number is the right one. Moreover, there is a certain endogeneity effect — like a Heisenberg Uncertainty Principle — that the very choice of rates could affect the outcome relating to revenues, compliance, convenience, etc.

5.3 We will make our recommendations in two steps. First, we will critically evaluate each of the three approaches both in terms of the methodology and in terms of the results they generate for the RNR. We then present the Committee's recommendations for the RNR and validate these results against independent benchmarks. These recommendations will be supported by a complementary discussion on the risks associated with our estimates for the RNR.

5.4 Our recommendation for the RNR will not be unduly guided by short-term considerations, for example, relating to compensation. The RNR should be one that achieves the objectives of the government over a horizon that is not short term. If compensation is necessary, it should be

found funded from government resources elsewhere and the GST should not have to bear the long-term burden of having to meet short-term exigencies.

5.5 The estimates presented for the national RNR, range from about 11.6 per cent under the Macro approach to 17.7 per cent under the ITT approach. Where does the truth lie?

Critical assessment of the methodology of the three approaches

5.6 Each approach has advantages and shortcomings that are described below. The Empowered Committee of the GST has had the benefit of familiarity only with the ITT approach of the NIPFP and we will dwell to some extent on this analysis. The Committee would underscore that the focus on the ITT approach does not signify that it is superior to the other two; indeed, focusing on one approach can be limiting and misleading.

5.7 Five key features drive the results of the ITT approach:

- i. The assumptions of collections at the different rates determine the goods base for the States. We have obtained the actual data on such collections for 16 States (Karnataka, Maharashtra, Andhra Pradesh, Gujarat, Tamil Nadu, Bihar, Odisha, Chhattisgarh, Delhi, Uttar Pradesh, Jharkhand, Rajasthan, Madhya Pradesh, West Bengal, Haryana and Puducherry) that together account for about 78.5 per cent of all States' VAT base. These data vary significantly from the assumptions underlying the ITT approach. Specifically, our data suggest that the aggregate base is distributed between the three different rates—1 per cent, 2-6 per cent, 12-15 per cent and higher rate—in the ratio of 11.6 per cent, 55.4 per cent, 28.5 per cent and 4.7 per cent. In contrast, the ITT assumed—without analyzing actual data—tax base proportions of 2 per cent, 56.15 per cent, and 41.85 per cent at the 1 per cent, 5 per cent, and 14-15 per cent, respectively.
- ii. The estimation of the services base by the ITT approach does not make any allowance for purchases from the unorganized sector. Such

purchases will lead to an increase in the base—via cascading-- because the final value will reflect the embedded taxes which cannot be set off as input tax credit.

- iii. The estimation of the services base also ignores one potentially important issue. Currently, States tax most intermediate goods at the lower rate. If these goods were shifted to the normal rate—as States have indicated they might be willing to do—there would be an effective expansion of the tax base. It may be noted that taxes on intermediates in a GST system are like withholding—collecting early on in the value added chain but refunding them later on. So, in principle, this shift of intermediate good should not yield any additional taxes. But to the extent that the unorganized sector buys intermediates from the organized sector, this shifting will result in greater taxes because the withheld taxes on intermediates will not be refunded later in the chain because the buyer is outside the tax chain. The lost base from these two effects—cascading and withholding—is difficult to estimate. But we cannot assume, as the ITT approach does, that this estimate should be zero. Corporate income tax data allows a guesstimate of the cascading effect.
- iv. A similar withholding type effect would come into play with the elimination of all eVD exemptions which the ITT approach does not fully take into account.¹⁴
- v. The ITT approach also does not fully incorporate into the base, sugar products and textiles¹⁵ that are sold directly to the consumer.¹⁶

¹⁴ The ITT approach also does not include in the base that component of imports of goods and services that is sold directly to consumers outside the dealer network. The committee has not been able to quantify this omission.

¹⁵ There has been some uncertainty whether the states tax textiles products, especially man-made fibres. But it appears that most—even a preponderance of--states do not. In that case, the tax base could be substantially underestimated. Textiles going as inputs into clothing would not add to the base as clothing products are subject to tax. But textiles going into other textiles production or sold directly to the consumer would add to the potential future tax base. The uncertainty on textiles taxation stems from the fact that the centre gave up most of its power to tax textiles (in the form of Additional Excise Duties) to the States. For example, in 2002-03, the centre collected Rs. 4369 crore in AEDs (the nominal value of this was estimated at about Rs. 8800 crore in 2014-15), which has since shrunk to about Rs. 600-800 crores. It appears that the States did not take up the power ceded by the centre, resulting in virtually no State-level taxation of textiles.

¹⁶ Another issue--a technical one—is that the calculation of the base uses the statutory rate of excise of 12.36%

rather than the effective rate of 9%.

5.8 The DTT approach on the other hand is subject to two uncertainties: whether the output tax base has sufficiently taken account of exempted sectors, and whether the estimates of purchases from the unorganized sector—a key input that drives the final result—are reasonable.

5.9 The macroeconomic approach of the IMF suffers from being too aggregate in nature and the implied tax base of Rs. 59.9 lakh crore seems to be on the high side. One particular source of worry is that the tax base seems to increase substantially account of the exclusion of electricity and petroleum. This seems unlikely given that in both cases, there is some considerable sales to the final consumer.

5.10 But these two approaches have two important merits. They help provide a cross-check for the ITT approach; perhaps more significantly, they highlight the need to validate the estimates generated by all three approaches. We turn to this validation in the next section.

5.11 All three approaches implicitly assume that there will be no benefits to the base and/or revenues from improving compliance and or improved growth consequent upon implementing the GST. But the macro approach does not assume current levels of compliance—as the other two approaches do—but a theoretical one which may or may not correspond to current reality.

Recommendations and validation

5.12 Our recommendation is based first on making adjustments to the ITT approach:¹⁷ Rs. 3.12 lakh crore for the data-based revision to the States' VAT base; Rs. 30,000 crore for the omission of sugar; Rs. 45,000 crore for the cascading effect; and Rs. 95,000 crore for the choice of the statutory rather than effective excise rate in quantifying the base. Then, we add an adjustment for compliance efficiency gains (Rs. 2 lakh crore).

¹⁷ It is worth emphasizing that the ITT approach has itself undergone revision from a previous version. Some of the important revisions in the latest version were adding real estate in to GST base and removing additional base on account of unorganized sector, sugar and textile.

5.13 What is the basis for these adjustments?

5.14 Note that the ITT approach was based on a pure assumption about the States' VAT base which we have improved upon by collecting the relevant data for 16 States, accounting 78.5 per cent of the entire VAT base of the states.

5.15 The adjustment for sugar is based on the national income estimate for value-added in the sugar sector of Rs. 40,000 crore. We conservatively adjust this down to Rs. 30,000 crore.

5.16 Note that the authors of the ITT approach acknowledge that the withholding, cascading and compliance effects are important. But they chose to ascribe a value of zero to these effects because of uncertainty about arriving at a quantitative estimate. But that is clearly biased downwards as the authors of the approach would themselves acknowledge. We have chosen to address this bias by making some conservative estimates about the magnitude of these effects.

5.17 For the cascading effect, the ITT approach had earlier estimated an addition to the base of 10% of the incremental services base. The DTT approach estimates an addition to the base of about 16%. We, conservatively, estimate that the under-statement of the base would be half that assumed by the ITT approach which amounts to 45,000 crore.

5.18 For the compliance effect we draw upon cross-country experience. In Box 1, econometric analysis of that experience yields an estimate that a 1 percentage point reduction in the standard rate would increase the collection efficiency by 1 percent. The GST would lead to about a 4.1 percentage point reduction in the standard rate (in weighted terms) which would translate into a 4.1 percentage point increase in the e-efficiency or 9.3% increase in collection efficiency (based on the current e-efficiency of 0.44). This is

equivalent to an expansion in the tax base of Rs. 4.3 lakh crore. Again, we assumed, conservatively, and after consulting with the eBEe, that just under half of this compliance improvement (Rs. 2 lakh crore) would be realized.

5.19 To summarize, our adjustments to the ITT approach are conservative in the following ways:

- We do not make any adjustments for the ITT approach understating the contribution of textiles to the tax base which could be substantial. The magnitude of this omission is suggested by the fact that the gross value of output and gross value added of textiles and cotton ginning are 5.9 lakh crore and 1.7 lakh crore, respectively.
- We do not increase the tax base to take account of the withholding effect;
- We include only half of the NIPFP's previous estimates of the magnitude of the cascading effect; and
- We incorporate under half the change of the compliance-enhancing effect suggested by our econometric analysis;
- We incorporate nothing for the impact of the possible growth-enhancing effect of the GST

5.20 Under GST, the compliance gains would be the following:

- At the centre, the rate structure will be significantly simplified from more than 10 rates (for both goods and services) and numerous exemptions to 2-3 rates and fewer exemptions;
- At the centre and the States, significant improvements in compliance will result because of the IT systems under which matching of supplier and purchase invoices will be electronic and instantaneous, reducing the scope for fraud and evasion; this will also improve compliance for direct taxes;
- General compliance will improve because of dual monitoring by the centre and the States; and
- The comprehensive definition of taxation of goods and services should

result in a smaller amount of the base falling through the cracks between "goods" and "services" as happens currently. The elimination of abatements on services will reduce overstatement of input tax credits.

5.21 The experience of all countries suggests improvements over time in GST implementation, and in India's case, a number of design features should contribute to such improvements in efficiency. These are not improvements that will take years to materialize.

5.22 Adding up these adjustments yields a single RNR of 15 per cent. However, we recognize that there may be uncertainty about the adjustments we have made. An alternative scenario is that not all of the adjustments are valid. In this case, the single RNR would be 15.5 percent (Table 6).

Table 6: Committee's recommendations compared with other approaches to estimating RNR

Approach	GST Base (in lakh crore)	RNR (per cent)	C-Efficiency
Macro	59.9 ¹⁸	11.6	0.70
ITT	39.4	17.7	0.42
DTT	58.2	12.0	0.68
Committee's (Preferred)	46.2	15.0	0.56
Committee's (Alternative)	44.2	15.5	0.53

ITT= Indirect Tax Turnover

DTT=Direct Tax Turnover

Source: Different approaches and committee's calculation

5.23 Our recommendation for the RNR is, therefore, a range for the RNR of 15-15.5%, with a strong preference for the lower end of that range.

5.24 Next we validate this recommendation. Since there is the possibility of error in all the approaches, including our recommendation, we must independently validate them against other benchmarks.

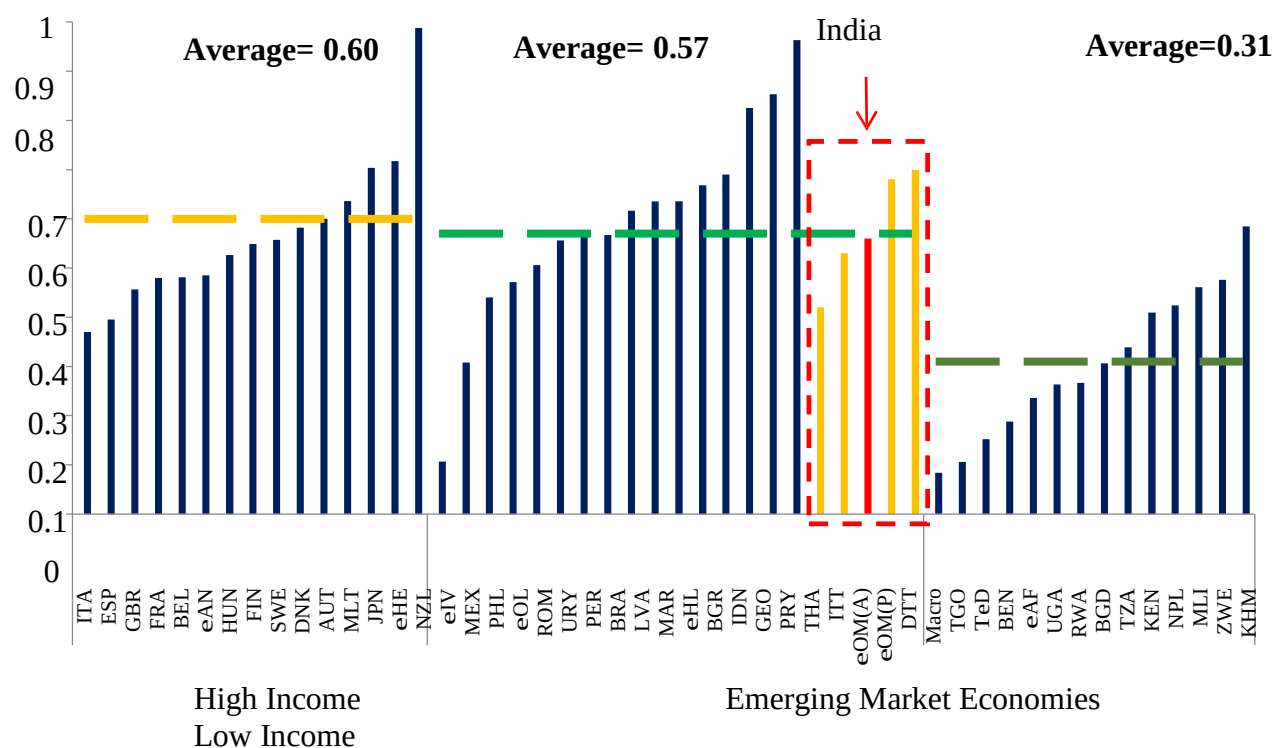
¹⁸ This base calculation corresponds closest to the policy envisaged under the constitutional Amendment Bill.

One important benchmark for validation relates to the efficiency of the tax system. A commonly-used measure of performance of a VAT system is to compute a *e*-efficiency ratio. This is measured as:

$$e\text{-eff} = R / (S * e)$$

where R stands for revenues collected, S is the standard rate and *e* is total final consumption (net of value-added taxes). The denominator is a measure of the potential revenues that can be potentially collected and the numerator actual collections. *e*-efficiency is simply a measure of comparing actual against potential. The *e*-efficiency implied by the three approaches and the Committee's recommendations are then compared against *e*-efficiency in a number of other countries and this comparison is shown in Figure 1.

Figure 1: Collection-efficiency in Major vAT/GST Economies



Source-IMF and Committee's calculations

5.25 The average e-efficiency is about 0.6 for high income countries and 0.57 for emerging market countries, and 0.31 for low income countries. The e-efficiency implied by the macro and DDT estimates for the RNR (of 0.70 and 0.68 respectively) would place India above other emerging market countries. In contrast, the c-efficiency implied by the ITT approach of 0.40 would put India well below the average of emerging market countries and only somewhat above that for low-income countries.

5.26 Put differently, if the RNR, and the associated standard rate, of the ITT approach were reasonably estimated, it would imply that India has either come up with an effective policy base under the GST that is unusually narrow and/or Indian indirect tax administration is unusually poor relative to comparator countries. This inference would be puzzling, if not problematic, not least for implying that India's tax efficiency is closer to that of Mali than of Brazil, Chile, Indonesia or Thailand. This cross-country comparison is important evidence that the RNR estimated by the ITT approach is too high.

5.27 In contrast, the RNR estimates for the other two approaches would place India at levels comparable to other countries.¹⁹ Our recommendations yield estimates for the RNR that are at or below the average of other EMEs. In that sense, they are conservative estimates for the RNR because they too imply similar levels of efficiency of the Indian tax system.²⁰

¹⁹ It is worth noting that the exclusion of intermediates such as petroleum and power from the GST base tend to make India's C- efficiency better than it actually is. Excluding these inputs essentially lower the standard rate by more than it lowers the foregone revenues from taxing these inputs: the measured e-efficiency improves as a result.

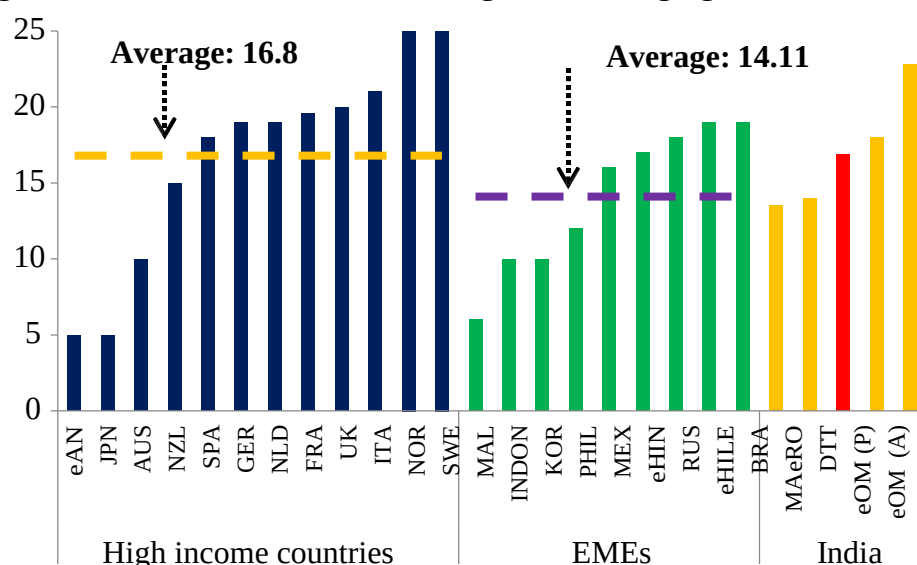
²⁰ At the center, there are likely to be large revenue and base-enhancing effects which will increase e-efficiency. These include:

5.28 Another consideration can be invoked to support the RNR of 15-15.5

per cent. Suppose this RNR requires to be operationalized in a two rate GST structure with a lower rate of say 12 per cent and a standard rate of 17-19 per cent, depending on how goods are allocated between the lower and standard rate.

5.29 Figure-2 shows data on the standard rate of VAT in selected high income and large emerging market economies. It shows that the average standard rate for comparable EMEs is a decrease in the magnitude of exemptions from 300 items to 90 items in line with the recommendations of the Empowered committee. Currently about Rs. 1.8 lakh crore are lost in central excise exemptions of which a substantial proportion can be recovered; expansion of tax base from manufacturing to retail level; bringing precious metals, gold, etc. into the tax base and taxed at the lower rate; reduction in the exemptions threshold from Rs. 1.5 crore in the case of goods to Rs. 25 lakh; this will offset the raising of the exemptions threshold for services from the current level of Rs. 10 lakh. Offsetting some of these effects will be the fact that cascading could decline because of better administrative efficiency. 14.4 per cent and the highest standard rate is 19 per cent; and even for the high-spending and therefore high-taxing advanced economies it is 16.8 per cent. An RNR of anything beyond 15 -15.5 per cent will likely result in a standard rate of about 19-21 per cent which would make India an outlier amongst comparable emerging economies. For example, the ITT approach's RNR of 17.7 per cent would translate into a standard rate of 22.8 per cent, identifying India as having the highest GST tax rate amongst emerging market economies. Our recommendations would still place India at the upper end of the standard rates found across comparable countries. It is worth emphasizing that the GST is intrinsically a regressive tax and the higher the rate the greater the regressivity. Countries that have well developed social safety nets can better offset this regressivity but India at a lower level of development is less able to do so and hence needs to be especially mindful of rates that are out of line with international ones.

Figure 2: Standard rate of vAT in High and Emerging Market Economies



Source-IMF, Credit Suisse and Committee's own calculation

A risk analysis

5.30 Since we cannot be certain of the RNR—it is after all our best assessment or best guess—a risk assessment framework poses the question: should we err on the side of an RNR that is a little low or a little high?

5.31 One risk of setting an RNR that is low is the re-emergence of a trust deficit between the eentre and the States as happened in relation to compensation for lost eST revenues after the global financial crisis. If revenues fall short, and the fiscal position of the eentre and States is affected, the eentre will face a double whammy, with weak revenues for itself and an additional burden of having to compensate the States. And, if as a result, compensation is delayed or diluted, a trust deficit could re-emerge.

5.32 The second risk of setting a low RNR is that it could interact with slower growth and/or weaker buoyancy going forward to magnify the revenue shortfall.

5.33 On the other hand, some of these risks can be overcome. In the event of a revenue shortfall, the eentre and the States can both raise non-GST taxes (petroleum, tobacco and tobacco products, and alcohol);

they can together raise GST rates; and, as a last resort, the Centre could even afford to relax its deficit target, based on the fact that was actually an investment for implementing unprecedentedly ambitious tax reform with enormous long-run gains; moreover, a moderately higher deficit due to a low GST will benefit consumers, especially poorer ones.

5.34 Second, given the unavoidable teething troubles that will afflict GST implementation, it seems inadvisable to further burden the initial stages of implementation with higher rates that will increase taxpayer displeasure, reduce compliance and increase disaffection. On balance, lower rates will facilitate compliance as our evidence in Box 1 shows. The econometric analysis suggests that a 1 percentage point reduction in the standard rate will lead to an improvement in administrative efficiency (and compliance) of 1 percentage point which in the GST setting would translate into an efficiency gain of about 15 percent.

5.35 Further, the improvement in compliance will not be restricted to indirect tax collections. The paper trail of the GST will also help direct tax administration and improve compliance in collections of corporate income taxes.

5.36 Third, the price consequences of a GST will be small, especially under a dual rate structure with essential food items exempted. As the analysis in Section V reveals, an RNR in the 15-15.5 per cent range with a lower rate of 12 per cent and a standard rate of 18 per cent would have no aggregate inflation impact. But a higher RNR with a lower rate of 12 per cent and a standard rate of 22 per cent would increase inflation by between 0.3-0.7 percent. Care will have to be taken to ensure that the GST does not become the target of popular disaffection on the grounds that it fed higher inflation. In that respect a lower RNR is safer than a higher one, especially considering that the GST is inherently regressive relative to direct income taxes.

5.37 Fourth, there is also a perception issue. Today's GST rate is 14.36 per cent for services (now nearly 15 per cent with the Swacch Bharat cess). If the RNR is greater than 15-15.5 per cent, the rate for services will be in the 20-22 percent range which will make the GST seem like a substantial tax increase when it strictly speaking is not and should not (after all, the new rate should be revenue neutral). Optically, the GST as a rate hike should be avoided to the greatest extent possible. A lower rate will be seen as more politically acceptable and will help taxpayer compliance.

5.38 Fifth, even if the proposed RNR is on the side of being a little low, all the evidence suggests that over time, compliance will improve, so that the GST will become a buoyant source of revenue. This could happen even in the short run as discussed earlier. A marginally lower rate, if it turns out to be that way, will signal the government's confidence in the GST as a medium term tax reform. This would re-inforce the signal that the government has already sent—in a sense under-writing the GST—by committing to compensation for five years (despite the fact that when the state VATs were implemented, compensation was not required beyond the second year.)

Allocation of RNR between Centre and States

5.39 The Committee's recommendations on rates are all national rates, comprising the sum of central and state GST rates. How these combined rates are allocated between the center and states will be determined by the GST Council. This allocation must reflect the revenue requirements of the Centre and states so that revenues are protected. For example, a standard rate of 17% would lead to rates at the Centre and states of say 8 percent and 9 percent, respectively because that is roughly the ratio of GST revenues that would have to be generated by the centre and states assuming that the 2013-14 data on which these estimates are calculated remain valid.

It would be preferable to keep all other rates identical between the center and states to minimize distortions and facilitate compliance.

The structure of rates

Exemptions

5.40 Given the historic opportunity afforded by the GST, the aim should be to clean up an Indian tax system that has effectively become an "exemptions raj" with serious consequences for revenues but also governance. According to the government's own figures, excise tax exemptions (and taxing goods at low rates) result in foregone revenues of Rs. 1.8 lakh crore or nearly 80 per cent of actual collections. Tentative estimates by the committee suggest that the comparable figure for the States is about Rs. 1.5 lakh crore. Together, India loses about 2.7 per cent of GDP because of exemptions.

5.41 The committee cannot state this in any stronger terms: if the GST is to be a success — with an uninterrupted value chain that facilitates compliance and a buoyant source of revenue — these exemptions must be plugged. Using exemptions as selective industrial policy has led to generous un-selective policy, and proliferating exemptions. The road to exemptions hell is paved with the good initial intention of restricting exemptions to a few industries.

5.42 It is also worth emphasizing that exemptions need not, and often do not, result in low or zero tax burdens. If a product is exempted, the effective tax burden will depend on all the embedded taxes on inputs going into that product. If the move to the GST results in lower rates of taxation, it is possible that eliminating exemptions might actually reduce the effective tax burden. This is especially likely in relation to small scale industries (SSIs) which are likely to come within the scope of the GST because of reductions in the

exemptions thresholds. The combination of input tax credits that they can reap combined with lower standard rates might result in SSIs facing lower tax burdens. Another hidden cost of exemptions is that it leads to effective tax burdens that can vary widely across goods, leading to a multiplicity of effective tax rates.

5.43 We would recommend that:

- The exemptions list be narrow, restricted to a few goods, that are merit goods which feature prominently in the consumption basket of the poor such as food items (see Box 3 for a detailed analysis of which items deserve exemption status);
- Exemptions should also be confined to final goods because taxes on intermediates are in any case reclaimable as input credits;²¹
- Exemptions must be common across the Centre and States;
- Precious metals not be exempted to the extent they are for reasons described below;
- Area-based and eVD exemptions be phased out.

5.44 For the dual GST system to be a success, the tax base must be common across the Centre and States, otherwise tax administration becomes fiendishly complicated. Hence the importance of the recommendation that the exemptions list be common across the Centre and the States.

Lower, standard and "demerit" rates

5.45 Ideally, the GST should aspire to a single rate, which would then also be the standard rate. Since 2000, about 90 per cent of countries that have adopted a VAT have chosen to have a single rate. The tax administration benefits of having a single rate are substantial. However, in the years ahead, it may not be feasible to adopt a single rate GST system for social reasons. A 2- rate structure (or a modified 2-rate structure) may

²¹ Taxing intermediates will, however, have the advantage of increasing the tax base via the "withholding effect" discussed earlier.

therefore be adopted. What should be the lower rate and the standard rate, and the demerit rate which would apply to a small group of luxury items?

5.46 Consider the following simple formula for determining the structure of rates:

$$R = \alpha L^G + \beta S^G + \gamma S^S + \mu D^G$$

Where R is the RNR, L^G is the lower rate on goods, S^G is the standard rate on goods, S^S the standard rate on services; and D^G the demerit rate on goods; α , β , γ , and μ are the respective shares of these four rates in the underlying tax base, and together add up to 1.

5.47 The first point to note is that the standard rate for goods and services must be the same because that is the *raison d'être* of the GST—to provide a common base for goods and services, obviating the need for defining goods and services separately.

$$\text{Thus: } S^G = S^S = (R - \alpha L^G - \mu D^G) / (\beta + \gamma)$$

5.48 The next point to note is that for any given RNR (that has been estimated), and a given higher rate (discussed below), the lower is the lower rate, the higher will be the standard rate.

5.49 Ideally, the lower rate should not be far lower than the RNR for two reasons. The lower the rate and the more the commodities that are taxed at this lower rate, the higher will be the standard rate just as a matter of arithmetic. In fact, this is the pattern in the States. Lower rates of 4-5 per cent with a large part of the base taxed at these rates (about 60-70 per cent) results in the necessity of high standard rates of 14-15 per cent.

High standard rates make compliance considerably more difficult.

5.50 The second reason for having lower rates that are close to the RNR relates to political economy. The temptation to push commodities to the lower rate increases the lower is the low rate. The benefit for any industry group of seeking to reduce the tax on its output is directly proportional to the tax advantage: moving a product from 14 per cent to 6 per cent is worth more than moving a product from 14 to 12 per cent. And in fact the pattern in the States reflects this political economy at work.

5.51 So, if the RNR is close to 15 per cent, the effort should be to keep the low rate at about 12 (6 +6 each for the Centre and States) per cent.

5.52 As discussed earlier, a lot will depend on the magnitude of exemptions and decisions about what goods are taxed at the lower rate and at the demerit rate. One of the major items either exempted or taxed at a very low rate currently is gold, silver, and precious metals. If the Centre moves to the smaller list as recommended and the States shift more of their tax base, especially intermediate goods, toward the standard rate also as recommended, the pattern of standard rates will look roughly as follows in table 7.

5.53 To illustrate the impact of policy choices on the standard rate, we present in Table 7, the consequences for the standard rate (for the given RNR of 15 per cent) of the treatment of gold and precious metals (for details on the tax treatment of these commodities, see Box 3). As the table shows, the lower the rate that these commodities are taxed, the higher will be the standard rate that is applied to all commodities. For example, if gold is taxed at 4 percent the standard rate will be 17.3 percent. In contrast, if gold is taxed at 6 per cent, the standard rate can come down to as much as 16.9 per cent (table-8).

Table 7: RNR and Standard Rate structure for center and states (per cent)

	RNR	Lower Rate	Standard Rate (a)	Higher Rate
Goods				
Center	7	6.0	8.0	20
States	8	6.0	9.0	20
Services				
Center	7	-	8.0	-
States	8	-	9.0	-

Source: Committee's calculation.

a: This corresponds to committee's preferred scenario with rate on precious metal at 6 per cent.

Table 8: Gold rate and its impact on Standard Rate

	RNR	Rate on precious metals	"Low" rate (goods)	"Standard" rate (goods and services)	"High/Demerit" rate or Non-GST excise (goods)
Preferred	15	6	12	16.9	40
		4		17.3	
		2		17.7	
Alternative	15.5	6	12	18.0	40
		4		18.4	
		2		18.9	

Source: Committee's calculation.

5.54 It is now growing international practice to levy sin/demerit rates—in the form of excises outside the scope of the GST—on goods and services that create negative externalities for the economy (for example, carbon taxes, taxes on cars that create environmental pollution, taxes to address health concerns etc.). As currently envisaged, such demerit rates—other

than for alcohol and petroleum (for the states) and tobacco and petroleum (for the Centre)—will have to be provided for within the structure of the GST. The foregone flexibility for the center and the states is balanced by the greater scrutiny that will be required because such taxes have to be done within the GST context and hence subject to discussions in the GST council.

5.55 We recommend one demerit rate and that rate should be such that the current revenues from that high rate are preserved. Accordingly, we recommend that this sin/demerit rate be fixed at about 40 percent (Centre plus States) and apply to luxury cars, aerated beverages, paan masala, and tobacco and tobacco products (for the states). The Centre can, of course, levy an additional excise on tobacco and tobacco products over and above this high rate. These goods are final consumer goods and should be of high value (so that small retail outlets are not burdened with the complication of having to deal with multiple rates) and clearly identifiable so that there are no issues related to classification that could complicate tax compliance.

Assigning products to rates

5.56 Typically, the assignment of goods to different tax categories will be motivated by considerations of equity. Goods that account for a large share of expenditures of poorer households—for example, food-- will typically be merit goods and will either be exempt or placed in a lower rate category. A related feature will be that this share will decline for richer households.

5.57 But even if a good is a merit good, warranting an exemption or lower rate, policy makers will want to ask how effective that decision will be based on how well targeted the implicit subsidy will be, where the implicit subsidy is the difference between taxing a good at the standard tax rate and the lower or zero rate: if the poor also account for a large fraction of total

expenditure on the merit good, then the subsidy will be well targeted; if, on the other hand, they account for a small share of the total expenditure, then the subsidy decision will come with the cost that most of the benefits of the subsidy will accrue to the relatively better off. ²²

²² Ideally, of course, if governments had well-designed transfer programs, they would achieve the desired objective of helping poorer households by providing cash transfers and sparing the tax system from having to attain equity objectives. In practice, this is not always possible and in India DBTs are still a work-in-progress. See Keen (2015).

5.58 So, one can think of a commodity-wise benefit-cost analysis for determining the rate structure. The benefit could be thought of as the subsidy rate for the target group, say the bottom four deciles of the population.²³ The subsidy essentially measures how much the expenditure of the target group would be increased by exempting a good rather than taxing it at the standard rate.

5.59 The cost could be measured in relation to the principle of effective targeting. The cost is simply that proportion of the total subsidy for any particular good that does not reach the target group and instead "leaks" to the non-target group, in this case, the top 6 deciles.

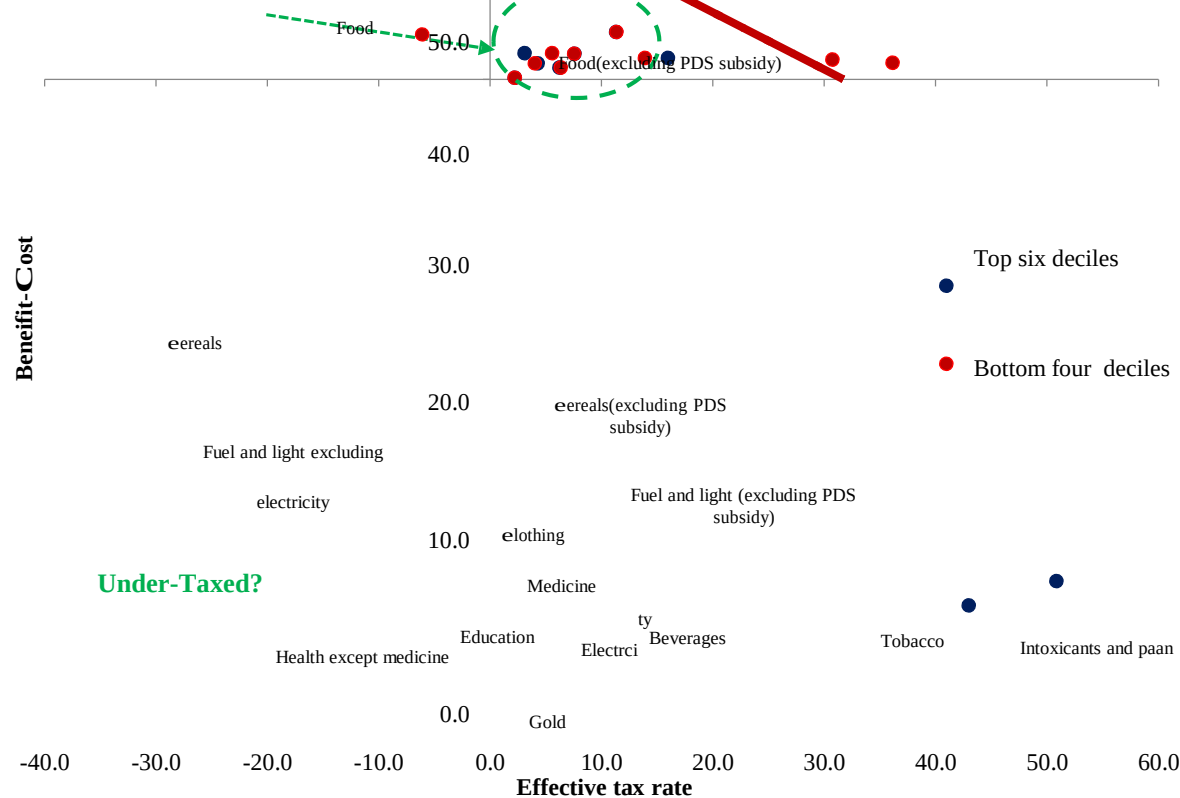
5.60 When we do a benefit-cost analysis of different commodities and compare it against the actual structure of rates, a few broad policy conclusions emerge captured in Figure 3 (Box 3 has a detailed analysis).

- A number of commodities are treated fairly under the current system. Thus, merit goods such as food items, especially cereals, pulses, edible oils, vegetables, and fuel are appropriately taxed at zero or low rates (in Figure 3, these commodities have high benefit-cost ratios and attract low taxes).
- But there are a number of anomalies. The most glaring is gold, silver and precious metals. They are a strong demerit good: the very rich consume most of it (see Table 2 in Box 3 which shows that the top 2 deciles account for roughly 80 percent of total consumption) and the poor spend a small fraction of their total expenditure on it;

moreover, they have become a source of macro-economic instability and less important as a savings vehicle. Indeed, it is inconsistent for the government to actively promote schemes (gold bonds and gold monetization) to wean consumers away from gold, on the one hand, and also give highly concessional tax rates to

23 The analysis can be re-worked for other target groups, say the bottom 3 or 5 deciles.

Figure 3: Comparing "Desirable" Taxation with Actual Taxation of Selected Commodities



Source: NSS,CBEC, World Bank and Committee's calculation

buy gold, on the other. For all these reasons, these commodities should in principle be taxed at the standard rate: instead they are taxed at about 1-1.6 percent (center plus States). This anomalous treatment must be rectified at least by raising current tax levels to 4 or

6 percent (see Box 3).

- Education, health (excluding medicines), and electricity are also not appropriately treated. They are all commodities that prima facie seem to be merit goods, warranting zero or low tax burdens. However, in India, they are mostly consumed by the rich, and many are largely privately provided. In the case of education, the current tax structure turns out also to be regressive, with the bottom 4 deciles effectively paying greater taxes than the top 6 deciles. They deserve to be taxed more like standard goods. Yet, most education and health services will be exempted under the GST. Electricity is planned to be excluded from the GST. These exemptions and exclusions—which are bad from a tax policy and administration perspective because they will break down the value added chain—merit reconsideration.
- Conversely, a number of demerit goods such as alcohol and tobacco are appropriately taxed at high rates. But the case for alcohol's inclusion in the GST relates to governance and reducing corruption. A similar argument applies to including real estate in its entirety in the GST.

Exemptions threshold

5.61 The current situation and proposed thresholds are described in Table 8. (Eompounding refers to the exemption of firms from the VAT chain; instead they are charged a small turnover tax without allowing for any input tax credits). Setting an exemptions threshold has to balance three considerations.

5.62 First, minimizing the burden on small taxpayers would call for higher thresholds. Second, a high threshold also achieves social objectives because poorer households are more likely to buy from smaller outlets (such as *kirana* shops). Third, on the other hand, a high threshold not only risks foregoing revenues but also undermines the value-added chain that is so critical for the governance benefits of having a GST. The current proposal is to have a

~~common threshold of Rs. 25 lakh for goods and services combined but raising~~
this threshold say upto Rs. 40 lakh may be considered.

5.63 Corporate income tax data suggests that between for turnover in the Rs. 25-40 lakh crore range, there are 3.26 lakh registered entities (0.22 corporate and 3.04 non-corporates), accounting for just over Rs. 1.04 lakh crore in total turnover. The benefit cost ratio of minimizing the compliance burden relative to the revenue foregone may need to be considered. Also, the option should be given to firms to be part of the GST chain even if they are below the exemption threshold.

Table 9: Exemption Thresholds: Current and Proposed

Current				Proposed under GST	
<i>Center</i>	<i>Goods</i> 1.5 crore; exports and exempted goods excluded from threshold	<i>Services</i> 10 lakh	<i>Compounding</i> not permissible	<i>Goods plus Services</i> 25 lakh with no exemptions and aggregated at the level of legal entity	<i>Compounding</i> to be decided; but possibility of compounding from exemptions threshold (25 lakh) up to 1 crore
<i>States</i>	5-10 lakh	not applicable	permissible in some States for some items and at varying rates	same as above	same as above

Source: Department of Revenue

5.64 That said, the concern that reducing the threshold will raise the tax burden faced by small scale industries (SSIs) may need to be reviewed. Under plausible scenarios, the effective burden on SSI plants can actually decline, if the standard rate (currently around 25-26% in goods for the center and States combined) comes down, as envisaged by the committee (see the illustrative example in the Annex Table).

Rates or Rate Bands and the issue of fiscal autonomy of States under the GST

5.65 The proposed GST bill provides for States to have a band of 2 per cent above the standard GST rate so that they have some fiscal flexibility to adapt to state-level conditions. There are two reasons why this flexibility may need to be reassessed. First, the argument for fiscal flexibility/autonomy becomes less compelling: under the proposed GST, the States still retain considerable flexibility because alcohol and petroleum—the biggest sources of revenues for the States about 29 per cent of overall States' indirect tax revenue and about 41.8 per cent of the total revenue of States to be subsumed under GST—as well as power, real estate, health and education remain outside the scope of the GST. Even if petroleum, alcohol and tobacco are subsumed in the GST, States will retain the right to levy top-up excises on them.

5.66 In other words, the design of the GST is such that states will continue to have considerable autonomy under the proposed GST either in its current form (which has a number of exemptions and exclusions) or in a future GST regime that reduces these exemptions and exclusions because there will be scope for states to levy top-up excises. That is the sense in which, the committee argued earlier that the Indian GST has the potential to marry the best of centralized and decentralized features of VATs in large federal systems.

5.67 Second, if States exercise this flexibility, there would be varying rates for a given product, which would create distortions across States and reduce efficiency and increase compliance costs, especially for companies planning multi-state activities. These distortions and costs must be seen against the fact that they will not lead any meaningful additional fiscal autonomy to the states.

5.68 Rate bands would also create another complication for administering

the eVD: under World Trade Organization (WTO) rules, the eVD has to be the lowest of the state rates. Supposing one state charged 8 per cent and another 12 per cent. The eVD would have to be based on 8 per cent, which would immediately disadvantage production in the state charging the higher rate, undermining Make in India programme.

Potential price impact of GST²⁴

5.69 In principle, the GST should have no aggregate impact on inflation and the price level because the new rate will be a revenue neutral one.

²⁴ The analysis in this section should not be considered definitive because it is based on a number of assumptions. The caveats are noted in greater detail in footnote 27 in Box 3.

Revenue neutrality may, however, not be enough to guarantee that there will be no price impact across all categories of goods and services. This is because the weights of commodities in the consumption basket (on which the ePI is based) are different from their contribution to indirect tax collections. The impact on particular goods and services will depend on the current structure of taxation (including exemptions) and the future structure of the GST both at the center and the states. To estimate the impact on future inflation, we need to begin with understanding the current structure of taxes.

Current taxes on the consumption basket

5.70 The average effective tax rate on consumption as measured by the econsumer Price Index (ePI) is 10.4%. Excluding items outside GST coverage, the rate drops to 7%, as the excluded items (e.g. alcohol, petrol and diesel) have very high tax rates. This relatively low rate reflects a number of key features.

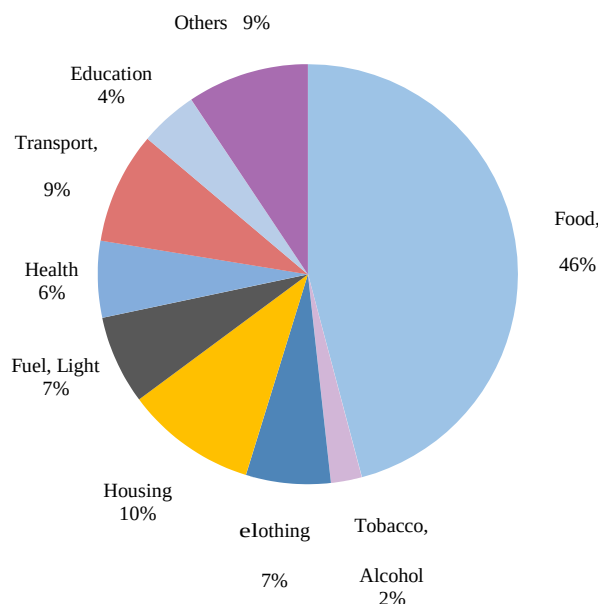
5.71 First, categories like food and beverages, rent and clothing have large weights in ePI basket (Figure 4). These are categories that are either exempted or taxed at low rates. For example, 75% of ePI is exempt from

excise, and 47% of ePI is exempt from sales tax (Figure 5)²⁵. Excluding taxed items that are outside GST (e.g. alcohol, petrol and diesel), 54% of the ePI would be GST exempt.

5.72 Second, most items, where not exempted are taxed at a lower rate. Thus, in addition to exempted commodities, a further 32% is taxed at a low rate, and only 15% at a normal rate (Figure 6). The 4% taxed at a high rate are mostly the items excluded from GST, like petrol, diesel and alcohol.

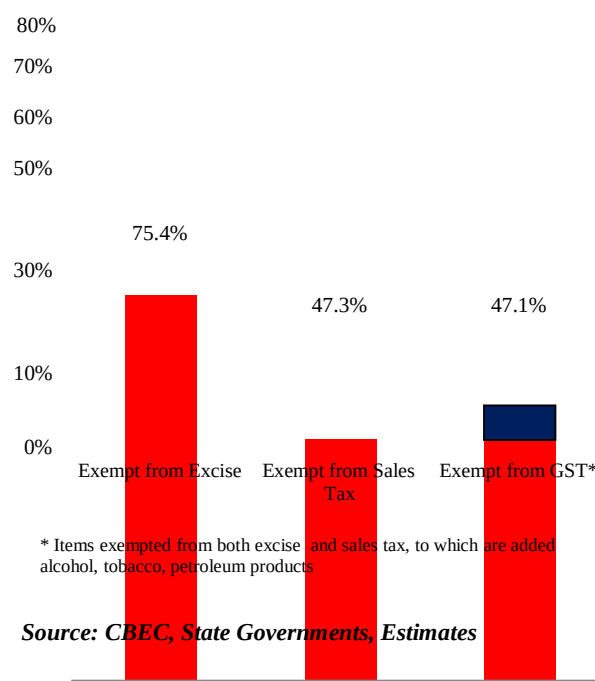
²⁵ We use the Excise schedule from CBEC. Sales tax rates were provided by four states: Tamil Nadu, Karnataka, Kerala and Gujarat. Items exempt from VAT in three of the four states are assumed to be exempt for this analysis.

Figure 4: Food, rent and clothing have high weight in CPI



Source: CMIE

Figure 5: A large part of CPI is exempt from Excise/vAT

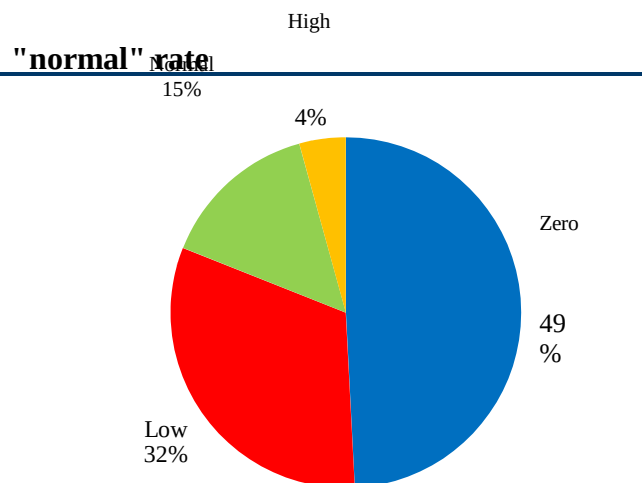


Source: CBEC, State Governments, Estimates

5.73 The taxation of some essential commodities in the ePI is shown in Figure 7. Most of the categories with a large ePI weight have traditionally been taxed at low rates to reflect distributional concerns; that is, these are goods and services

which are important for poorer sections of society and hence are taxed at zero or low rates. In some cases, while the headline tax rate is zero, the effective tax rate is higher given the taxes on inputs. For example, the headline average tax rate on cereals is 2.3%, and vegetables and fruits is 0.5%, but adjusted for the taxes paid on inputs, the effective tax rate on cereals and vegetables rises to 4.8% and 1.1% respectively. The same holds true for electricity: this is not taxed explicitly, but the effective tax rate is 8.8%. Even after these adjustments however, these effective rates are low. Further, to some extent, even these numbers do not truly reflect the net tax burden because of the subsidies provided by the public distribution system (PDS) as described below.

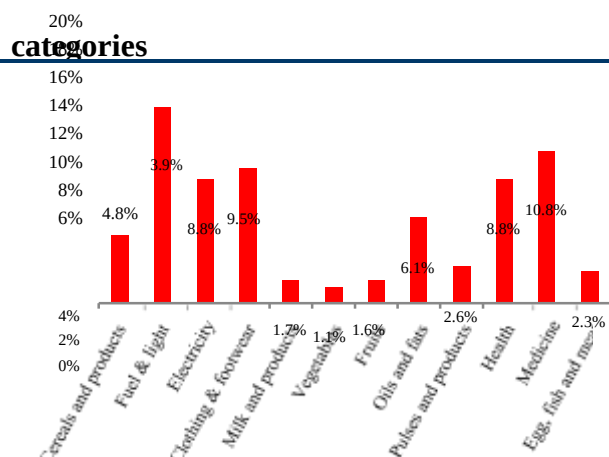
Figure 6: Only 15% of CPI is taxed at a



Low= 0 - 12.4% Normal = 12.4 - 29.4% High= 29.4% +

Source: CBEC, State Governments, Estimates

Figure 7: Low average tax rate on most large



Source: CBEC, State Governments,

Distribution of taxes by income groups

5.74 These commodity-specific taxes can in turn be disaggregated by broad income groups using consumption data from the 2011-12 NSS. Figures 8 and 9 present these for the top 60 (T60) per cent of the population and bottom 40 per cent (B40) of the population, respectively.

5.75 Taxes on food are about 4 per cent for both groups. This is because even though many food items are exempt in most states, there are embedded taxes in food items such as fuel. This is an important point to emphasize: exemptions do not lead to zero taxation because embedded taxes via inputs cascade into the final product.

5.76 Because of the PDS, however, these taxes are offset by food subsidies so that the net tax rate is negative for the B40 and close to zero for the T60. The magnitude of the impact of the PDS, however, varies by states—high in Tamil Nadu and low in Gujarat. A similar pattern of negative net taxes on the

B40 can be observed in fuel and light because the PDS covers kerosene.

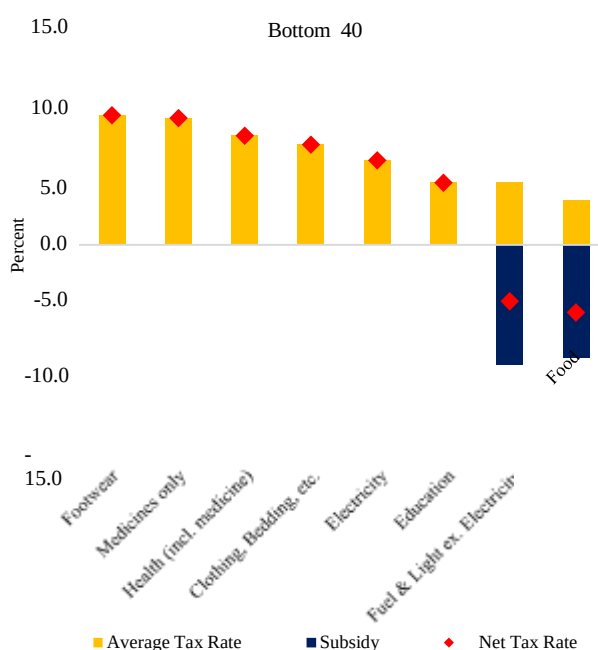
5.77 Taxes on health turn out to be among the highest (Figure 8): and the burden is higher for the bottom 40 per cent, as bulk of healthcare expenditure is on medicines (which are taxed at a higher rate than medical services), and particularly so for the bottom 40 per cent (Figure 9). Education taxes also turn out to be regressive, as the consumption of books and school supplies is a higher part of education spend for the bottom 40%, and tuition (mostly tax exempt) is a higher spend for the top 60%.

5.78 For clothing the average tax rates are relatively similar-about 9 %--between the two groups, and across states. In fuel and light, overall taxes are progressive but because electricity comprises a higher share of consumption of the top 60%, the exemption given to electricity benefits the top 60% more than the bottom 40%.

Figure 8: Average tax rates by category for top 60%



Figure 9: Average tax rates by category for bottom 40%



Source: NSSO, CBEC, State Governments, World Bank Estimates

Source: NSSO, CBEC, State

Governments, World Bank Estimates

These are an aggregate of five states: Tamil Nadu, Kerala, Karnataka, Gujarat and Andhra Pradesh. Estimates do not take in eST, and do not also factor in inter-state movements (the numbers were calculated for each state and then added up to get a national proxy).

The price impact of the GST Regime

5.79 We analyse scenarios for both a single rate (of 14%) and two scenarios involving a dual rate GST (12% and 18%; and 12% and 22%, respectively). In the dual rate scenarios, we apply a high tax rate of 35% to about 1% of ePI (that relate to luxury goods).

5.80 In the single rate scenario, we assume that whatever attracts any duty right now would be taxed. In the dual rate scenarios, we assume that most food items are exempt except where processing is involved (e.g. cooked meals, biscuits, sugar, tea, papad, bhujia). We assume that processed food is taxed at the low rate of 12% (this is 9.6% of the 45.9% of ePI that is food & beverages). We also assume that textiles and clothing are taxed at a low rate. We find that the normal tax rate would then apply to about 11.2% of ePI.

5.81 The category-wise effective tax rates for major categories in these scenarios are shown in Annex-5 (Figures 1-2), and the inflation impacts in Figures 10-14.

5.82 While assessing inflation, for each scenario we look at two outcomes: one if there is no input-tax credit²⁶, and the second with input-tax credit. In each of the three scenarios, we assume that a change in the tax rate would drive the supplier to change pricing. In some cases, even if the headline tax rate does not change (particularly for the exempt categories) if the taxes on inputs go up, the producer may be motivated to raise prices. For example, if taxes on fertilizers go up, the rice or cotton producer may take price increases. The reality may fall between the two alternatives: even if GST credits start flowing in relatively fast, some producers may still price on the headline rate.

26 We use the eSO's Input-Output Table (IOT) for 2007-08 (this is the latest available); the
 299 ePI items were then manually mapped to the 130 IOT categories.

5.83 We have also not factored in producers' pricing power in assessing the impact on inflation: some may not have the pricing power to take price increases (e.g. prices that are determined globally, say a cotton farmer that sees an increase in input prices), while others, like producers of personal products, may not cut prices even if they see a reduction in their tax rates.

Figure 10: CPI would have high sensitivity to single RNR

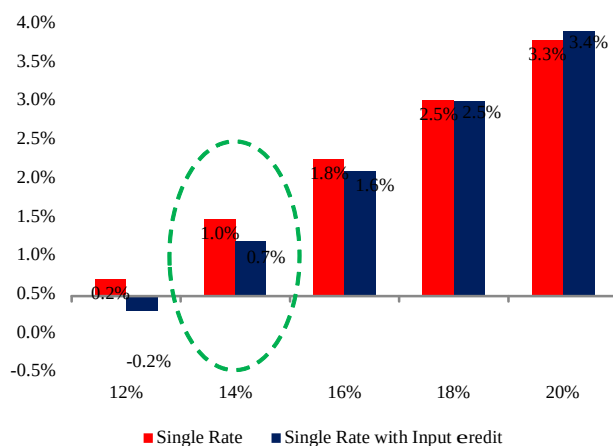
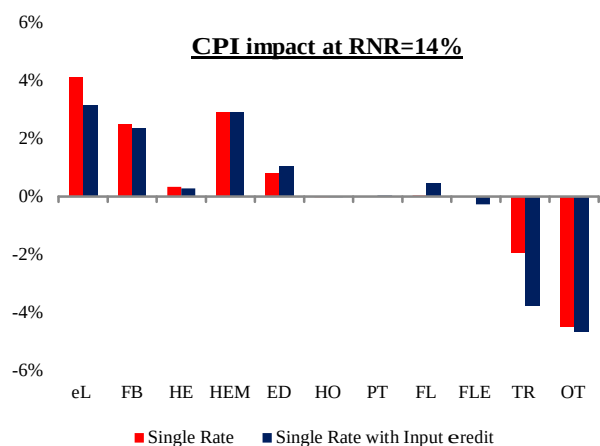


Figure 11: Scenario 1: some categories to see inflation



Source: CBEC, State Governments, Estimates

Source: CBEC, State Governments, some Estimates

category codes: HE = Healthcare (excluding Medicines); HEM: Healthcare (Medicines); FL = Fuel & Light; eL = e clothing; FB = Food & Beverages; TR = Transport & eommunication; ED = Education; HO = Housing; OT = Others (personal products, etc); PT = Paan & Tobacco

5.84 Single-rate GST: The higher the single rate, the greater the price impact. For example, a 14% rate would drive ePI higher by 1.0% if the producers don't factor in the input-tax credit and 0.7% if they do. An 18% single rate would increase prices by 2.5% with or without input tax credits. (Figure 10 shows the sensitivity to various rates). The items that may see the largest increase in prices are clothing and medicines (Figure 11). The (small) increase in food and beverages is largely because a number of even primary food items are currently taxed in some states (though not in all). As we have assumed the current tax rate to be an average of state tax rates, the average tax rate jumps from low single

digits to the RNR, a substantial increase.

5.85 Dual-rate GST with a lower rate of 12 per cent and a standard rate of 18 per cent: This rate structure would correspond broadly to an RNR of about 15-15.5 per cent. As one can expect, this has low inflation impact given the small part of ePI that gets taxed at the normal tax rate (Figure 12 shows the sensitivity). An 18% standard rate would impact ePI by -0.1% if all producers reacted to headline tax changes and 0% if they reacted after adjusting for input tax credits as well. Under this dual rate structure, food and beverages would see virtually no price increase and neither would fuel and light, which would be especially important for protecting poorer consumers (Figure 13)

Figure 12: Dual rate sensitivity (Normal on 11% of CPI)

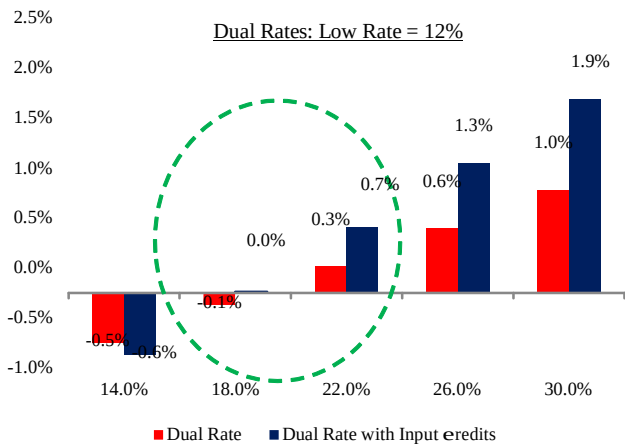
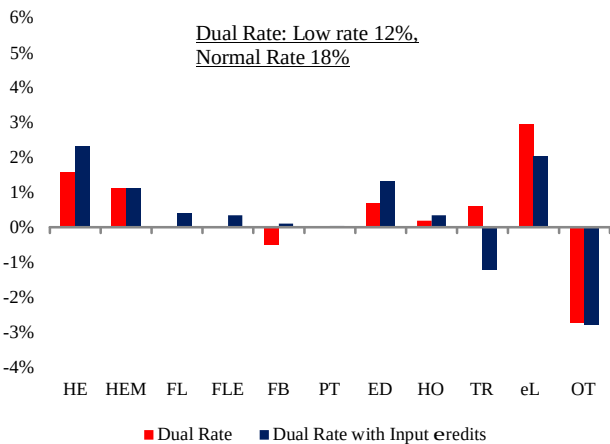


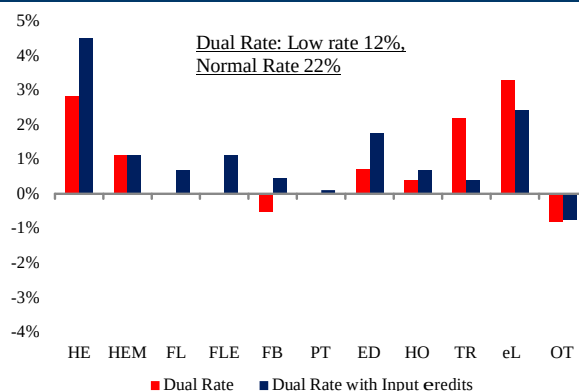
Figure 13: Scenario 2: Less than 3% inflation for items seeing price rise



5.86 Dual-rate GST with a lower rate of 12% and standard rate of 22%: This rate structure would correspond broadly to an RNR of about 17-18%. The inflation impact in this scenario lies in between the first and second scenarios: a 22% standard rate would drive a ePI increase of 0.3% if all producers reacted to headline tax changes and by 0.7% if they adjusted for input taxes: the increase is a reflection of hidden

taxation, i.e. the headline taxes may be low, but an increase in input taxes would raise inflation. Health (excluding medicines) would see the highest increases (Figure 14).

Figure 14: Scenario 3: Only health to see high inflation



Source: CBEC, State Governments, some Estimates

Concluding observations

5.89 The experience in a number of economies like Australia, New Zealand and Canada, was that GST implementation drove a step increase in prices: this boosted inflation for a year, and once these prices came into the base, inflation declined, indicating low persistence of this inflation.

5.90 For India, one broad conclusion is that under a dual rate GST, the aggregate impact on inflation will depend on the RNR and the standard rate. An RNR in the 15-15.5 % range with a lower rate of 12% and a standard rate of 18 percent would have negligible inflation impact. A higher RNR with a lower rate of 12% and a standard rate of 22 percent would have 0.3-0.7% impact on aggregate inflation. However, under both these scenarios, if food and fuel and light were exempted, and with the PDS in operation, the price impact on these items of consumption for the poor can be minimal.

5.91 These aggregate calculations would depend on a number of details in the design of the eventual GST, including:

- a) Final synchronized exemption lists;
- b) The choice of categories to which low-rates are applied;
- c) Exemption threshold for enterprises: a low threshold would mean that more producers/sellers pay GST, and thus re-price their goods/services, whereas a high threshold would bring that down (some categories like food could be particularly sensitive to this choice). In many categories the bulk of the goods/service are accessed through suppliers/outlets that don't pay tax (e.g. if all barbers/beauticians paid service tax, collections would be Rs 5000-plus crore, but the collections are about Rs. 100 crore);
- d) How many suppliers react just to the headline rate and have the pricing power to either take price increases or hold on to prices even when they are net beneficiaries of GST implementation;
- e) Given the large impact of PDS on food and fuel and light, the impact on the bottom 40% can be offset by state governments making changes to the PDS.
- f) New GST features: currently excise and VAT cannot be offset, and cascade; in addition, VAT credits cannot be carried across states. Both these characteristics would change in the GST regime, and affect the eventual inflation.

5.92 However, to ensure that producers do not take advantage of the GST, the government might consider setting up mechanisms to monitor the price impact, especially of sensitive items, as was done by Australia. The competition commission of India should be especially vigilant in identifying anti-competitive producer behavior that hurts consumers via excessive price increases.

Compensation

5.93 Under the proposed agreement on the GST, the Centre has agreed to compensate the States for any shortfall in their indirect tax collections in

the transition from the current state VAT and other taxes to the unified GST. This compensation will be provided for 5 years. In the earlier experience of implementing the state VATs the Centre provided compensation for three years but at a declining rate: 100 per cent of the shortfall in 2005-06, 75 per cent and 50 per cent in the following two years respectively.

5.94 In the aggregate, of course, the States should not suffer any loss in revenues because that is intrinsic to the calculation of a revenue neutral rate. That is, if the RNR for the States is set appropriately, States as a whole should have the same revenue as before. But there are two situations why shortfalls may arise. First, the aggregate RNR might be set too low. In this case, of course, the GST Council may have to decide to raise rates going forward but interim shortfalls will have to be compensated.

5.95 A more likely scenario is for shortfalls to be experienced by individual States even if States as a whole experience revenue neutrality. Now, by definition, the move from the status quo to the GST will involve a shift in revenues from producing States to consuming States, from manufacturing to services, and within manufacturing from intermediate and capital goods toward final goods. This distributional shift is unavoidable because it is in some ways intrinsic to the move to the GST. Most States will stand to gain and it is likely that poorer States will be beneficiaries because they consume more, on average, than they produce; and their economies are more services-than manufacturing-based.

5.96 But pinning down exactly which particular States will gain is not easy because disaggregated state-wise data that would allow reliable computation of the current and future tax base for the States is simply not possible. Moreover, the taxable base of States will also depend on rules on supply of goods and services and changing behavior of firms in response to these rules (for example, headquarters and where supplied). For these reasons, this report has chosen not to provide state-wise RNR calculations.

5.97 But we undertake an illustrative exercise in Box 2 to show that anxieties of some of the major States may be unwarranted and that the compensation requirements may well turn out to be minimal. We project the likely future tax base of goods consumption using NSS data and likely future tax base of services by estimating urban incomes. We find that the share of the future tax base for States is very similar to their share in current GST revenues. For those States that receive a large share of current revenue because they have a large manufacturing base, their anxieties can be reassured on the grounds that such States are also likely to have a large base in services going forward.

5.98 Notwithstanding the above, there need to be clear rules on compensation to avoid glitches and controversy in the implementation of GST and to reassure the States so that they too can embark on GST implementation with enthusiasm and confidence.

5.99 Compensation will have to be provided for the shortfall between the actual level of collection (RA) in any particular year and the collection level to be protected (RP) in that year. The challenge will be in identifying the latter.

5.100 Under the system used to provide compensation for the transition to the state VAT, the formula used for compensation was the following: the three best annual growth rates of *revenue* collected in the previous six years was taken, was averaged, and then used for the calculation of RP, namely the future revenue to be protected. This method had the virtue of simplicity because state governments knew in advance the actual revenue they could expect to receive in the coming year and could hence plan accordingly.

5.101 Going forward, there might be one issue in applying the same methodology to GST compensation. In some of the last five years, revenues witnessed unusually high levels of growth because of the combination of high

real GDP growth and high inflation. The average of the highest three revenue growth figures for the last three years (for the States as a whole) was over 16.8 per cent; and the corresponding average of highest three nominal GDP growth figures was 13.4 per cent.

5.102 Looking ahead, this picture could change dramatically both because real GDP growth has slowed but more important because inflation has declined dramatically and is expected to remain low. For example, in FY2016, nominal GDP growth is expected to be about 9.5 per cent and the forecast for the period ahead is in the range of 11 per cent and rising slowly on expectations of a pick-up in real GDP growth. Now, if historical buoyancy prevails, this will lead to substantially lower collections which would be normal and which should not be attributed to the GST and hence would not necessarily need to be compensated.

5.103 Hence, the formula for GST compensation going forward would have to take account of two factors: on the one hand, erring on the side of generous compensation would provide reassurance and certainty to the States on revenue availability and help them better plan their expenditures; on the other hand, the formula should take account of the dramatically changed outlook for nominal GDP and hence revenue growth for both the Centre and the States.

Other issues

5.104 The Committee has not been asked explicitly to analyze all issues relating to GST, some of which have been reflected in the Constitutional Amendment Bill. But the Committee would be remiss if it did not state its views on some important issues, for example, the exclusion of alcohol from the scope of taxable items in the Constitutional Bill. Political compulsions may require the exclusion of alcohol in the current conjuncture. But this is at odds with the aim of improving governance and reducing rent-seeking which is pervasive in relation to alcohol.

5.105 Leaving that aside, there is still little reason to exclude alcohol constitutionally. Far better to leave it in, and to allow the Centre and States at some future date to decide collectively to bring alcohol within the GST net—like foreseen for petroleum products. To leave it out is to rule out even the possibility of choice for all time which cannot be good policy.

5.106 Another misconception pervades discussions of bringing alcohol in the GST. Bringing alcohol into the scope of the GST need not take away the right of States to tax alcohol. As is envisaged for tobacco, it is perfectly possible—and indeed desirable—for some basic tax to be levied on alcohol within the GST, and allow States to levy top-up sin taxes on alcohol for other revenue or social reasons. In other words, bringing alcohol within the scope of GST would not curtail States' fiscal autonomy in this area.

5.107 The same applies to real estate which is also a major arena of rent-seeking. Bringing electricity into the GST could also improve the competitiveness of Indian manufacturing. And, as argued in detail in Box 3, reducing the exemptions on health and education services in the GST would be more consistent with social policy objectives than the status quo.

VI.CONCLUSIONS

6.1 This is a historic opportunity for India to implement a game-changing tax reform. Domestically, it will help improve governance, strengthen tax institutions, facilitate "Make in India by Making One India," and impart buoyancy to the tax base. It will also set the global standard for a value-added tax (VAT) in large federal systems in the years to come.

6.2 The GST has been an initiative that has commanded broad consensus across the political spectrum. It has also been a model of cooperative federalism in practice with the Centre and states coming together as partners in embracing growth and employment-enhancing reforms. It is a reform that is long awaited and its implementation will validate expectations of important

government actions and effective political will that have, to some extent, already been "priced in."

6.3 Getting the design of the GST right is therefore critical. Specifically, the GST should aim at tax rates that protect revenue, simplify administration, encourage compliance, avoid adding to inflationary pressures, and keep India in the range of countries with reasonable levels of indirect taxes.

6.4 There is first a need to clarify terminology. The term revenue neutral rate (RNR) will refer to that single rate, which preserves revenue at desired (current) levels. In practice, there will be a structure of rates, but for the sake of analytical clarity and precision it is appropriate to think of the RNR as a single rate. It is a given single rate that gets converted into a whole rate structure, depending on policy choices about exemptions, what commodities to charge at a lower rate (if at all), and what to charge at a very high rate. The RNR should be distinguished from the "standard" rate defined as that rate in a GST regime which is applied to all goods and services whose taxation is not explicitly specified. Typically, the majority of the base (i.e., majority of goods and services) will be taxed at the standard rate, although this is not always true, and indeed it is not true for the states under the current regime.

6.5 Against this background, we would draw a few important conclusions.

- Because identifying the exact RNR depends on a number of assumptions and imponderables; because, therefore, this task is as much soft judgement as hard science; and finally also because the prerogative of deciding the precise numbers will be that of the future GST council, this committee has chosen to recommend a range for the RNR rather than a specific rate. For the same reason, the committee has decided to recommend not one but a few conditional rate structures that depend on policy choices made on exemptions, and the taxation of certain commodities such as precious metals. The summary of recommended options is provided in Table 10 below.

Table 10: Summary of Recommended Rate Options (in per cent)

	RNR	Rate on precious metals	"Low" rate (goods)	"Standard" rate (goods and services)	"High/Demerit" rate or Non-GST excise (goods)
Preferred	15	6	12	16.9	40
		4		17.3	
		2		17.7	
Alternative	15.5	6	12	18.0	40
		4		18.4	
		2		18.9	

Source: Committee's calculations.

Note : All rates are the sum of rates at center and states

- On the RNR, the Committee's view is that the range should be between 15 percent and 15.5 percent (centre and states combined) but with a preference for the lower end of that range based on the analysis in this report. The committee has noted the risks both of setting rates that are marginally high and low. On balance, however, it is easier to address the consequences of erring on the side of marginally low rates.
- On structure, in line with growing international practice and with a view to facilitating compliance and administration, India should strive toward a one-rate structure as the medium-term goal.
- Meanwhile, we recommend a three-rate structure. In order to ensure that the standard rate is kept close to the RNR, the maximum possible tax base should be taxed at the standard rate. The committee would recommend that lower rates be kept around 12 per cent (centre plus states) with standard rates varying between 17 and 18 per cent.
- It is now growing international practice to levy sin/demerit rates—in the form of excises outside the scope of the GST—on goods and services that create negative externalities for the economy. As currently envisaged, such demerit rates—other than for alcohol and petroleum (for the states) and tobacco and petroleum (for the centre)—will have to be provided

for within the structure of the GST. The foregone flexibility for the center and the states is balanced by the greater scrutiny that will be required because such taxes have to be done within the GST context and hence subject to discussions in the GST council. Accordingly, the committee recommends that this sin/demerit rate be fixed at about 40 percent (centre plus states) and apply to luxury cars, aerated beverages, paan masala, and tobacco and tobacco products (for the states).

- This historic opportunity of cleaning up the tax system is necessary in itself but also to support GST rates that facilitate rather than burden compliance. Choices that the GST council makes regarding exemptions/low taxation (for example, on gold and precious metals, and area-based exemptions) will be critical. The more the exemptions that are retained the higher will be the standard rate. There is no getting away from a simple and powerful reality: the broader the scope of exemptions, the less effective the GST will be. For example, if precious metals continues to enjoy highly concessional rates, the rest of the economy will have to pay in the form of higher rates on other goods, including essential ones. As the table shows, very low rates on precious metals would lead to a high standard rate closer to 20 percent, distorting the economy and adding to inflationary pressures. On the other hand, moderately higher taxes on precious metals, which would be consistent with the government's efforts to wean consumers away from gold, could lead to a standard rate closer to 17 percent. This example illustrates that the design of the GST cannot afford to cherry pick—for example, keeping a low RNR while not limiting exemptions--because that will risk undermining the objectives of the GST.
- The GST also represents a historic opportunity to rationalize the tax system that is complicated in terms of rates and structures and has become an "Exemptions Raj," rife with opportunities for selectivity and discretion. Tax policy cannot be overly burdened with achieving industrial, regional, and social policy goals; more targeted instruments

should be found to meet such goals, for example, easing the costs of doing business, public investment, and direct benefit transfers, respectively; cesses should be reduced and sparingly used. Another problem with exemptions is that, by breaking up the value-added chain, they lead in practice to a multiplicity of rates that is unpredictable, obscured, and distortionary. A rationalization of exemptions under the GST will complement a similar effort already announced for corporate taxes, making for a much cleaner overall tax system.

- The rationalization of exemptions is especially salient for the center, where exemptions have proliferated. Indeed, revenue neutrality for the center can only be achieved if the base for the center is similar to that of the states (which have fewer exemptions — 90 products versus 300 for the center). If policy objectives have to be met, instruments other than tax exemptions such as direct transfers could be deployed.
- The Committee's recommendations on rates summarized in the table above are all national rates, comprising the sum of central and state GST rates. How these combined rates are allocated between the center and states will be determined by the GST Council. This allocation must reflect the revenue requirements of the Centre and states so that revenues are protected. For example, a standard rate of 17% would lead to rates at the Centre and states of say 8 percent and 9 percent, respectively. The committee considers that there are sound reasons not to provide for an administration-complicating "band" of rates, especially given the considerable flexibility and autonomy that states will preserve under the GST, including the ability to tax petroleum, alcohol, and other goods and services. Even in the future, when these products are brought into the GST, states should and will retain fiscal autonomy by being able to levy top-up taxes on demerit goods.
- Implementing the GST will lead to some uncharted waters, especially in relation to services taxation by the states. Preliminary analysis in this report indicates that there should not be large shifts in the tax base in

moving to the GST, implying that overall compensation may not be large. Nevertheless, fair, transparent, and credible compensation will create the conditions for effective implementation by the states and for engendering trust between the centre and states;

- The GST also represents a historic opportunity to Make in India by Making One India.

Eliminating all taxes on inter-state trade (including the 1 percent additional duty) and replacing them by one GST will be critical to achieving this objective;

- Analysis in the report suggests that the proposed structure of tax rates will have minimal inflationary consequences. But careful monitoring and review will be necessary to ensure that implementing the GST does not create the conditions for anti-competitive behavior;
- Complexity and lags in GST implementation require that any evaluation of the GST—and any consequential decisions—should not be undertaken over short horizons (say months) but over longer periods say 1–2 years. For example, if six months into implementation, revenues are seen to be falling a little short, there should not be a hasty decision to raise rates until such time as it becomes clear that the shortfall is not due to implementation issues. Facilitating easy implementation and taxpayer compliance at an early stage—via low rates and without adding to inflationary pressures—will be critical. In the early stages, if that requires countenancing a slightly higher deficit, that would be worth considering as an investment which would deliver substantial long-run benefits. Moreover, the counterpart of revenues falling short will be gains to consumers, especially poorer ones.
- Finally, the report has presented detailed evidence on effective tax burdens on different commodities which highlights that in some cases they are inconsistent with policy objectives. It would be advisable at an early stage in the future, and taking account of the experience of the GST, to consider bringing fully into the scope of the GST commodities

that are proposed to be kept outside, either constitutionally or otherwise. Bringing alcohol and real estate within the scope of the GST would further the government's objectives of improving governance and reducing black money generation without compromising on states' fiscal autonomy. Bringing electricity and petroleum within the scope of the GST could make Indian manufacturing more competitive; and eliminating the exemptions on health and education would make tax policy more consistent with social policy objectives.

6.6 There is a legitimate concern that policy should not be changed easily to suit short term ends. But there are enough checks and balances in the parliamentary system and enough pressures of democratic accountability to ensure that. Moreover, since tax design is profoundly political and contingent, it would be unwise to encumber the constitution with the minutiae of policy that limits the freedom of the political process in the future: the process must retain the choice on what to include or exclude from the GST (for example, alcohol) and what rates to levy. The credibility of the macroeconomic system as a whole is undermined by constitutionalising a tax rate or a tax exemption. Setting a tax rate or an exemptions policy in stone for all time, regardless of the circumstances that will arise in future, of the macroeconomic conditions, and of national priorities may not be credible or effective in the medium term. This is the reason India—and most credible polities around the world--do not constitutionalise the specifics of tax policy. The GST should be no different.

6.7 The nation is on the cusp of executing one of the most ambitious and remarkable tax reforms in its independent history. Implementing a new tax, encompassing both goods and services, to be implemented by the Centre, 29 states and 2 union territories, in a large and complex federal system, via a constitutional amendment requiring broad political consensus, affecting potentially 2-2.5 million tax entities, and marshalling the latest technology to use and improve tax implementation capability, is perhaps

unprecedented in modern global tax history. The time is ripe to collectively seize this historic opportunity.

Box 1. Estimating the association between rates and compliance

Many considerations will go into the determination of the revenue neutral rate, but one of them will also be the impact of rates on compliance. Theory suggests that increases in rates will lead to reduced tax compliance. But is there any evidence from the experience of VAT itself?

Based on data provided by the IMF, the committee undertook a simple econometric analysis to test whether tax rates and compliance were correlated. Data was provided for 86 countries, developed and developing. Compliance was measured in two ways: collection efficiency (eE) and revenue productivity (RP). eE is measured as:

$$e\text{-eff} = R/(S * e)$$

where R stands for revenue collected, S is the standard rate and e is total final consumption net of VAT collections. The denominator is a measure of the potential revenues that ought to be collected and the numerator actual collections. e-efficiency is simply a measure of comparing actual against potential. Revenue productivity (RP) simply replaces final consumption with GDP in the denominator.

Simple regressions of the following form were run:

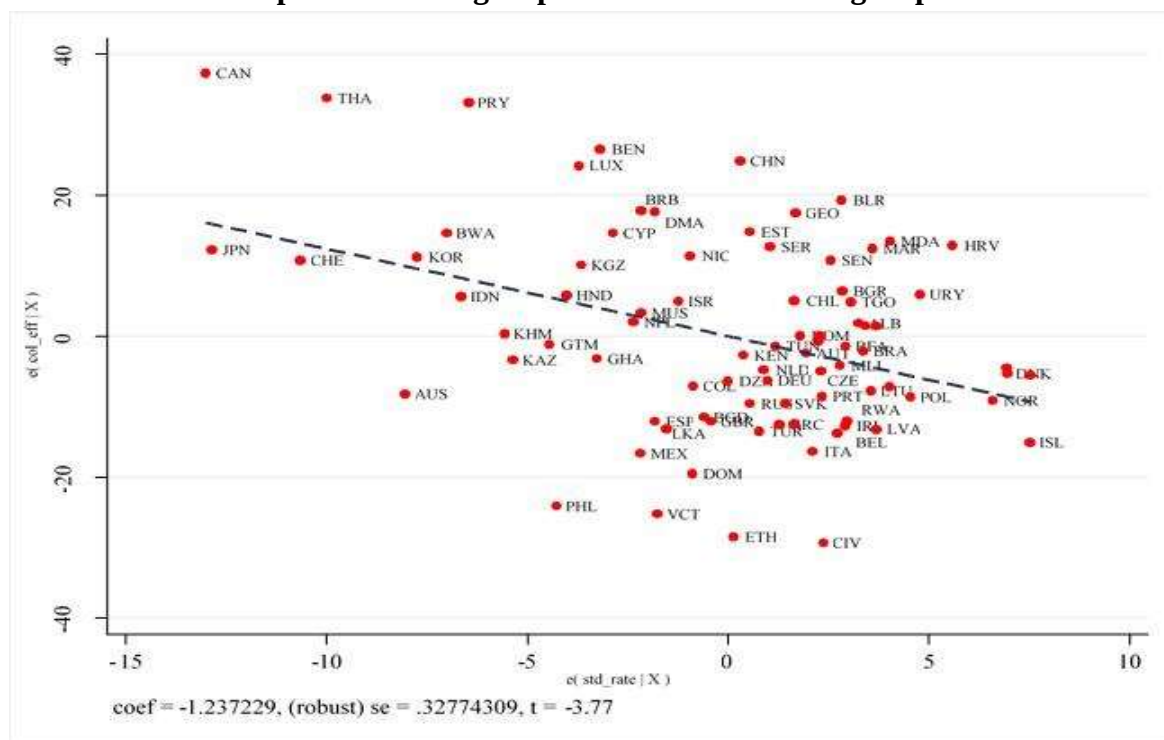
$$eE(RP) = \alpha + A * S + B * \ln(Y) + DUM + \mu$$

Where the left hand side is either collection efficiency or revenue productivity; α is the intercept term; S is the standard rate; Y is the per capita GDP of a country which controls for other factors—such as quality of tax administration—that can affect collection efficiency; and DUM is a dummy for country groups arranged according to income to again control for certain group characteristics that might affect compliance; and μ is the standard error term.

The regressions are shown in Tables 1 and 2. There is a very strong association between the standard tax rate and all measures of compliance even after controlling for per capita GDP and group dummies (Figure 1). For example, for collection efficiency the coefficient (A) is about (-) 1.22. This suggests that a 1 percentage point increase in the standard rate worsens

compliance by 1.22 percentage points.²⁷

Figure 1: Regression of collection efficiency on standard rate, after controlling for per capita GDP and group dummies for income groups



Source: Committee's calculation

This has an important implication for the RNR in India. It suggests that a lower RNR will not lead to as much of a loss in revenue as a simple calculation suggests. For example, if the standard rate were reduced by say 4.1 percentage points in weighted terms that should increase e-efficiency by 4.1 percentage points (using the conservative regression estimate of 1 rather than 1.22) which amounts to about 9.3 per cent given the current e-efficiency ratio of 0.44. Better compliance could therefore fetch potential additional revenues of nearly Rs 4.3 lakh crore.

²⁷ The same regressions were carried out for more recent data (for the year 2012) for a set of 36 countries. The results are similar with a strong and significant negative association between collection efficiency and standard rates, although the coefficient is slightly smaller (close to

1).

Table 1: Regression Results of Collection Efficiency

	(1) Estimation 1	(2) Estimation 2
Log per capita GDP	7.16*** (1.40)	7.20** (2.89)
Standard Rate	-1.24*** (0.33)	-1.22*** (0.35)
Constant	2.15 (13.04)	-0.64 (24.85)
<i>Income Group FE</i>	No	Yes
<i>Observations</i>	84	84
<i>Adjusted R²</i>	0.293	0.276

Standard errors in parentheses

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Collection efficiency (Revenue/(Standard Rate * consumption))

Table 2: Regression Results of Productivity

	(1) Estimation 3	(2) Estimation 4
Log per capita GDP	2.66* (1.34)	1.02 (2.46)
Standard Rate	-0.81*** (0.29)	-0.85*** (0.31)
Constant	27.87** (12.53)	38.29* (21.51)
<i>Income Group FE</i>	No	Yes
<i>Observations</i>	84	84
<i>Adjusted R²</i>	0.088	0.076

Standard errors in parentheses

* $p < 0.10$, ** $p < 0.05$, *** $p < 0.01$

Productivity (Revenue/(Standard Rate * GDP))

Box 2: Will There be Large Compensation Requirements? An Illustrative Exercise

The GST will necessarily entail some shift in revenues from production to consumption and from manufacturing toward services. This shift is desirable but has raised concern especially from the major manufacturing producing States that they might suffer some loss in revenues. As noted earlier, it is nearly impossible to construct reliable tax bases—both new and old—at the level of the States, especially for consumption of services. Hence, this report has refrained from estimating state-specific RNRs.

But we can shed some light on this question by looking at proxies for the likely future tax base of States. This future tax base will be based on consumption rather than production. So, we need to find proxies for the States' share in consumption of taxable goods and taxable services. We turn to the NSS—which measures consumption—to calculate taxable goods consumption. We define each state's share in taxable consumption of goods as S_i^G where G the superscript refers to

goods and i the subscript refers to the State.

Since it is difficult to distinguish taxable from non-taxable services in the NSS, we turn to urban incomes as a proxy for taxable services. After all, urban incomes will be a key determinant of spending on business-to-consumer (B2c) services such as financial services, restaurants, advertising, real estate, professions services etc all of which are taxable.

We compiled data on urban populations of the major States and on urban income, the latter by multiplying urban population by state per capita domestic product²⁸. This will under-estimate urban incomes to the extent that urban per capita incomes are disproportionately greater than rural per capita incomes especially in more urbanized States. We define, analogously to goods, each state's share in total consumption of services as S_i^S .

Then each state's share of the total potential GST tax base (goods and services) can be defined as:

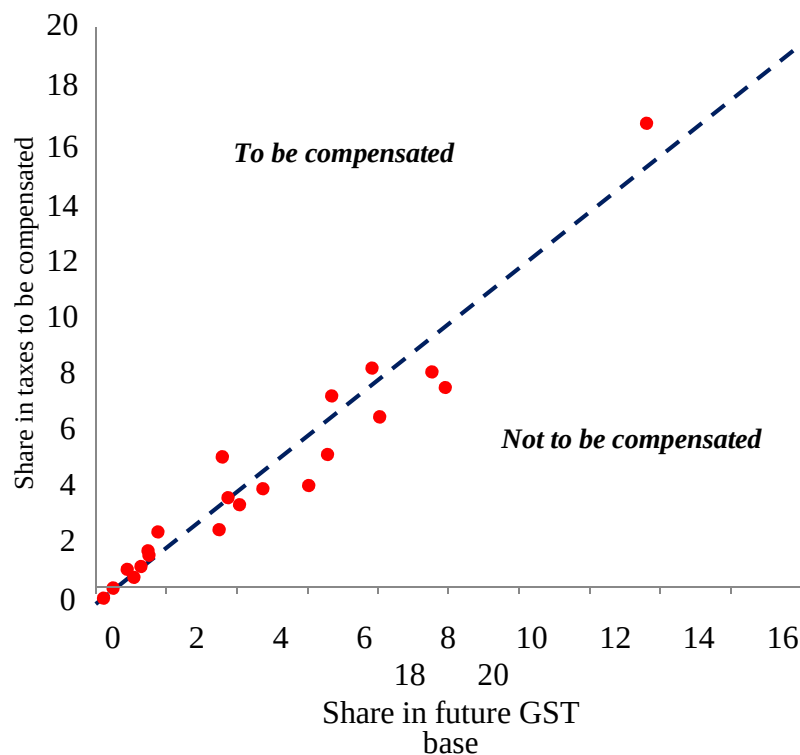
$$S_i^T = \alpha S_i^G + (1-\alpha) S_i^S$$

²⁸ At current market prices for 2011-12.

Where α refers to the share of goods and $(1-\alpha)$ the share of services, respectively in the overall GST base.

We plot in Figure 1 below, each state's share in the total GST revenues to be compensated (on the y-axis) (current tax base) against the state's share of total potential GST tax base (future tax base) as defined above (on the x-axis). In this figure the weights assigned to goods and services are 45 per cent and 55 per cent, respectively. A 45 degree line is also fitted to the chart which shows points on the line where the current and future tax base are likely to be the same. All points above the line denote States that will potentially need to be compensated. The chart has two interesting and potentially significant implications for compensations:

Figure 1: Share of revenues to be compensated and share of potential GST base



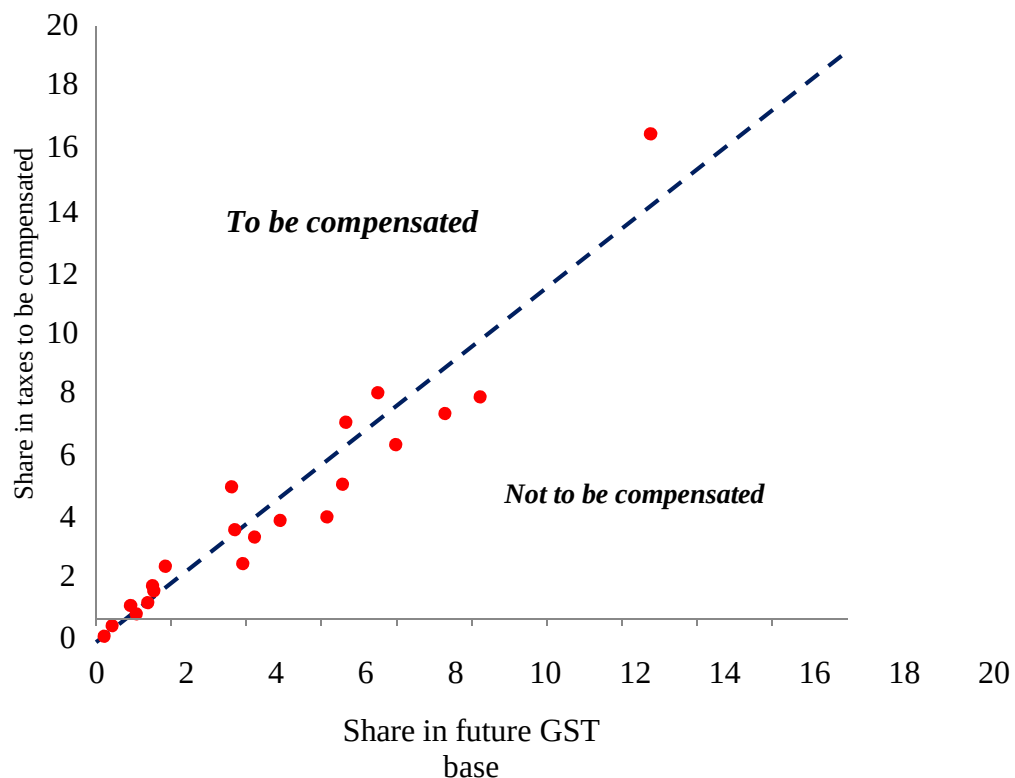
Source: NSS, CSO and Committee own calculations

- First, most of the points are below or close to the 45 degree line, and where they are above the line, they are not very far above it. This suggests that on aggregate there will not be a huge re-shuffling of taxable revenues
- Second, the largest manufacturing States and the ones that currently get a lion's share of revenues either lie below the line, suggesting that far from needing compensation they

will actually be benefitting from the move to the GST; or in the one case, where it is above, it is actually very close to the line, implying a small compensation requirement.

We do a sensitivity analysis by changing the goods and services base to 50-50 and the results are shown in Figure 2. In this case, too, the main conclusions described above continue to hold.

Figure 2: Share of revenues to be compensated and share of potential GST base (robustness)



Source: NSS, CSO and Committee own calculations

In sum, we cannot be sure that the GST will lead to large shifts in the tax base away from the advanced manufacturing States but the evidence presented above should provide some reassurance that these shifts will not be seriously adverse for the country as a whole and also for

the large manufacturing States because they will also be substantial consumers of services.

Box 3. Evidence-based tax policy? Incorporating social policy objectives in the GST

Once the RNR is known, it has to be operationalized by making decisions relating to: exemptions, the structure of rates, including how many rates to have, and whether to have a separate lower rate for meritless essential goods and a higher rate for de-merit or sin goods; and the threshold below which firms will not have to be part of the GST tax administration.

Typically, the assignment of goods to different tax categories will be motivated by considerations of equity. Goods that account for a large share of expenditures of poorer households—for example, food—will either be exempt or placed in a lower rate category. But these decisions have to be underpinned by analysis and evidence. This section undertakes such an analysis and then compares the outcome of this analysis with current policy. In other words, the question is whether current tax policy is consistent with social objectives in relation to a number of key commodity groups:

- Food and beverages (and sub-groups)
- clothing
- Fuel and light (excluding power)
- Medicines
- Gold and precious metals
- Power
- Education
- Non-medical health
- Alcohol
- Tobacco

These groups have been chosen because they are of special interest in the context of the GST: either they are exempted (food, gold (centre), power, non-medicine health, and education); or they are taxed at a lower rate (clothing, gold (States), medicines); or they are charged at very high, demerit rates (petroleum, tobacco, and alcohol).

Two concepts provide the starting point for making policy decisions based on evidence: equity and effectiveness.

Equity allows for categorization of goods as meritless essential sensitive (hereafter "merit"), etc.

Goods that account for a high share of expenditure of the poorer households will typically be merit goods; and a related feature will be that this share will decline for richer households.

But even if a good is a merit good, warranting a lower or zero rate, policy makers will want to ask how effective that decision will be based on how well targeted the implicit subsidy will be, where the implicit subsidy is the difference between taxing a good at the standard tax rate and the lower or zero rate: if the poor also account for a large fraction of total expenditure on the merit good, then the subsidy will be well targeted; if, on the other hand, they account for a small share of the total expenditure, then the subsidy decision will come with the cost that most of the benefits of the subsidy will accrue to the relatively better off.²⁹

So, one can think of a commodity-wise benefit-cost analysis for determining the rate structure. The benefit could be thought of as the subsidy rate for the target group, say the bottom four deciles of the population.³⁰ The subsidy essentially measures how much the expenditure of the target group would be increased by exempting a good rather than taxing it at the standard rate.

The cost could be measured in relation to the principle of effective targeting. The cost is simply that proportion of the total subsidy for any particular good that does not reach the target group and instead "leaks" to the non-target group, in this case, the top 6 deciles.

We depict this benefit cost analysis graphically in Figure-1 for different group of commodities. We want to focus on the groups (and related sub-groups) that are going to be the focus of important policy choices in the GST mentioned earlier. The data are from the 2011-12 thick NSS household expenditure survey.

The vertical axis measures the benefit—the effective subsidy rate, which is the subsidy as a share of the total expenditure of the target group. The horizontal axis depicts the costs measured as the share of total subsidy on any given product that leaks to the non-target group.

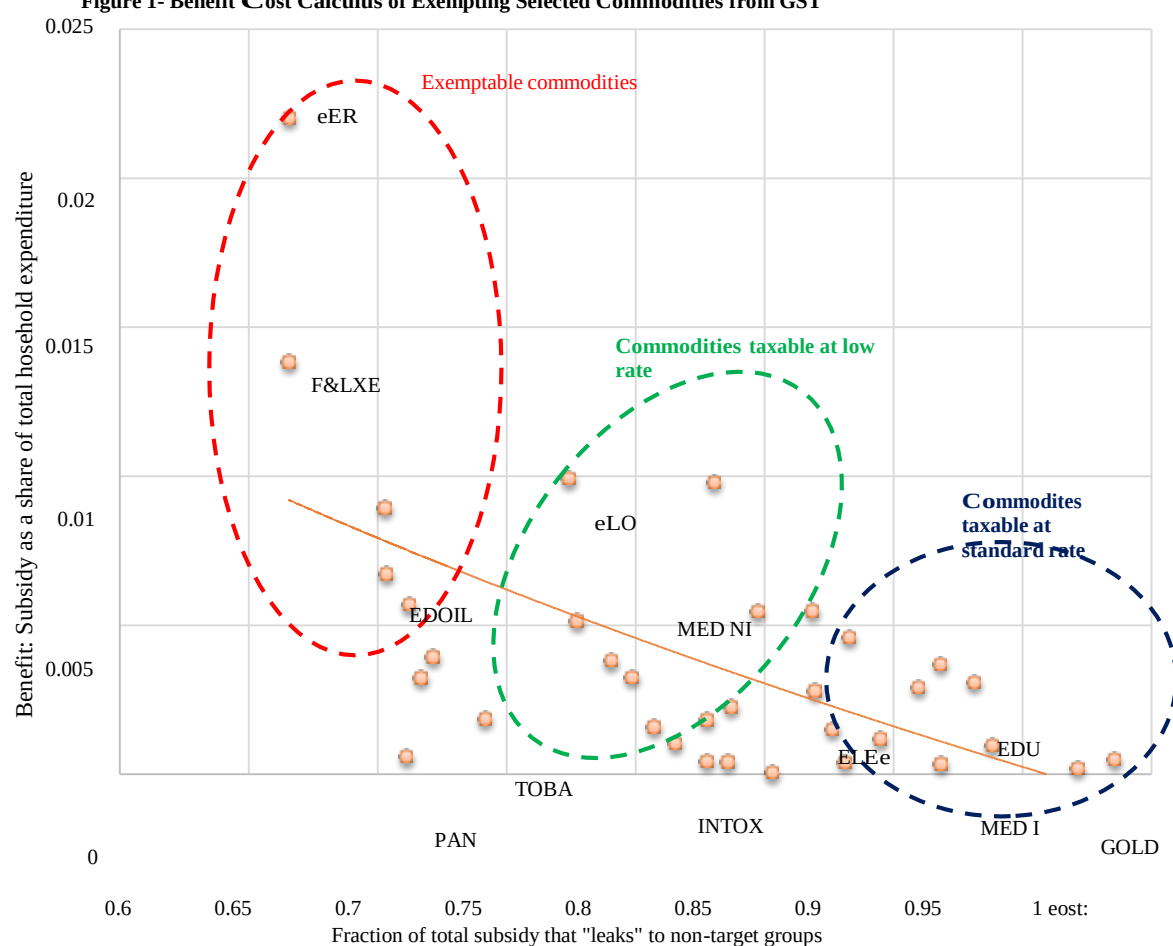
Three circles are drawn to highlight desirable evidence-based choices: commodities in the north-

²⁹ Ideally, of course, if governments had well-designed transfer programs, they would achieve the desired objective of helping poorer households by providing cash transfers and sparing the tax system from having to attain equity objectives. In practice, this is not always possible and in India DBTs are still a work-in-progress. See Keen (2015).

³⁰ The analysis can be re-worked for other target groups, say the bottom 3 or 5 deciles.

west corner of the graph circled in red are socially worthy of exemption because the benefits are high and the costs are low. These include cereals, vegetables, pulses, edible oils, and fuel and light (excluding electricity). Conversely, commodities in the south-east corner of the graph, circled in blue are less worthy of being treated favorably in tax terms because the benefits are low and the costs high. These include gold, non-medicine health services, education, and power. In the middle are commodities, circled in green, that lie somewhere in between that are perhaps worthy of being included at the lower tax rate. These include milk, poultry products and perhaps clothing.³¹

Figure 1- Benefit Cost Calculus of Exempting Selected Commodities from GST



eER: cereals
F&LXE: Fuel & Light ex. Electricity
MED I: Health except Medicine
OHes: Other household consumables
S&S: Salt and sugar
EDU: Education
ELFe: Electricity
TOBA: Tobacco
INTOX: Intoxicants
PAN: Pan
eLO: clothing
MED NI: Medicine
TOI: Toilet articles
GOLD: Gold
eONV: conveyance

Source: NSS 68th round data

³¹ Strictly speaking, the benefit calculation should deduct the extra burden on the target group

because the RNR will go up as a result of the implicit subsidy. The RNR will go up to a greater extent the more the leakage that occurs to non-target households.

The data that underlie this graph are presented in Table 1 for the commodities of policy interest. In each table, the share of each commodity in total expenditure of the target group (bottom 40 percent, B40) and the non-target group (the top 60 percent, T60) is presented. This is a measure of equity.

Table 1: Categorizing Commodities according to Equity and Effectiveness Criteria

Commodity	<i>EQUITY:</i> Expenditure on commodity as share of total expenditure on all commodities		<i>EFFECTIVENESS:</i> Share of total expenditure on commodity accounted for by target group	
	Bottom 4 deciles	Top 6 deciles	Bottom 4 deciles	Top 6 deciles
Food	38.3%	25.9%	24.7%	75.3%
<i>excluding PDS subsidy</i>	36.5%	25.5%	24.2%	75.8%
Cereals	15.7%	7.0%	33.4%	66.6%
<i>excluding PDS subsidy</i>	14.2%	6.6%	30.1%	62.8%
Fuel & Light ex. Electricity	9.9%	4.4%	33.5%	66.5%
<i>excluding PDS subsidy</i>	9.0%	4.1%	32.5%	67.5%
Clothing	7.1%	5.4%	22.6%	77.4%
Medicines	4.5%	5.0%	16.8%	83.2%
Education	2.2%	6.6%	6.9%	93.1%
Electricity	2.0%	3.0%	13.1%	86.9%
Beverages(non-alcoholic)	1.6%	1.9%	16.3%	83.7%
Tobacco	1.3%	0.9%	25.8%	74.2%
Intoxicants including pan	1.2%	1.0%	21.3%	78.7%
Health (except medicine)	1.0%	2.5%	7.9%	92.1%
Gold	0.2%	1.2%	2.9%	97.1%

Note:

- 1) The consumption categories are arranged in the decreasing order of benefit-cost ratio.
- 2) The category "food" includes cereals, cereal substitutes, pulses and products, egg, fish and meat; vegetables, fruits, processed food, packaged food, salt and sugar
- 3) The category "Fuel and light excluding PDS subsidy excludes the consumption of Kerosene (PDS)
- 4) The category "cereals excluding PDS subsidy excludes consumption of Rice-PDS and Wheat/Atta-PDS

Source:

NSS

The table 1 also presents the share of the total expenditure on a commodity group that is accounted for by the target and non-target groups. This provides a measure of effectiveness because the greater the expenditure accounted for by the non-target group the more the subsidy will not reach the target group.

We can then compare how these commodities should be treated in terms of equity and effectiveness and how they are in terms of the current effective tax rate on these same commodities (Figure 2).

When measuring the tax on an exempted good, it is important to remember that the effective tax need not be zero. If a good is exempted, it will not be able to claim tax credits on the taxes embedded in it by way of the inputs that have gone into it. If rice flour is exempted, for example, the tax paid on milling will be reflected in the price paid by the final consumer. This, of course, would not be the case, if that good were charged a lower tax rate because in this case input tax credits would be availed of. In other words, the difference between a good being taxed at a lower rate say, 5 per cent and exempted could be less than 5 per cent (5-0) because of embedded taxes.³²

How do we measure embedded taxes? As part of inputs for this committee, the World Bank, as an illustrative exercise, computed the embedded taxes for 11 categories of goods for the bottom 4 and top 6 deciles based on input-output tables and detailed data for five large States: Andhra Pradesh, Gujarat, Kerala, Karnataka, and Tamil Nadu.³³ In Figure 2, the benefit cost ratio of exempting a good is shown on the Y axis and the effective tax rate on the X axis. In principle, the higher the benefit cost ratio, the lower should be the tax. The line of best fit is downward sloping, indicating that tax policy is broadly sensible.

Food, fuel, and clothing

A number of commodities are treated fairly under the current system. Thus, merit goods such as

³² So, for example, if the embedded taxes on a commodity is e (expressed in per cent), and t is the standard rate, then the effective subsidy rate of exempting a good is $(t-e)E$, where E is the total expenditure of the target group. In contrast, if that good is taxed at the lower rate l , then the subsidy rate is (this ratio should be $(t-(l-e))E$ instead) because input tax credits will be available on the embedded taxes.

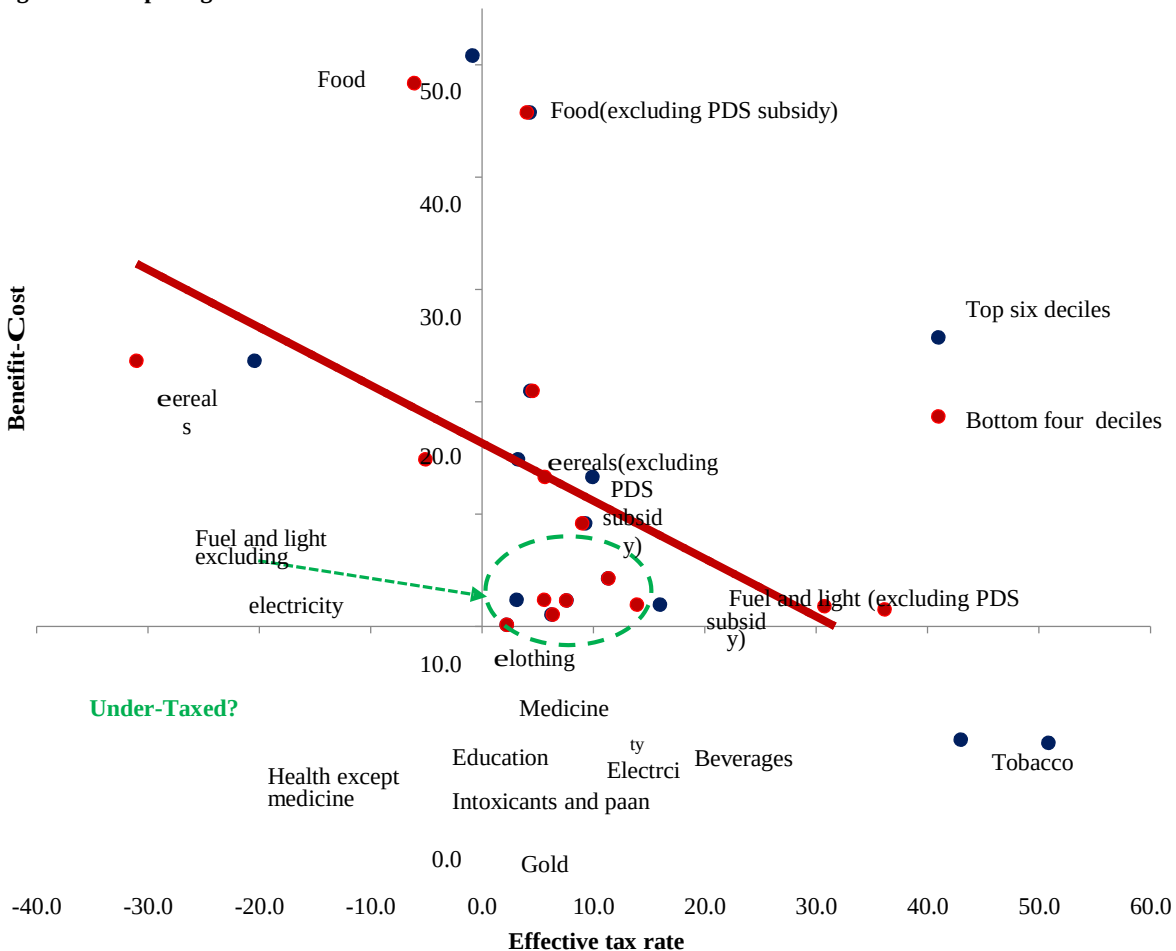
³³ The calculations in Figure 2 are somewhat tentative and subject to a number of caveats. There remains some uncertainty about the assignment of tax rates to commodities in the data in the National Sample Survey, ePI and the Input-Output table. This would have to be reviewed and refined in future work. Second, a key benefit of the GST will be the ability for producers to claim input tax credits regardless of where their inputs are produced. The calculations have not fully reflected the input taxes (except for petroleum products), and given that not all input taxes can currently be claimed this means that current tax rates are effectively higher than what is reflected. Third, another factor that would increase the effective tax rates is central sales tax on the movement of goods between States. In future work, this will need to be captured. Fourth, the calculations use 2011-12

consumption aggregates but 2015 tax rates. Finally, the calculations assume not only perfect compliance, but also ignored threshold effects. Businesses below the VAT/Excise thresholds are

not liable to collect tax, and this leads taxes to be over-estimated, especially for the B40 who would be more likely to shop in businesses below the threshold.

food items, especially cereals, pulses, edible oils, vegetables, and fuel are appropriately taxed at zero or low rates. conversely, a number of demerit goods such as alcohol and tobacco are appropriately taxed at high rates.

Figure 2: Comparing "Desirable" Taxation with Actual Taxation of Selected Commodities



Source: NSS,CBEC, World Bank and Committee's calculation

In the case of food and fuels, the PDS system helps make the system fair. For example, taking account of the PDS, the effective tax rate on the bottom 4 deciles is -7.4% for food as a whole, -32% for cereals, and -5.7% for fuel and light excluding power. The PDS has therefore served as reasonably effective social policy.

clothing is also an anomaly but not as striking as the other commodities mentioned above. It is taxed currently at about 3-3.5 percent even though it does not constitute as large an expenditure item for the poor. On balance, it warrants being taxed at the lower rate by both the center and the States.

Gold, silver and precious metals

currently, gold, silver and precious metals face no central excise and most States tax these

commodities at the non-standard rate of 1 per cent. There could be two reasons to under-tax these metals: for reasons of equity and to promote savings. Consider each in turn.

It turns out that there is very little achieved by way of equity and a high cost is paid for exempting these commodities from taxation. Figures 3 and Table 2 illustrate these points. Gold as a consumption good constitutes a small portion of the total expenditure of the poor and a much higher share of the expenditure of the rich (Figure 3). It has the characteristics of a luxury good than an essential good. For example, the richest decile spends 3.5 per cent of its expenditures on gold, silver, and precious metals. In contrast the poorest decile spends about 0.03 per cent.

Table 2 highlights how ineffective or unfair is the implicit gold subsidy. It shows the expenditure of these commodities of each decile as a share of total gold expenditures. The top decile accounts for over 63 per cent of total gold expenditure. And this is a serious under-estimate because we know that NSS is very ineffective at capturing the expenditure of the very rich. Cumulatively, the top 2-3 deciles account for an overwhelming share of total gold consumption and therefore appropriate nearly all the subsidy given to gold.

Table-2 Share of Different Deciles in Gold Consumption

Decile		% share in gold	Cumulative share
Top	1	63.4	63.4
	2	16.4	79.7
	3	6.9	86.6
	4	4.5	91.1
	5	3.4	94.5
	6	2.6	97.1
	7	1.3	98.4
	8	0.9	99.4
	9	0.4	99.8

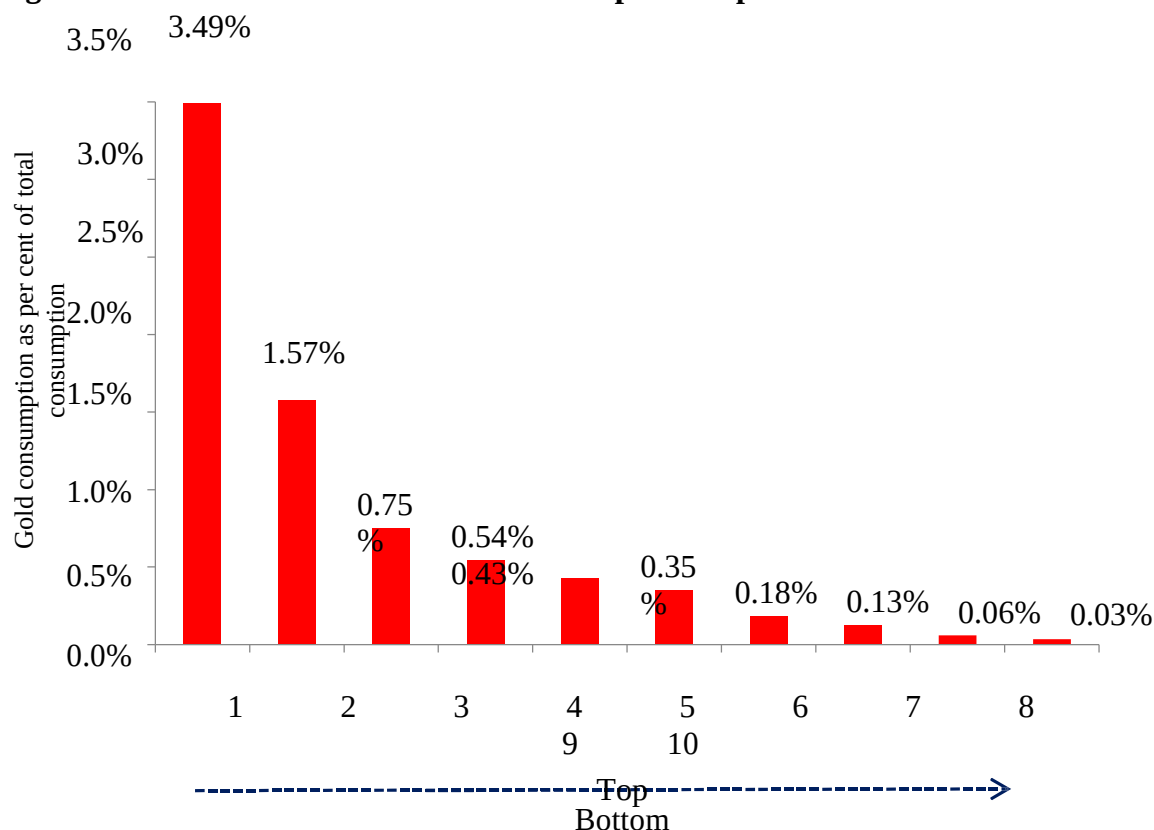
Bottom 10 0.2 100.0

Source: NSS, committee's calculation

A second reason for favouring gold and precious metals could be to promote savings. At a time when there were few savings instruments, it may have made sense to incentivize the purchase of

gold via a lower rate in order to promote savings. But today, this objective has been overtaken by two developments: on the one hand, the emphasis is on proper financial inclusion via the Jan Dhan Yojana which would also serve as the more effective means of promoting savings; on the other hand, gold far from being a desired savings instrument has become a problem, with large gold purchases and imports becoming a cause of macro-economic instability.

Figure 3- Share of Gold in the Total Consumption Expenditure of Different Deciles



Source: NSS, committee's calculation

Recognizing this, the government has recently tried to wean consumers away from gold via the gold monetization and gold bond schemes. It would be perverse and contradictory to use taxes to incentivize the holding of gold, and undo what the government is trying to do via these gold schemes. At the very least, tax policy should be neutral on consuming precious metals.

Thus, on grounds of equity and effectiveness of targeting, on grounds of consistency of policy, gold should be taxed at the standard rate (bullion can be exempted from the GST). Instead, it is taxed at 1 percent, dramatically highlighting the incongruity of policy.

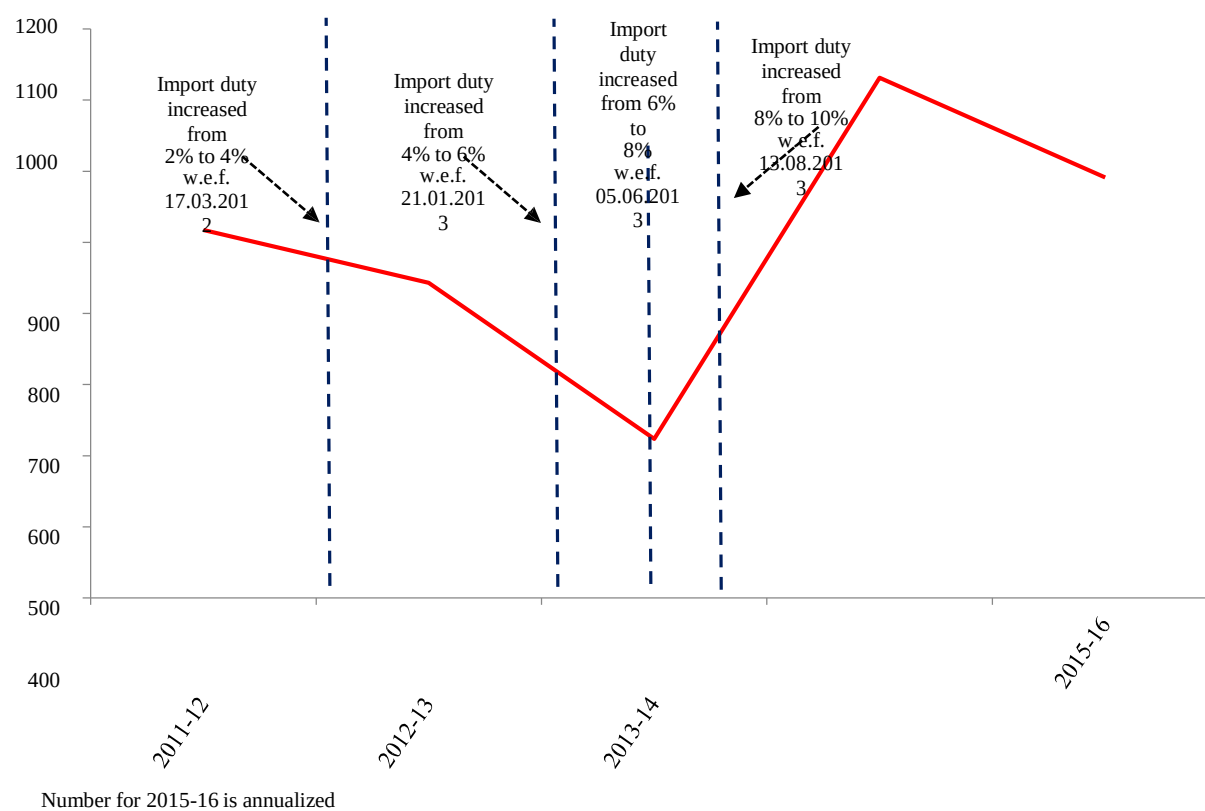
The final point to make, of course, is that the more rational gold taxation can be, the lower will

be the standard rate which will be critical in creating a buoyant and compliance friendly GST. As

shown in Table 8, the standard rate could come down to as much as 16.8 per cent if gold is taxed at 12 (6+6) per cent.

There might be concerns that increasing taxes on gold will lead to increased smuggling and evasion. This is a legitimate concern. But there is some evidence on how serious the impact of increased taxes might be. Import duties have been increased several times in the recent past on gold. These too are tax increases. In Figure 4 below, we plot the imports of official gold since 2011-12 and highlight the timing of import duty increases. The chart clearly shows that there is no seriously deleterious impact on gold imports in response to tariff increases. To some extent, there will be declines in consumption and imports if taxes increase but these are modest and manageable. The notion that there will be rampant evasion and smuggling if the taxation of gold is increased is not borne out by the data.

Figure 4: Gold imports in India (in MT)



Source: CBEC

Some key sectors have been excluded or exempt from the scope of GST. These include power, health and education probably on the grounds that these are public goods, publicly provided, and of importance to relatively poorer sections of the population. But what evidence do we have on the underlying assumptions justifying such a policy?

Figure 2 suggests that these sectors are perhaps under-taxed currently (They lie well below and to the left of the line of the best fit). The design of tax policy, thus, needs to more carefully take account of evidence. For all three sectors, the benefits of exemptions (even without taking account of any embedded taxes) for the poorer sections is small because these items constitute a small share of their total expenditure. For the top 6 deciles, these sectors are three times as important as they are for the bottom 4 deciles. Moreover, the top 6 deciles also consume such an overwhelming large share of these services (probably privately provided) that nearly all the benefits of the implicit subsidy go to the relatively well off. In the case of education, the current tax structure turns out also to be regressive, with the bottom 4 deciles effectively paying greater taxes than the top 6 deciles. These commodities deserve to be taxed more like standard goods. Yet, today, they face low taxes and they are planned to be excluded from the GST.

Thus, tax policy in the name of the poor turns out to be poor or ineffective social policy. And the cost is a tax base that is narrow, exemptions-ridden, and in the case of power, the cost also includes breaking up the value added chain because it is an important intermediate input. In the medium run, of course, direct benefit transfers or better public provision of essential services would relieve tax policy of the burden of having to meet social objectives. But even in the short run, greater attention needs to be devoted to finding better instruments of social policy, and leaving tax policy to meet broad macro-economic objectives.

Annex 1: Macro-Approach to Estimating RNR

The contemplated GST is a consumption tax of the VAT type. It would tax value added at each stage of the production-distribution chains of goods and services, with a credit/refund for taxes on inputs. The provision of a credit/refund to intermediate and capital inputs is the single most important design element of the GST; and, given the assumption of revenue neutrality, it is what mostly distinguishes it from the current system of federal/States sales and excise taxes, and what makes it a fundamental reform of the indirect tax system in India.

The revenue implication of such reform can be analyzed using a simple macroeconomic framework, written as $t = R/(e+G)$, where: t is the tax rate to be estimated, R is the revenue target, and e and G are, respectively, private and government final consumption of goods and services. In India's case, given the revenue neutrality assumption, R is equal to revenues (both federal and state) generated from existing sales and excise taxes, which India wants to replace with the GST. Assuming that R is known, policy decisions on the GST base become the centre of policy discussions and design, and are intimately linked to the estimation of the RNR.

National accounts data on final consumption, or supply and use tables can be used to estimate the equation above. They should yield similar results, but the latter provides more insight into how the GST is likely to affect various sectors of the economy, and is particularly relevant, if not necessary, when exemptions or lower rates are part of the options considered during the design phase.

The macroeconomic approach to estimating the RNR has a number of advantages relative to a methodology based on firm-level data, from tax returns or other sources. First, the existing system of sales and excise taxes, which combines federal and state level taxes, produce insufficient information

for estimating value added at the firm level for the whole economy, mainly because it is riddled with exemptions and exceptions, and administrative data are of poor quality. National accounts data provide a more accurate picture of sectoral value-added and final consumption.

Second, firm-level data do not always separate intermediate and capital inputs, which may receive different tax treatment under the GST – the methodology by A. Modi, which relies on tax returns of the corporate income tax, is interesting in that it uses depreciation schedules for income tax purposes as proxies for long-term capital consumption. Third, firm-level data rarely, if ever, contain a clear separation between supplies to export markets (which would be taxed at zero per cent under the GST), and supplies to domestic markets, which would be fully or partially taxed. Again, this is easily addressed with national accounts data.

One of the main disadvantages of the macroeconomic approach is that national accounts data do not reflect misreporting of the tax base and the tax liability, while tax returns do (implicitly). Another disadvantage is that sectoral analysis using national accounts data is usually limited, relative to firm-level data—where, for example, mixed supplies such as taxed/exempt by the same firm can be analyzed more effectively.

As noted above, estimating the RNR requires clarity on policies regarding the revenues to be subsumed by the GST and the GST base; but these are still the subject of some debate, and are likely to remain until late in the policy process. A useful analysis then consists in examining the potential revenue impact of the GST for India as a whole under various base scenarios, starting first with a very broad base. The macro approach outlined above was applied using the following formula:

$$PB = I(Y + M - X) - (1 - e)I(N + I)$$

PB is the potential GST base; Y is domestic output, (M-X) is net imports

(imports minus exports); $(N+I)$ is consumption of intermediate and capital inputs; e is the exempt output ratio (i.e. the tax base associated with inputs used in the production of exempt final consumption); and the summation is over 140 goods and services and 66 sectors, based on 2011-12 national accounts. The following assumptions were made: (1) full compliance; (2) full pass-through of the GST into prices; (3) no behavioral response; (4) the GST has a single positive rate, and a zero rate on exports.

Under a standard scenario exempting health, education, financial intermediation and public administration, the GST potential base is 59 of GDP. Exempting basic food items in addition (essentially unprocessed foods) reduced the potential base to 55 of GDP. However, exempting petroleum or electricity increases the potential base to 67 of GDP—given that such items are largely consumed as inputs rather than final consumption, their exemption increases the base due to cascading. These estimates suggest that the GST RNR rate, assuming maximum revenue to be replaced of 6 of GDP, ranges between 9 and 11.

Among the assumptions listed above, compliance is perhaps the most important factor to consider. Although the design of the GST is likely to improve compliance—even assuming no changes in administration, the federal-state coordination of the GST will improve information for cross-verification, especially regarding inter-state transactions—experience suggests that some losses to poor compliance and enforcement should be expected. Losses in the order of 10 to 20 of potential revenues are common in OECD countries; assuming 20 increases the range of the RNR from 9-11 to 11-14.

In summary, this analysis suggests that the GST RNR rate ranges between 10 to 15, depending on key policy choices regarding exemptions, and a compliance rate of about 80 of potential GST revenues.

Annex 2: Indirect Tax Turnover-based approach to estimating RNR

The taxes to subsumed into GST and the corresponding revenues earned are summarised in Tables 1 and 2 below. The reported revenue for the Centre includes the entire revenue from Tobacco products. However, since a part of the revenue on tobacco products is to be realized through non-rebatable excises, for the purposes of the present exercise, it is assumed that one fourth of the revenue from tobacco products would be realized from GST.

Table 1: Summary of Revenue to be compensated for all States combined

(Rs crore)

Tax Heads	Revenue to be Compensated
eST (including ITe adjustment)	38338
VAT & Sales Tax (excluding Non-VAT)	278232
Non VAT (collected on services/works contract)	1047
Entertainment Tax	2138
Lottery, Betting & Gambling	608
Luxury Tax	1946
Entry Tax not in lieu of octroi	15896
Entry Tax in lieu of octroi	20772
Toll tax not in lieu of service charges	552
cesses & Surcharges	4742
Advertisement Tax	1
Purchase Tax	4559
ITe Reversal	11677
TOTAL	535722
Revenue to be Compensated (4 per cent)	407167
Revenue to be Compensated (2 per cent)	368829

To derive the tax base for GST, we have broken down the exercise into two parts – one, to derive the base corresponding to goods, we have used the revenue collections from individual States, the tax rates applicable in these States and some assumptions based on discussions with States regarding the composition of turnover taxable by the 1 per cent rate, the lower rate and the

standard rate. The assumptions adopted are 2 per cent of total base taxable at 1 per cent, 56.15 per cent taxable at the lower rate and the rest taxable at the standard rate. For each state, taxes have been classified into two groups – taxes, the base of which can be added to the taxable base in GST and taxes, whose base might not add to the taxable base under GST. The first category we have VAT, entry tax not in lieu of octroi, entertainment tax. Rest of the levies are classified in the second category. This is because, taxes such as entry tax in lieu of octroi would be levied over and above VAT or GST and hence would not provide additional base to the tax. Similar would be the case of purchase tax for instance. VAT revenue is further bifurcated into revenue from commodities which will be brought into tax under GST and those that would remain outside the base, i.e, liquor, diesel, petrol and ATF. We have used weighted average tax rates for the estimation of taxable turnover from the data on tax collected under entry tax not in lieu of octroi and VAT excluding those which would not form part of the GST, viz., liquor, diesel, petrol and ATF. Further, since state VAT is applied on a base inclusive of excise duty, the base is deflated by 1.1236 to derive the base net of taxes.³⁴ To this is added an estimate of

Table 2: Revenues of the Central Government: 2013-14 (Rs crore)

S. No.	Type of duty	Shared with States	Not shared with States			Total	Tobacco correction
		Basic	Need	Education cess*	Others		
1	CE duty						
a)	Non Pol (excluding Tobacco products)	53672	1913	2441	2675	60701	
b)	Tobacco products	14855	1319	528	1153	17855	44637.5
	Total CE duty {Non Pol} [a)+b)]	68527	3232	2969	3828	78556	
2	CvD (Non-Pol)	77965	479	3663	883	82990	
3	SAD (Non-Pol)	24837	0	0	0	24837	
4	Service Tax	150417	0	4319	0	154736	
5	TOTAL	321746	3711	10951	4711	341119	
6	Total revenue to be compensated					327728	

6i	Non Tobacco revenues to be compensated					323264	
6ii	Tobacco products revenue at 10 per cent					4463.75	

Note: * includes secondary and higher education cess.

Source: Provided by eBEe.

³⁴ The headline rate of tax for central excise was 12.36 per cent in 13-14. the likely base from entertainment tax assuming the tax rate is 30 per cent. This gives us the base corresponding to the taxation of goods under GST. Adding across all States, we get a base for the goods part of GST.

Turning to the services component, to derive the total turnover of services that would be subject to GST, we have used two data sources: the activity code wise information on sales from the MeA database and the turnover derived from the service tax collection. The MeA data needed some cleaning and updation which is summarised below.

In this database, the activity codes assigned to companies was as per 2004 NIE code. On examining the data it was found that some companies did not have a valid activity code as per the NIE classification. Further, since the data for 2013-14 appeared incomplete since fewer companies were reflected for 2013-14 when compared to 2012-13, the data available for 2013-14 has been augmented by using information from 2011-12 and 2012-13. Before attempting these corrections, it would be useful to examine the data that is available for each of these years.(Table 3) The total number of firms reporting data in 2011-12 and 2012-13 appear to be much larger than those reporting for 2013-14. However, if one compares the number of firms with valid activity code and working in the supply of services, the differences are not that large – 3.56 lakh in 2012-13 as against 3.25 lakh in 2013-14. A comparison of turnovers suggests that while the overall turnovers in 2011-12 and 2012-13 are higher than those in 2013-14, the turnover of firms reporting to be service providers with a valid code is comparable to the

turnover available for 2013-14.

Table 3: A comparison of MeA data

	2011-12	2012-13	2013-14
Number of Firms			
1. Firms with no valid code	34720	34059	21996
2. Firms not engaged in services	169042	175154	0
3. Firms in services	331124	356752	325013
4. Firms in service but not included due to	71813	76128	0
Total	606699	642093	347009
Turnover (Rs crore)			
1. Firms with no valid code	1058035	22941162	730001
2. Firms not engaged in services	50129647	14171531	0
3. Firms in services	3062734	3778774 ³⁶	3412732
4. Firms in service but not included due to coverage	1043559	1161634	0
Total	55293975	42053102	4142732

Source: computed from data provided by Ministry of corporate Affairs

Using the concordance tables, companies first are classified as per the Nle code for 2008. Further, since it was noted that a number of companies which filed returns in 2012-13 did not file returns in 2013-14, an attempt is made to undertake some corrections to get a more comprehensive base for 2013-14. These are discussed below.

Step 1: For all companies reporting information in 2012-13 but not for 2013-14 and had a valid activity code, the data from 2012-13 has been extrapolated using the average growth rate for 2013-14 when compared to 2012-13.

Step 2: For all companies for which there was no description and/or no valid activity code, all companies with turnover above Rs 100 crore have been individually explored and classified into an appropriate activity code. These companies account for 89.88 per cent of the total turnover of uncoded companies.

³⁵ companies associated with electricity, gas and steam and construction for instance are excluded from the analysis

³⁶ Data for one company appeared spurious it increased from Rs 89 crore in 2012-13 to Rs 115 lakh crore in 2013-14 and then dropped to Rs 180 crore in 2013-14. For purposes of comparison this value was corrected.

Table 4 below summarises the numbers after each of these steps and Table 7 provides estimates of the size of the additional base subsequent to all corrections using MeA database.

Table 4: Computing Total Turnover for the year 2013-14

(Rupees in crore)	
Steps	Turnover
1.Data provided for 2013-14	3412732
2.Including companies for which data from 2012-13 was extrapolated for companies with valid activity code	3974753
3.Turnover without activity code in 2012-13	1511747
4.Turnover classified through assigning activity codes in 2012-13	1358755
5.Taxable turnover from step 4 (in 12-13 prices)	377204
6.Taxable turnover in 13-14 prices	405707
7.Total turnover from Me after all corrections (2013-14)	4083607

This information relates to companies alone. Since the tax would be payable by non-corporate service providers as well, we have used information from service tax collection to correct any shortfall from the MeA related estimates. Further, for all the services, two kinds of adjustments have been made, viz., deduction for taxable inputs used for service provision and deduction of services provided when used as inputs into taxable activities. For these corrections, the input-output table for 2006-07 has been used to derive service specific input-output ratios (see table 5).

In addition to the above, there are three sector specific corrections made in the data

1. For computer related services, it has been argued that a sizeable part of the turnover is associated with exports- this component will not add to the taxable base for GST. Based on an IBEF study, the domestic supply of computer services is 30 per cent of total sales value of computer related activities and hence this 30 per cent is included in this study for arriving at the net additional base available for taxation.
2. From decisions taken so far, it appears that taxation in the real estate sector would be limited to the extent to which it is taxed today through taxation of works contracts and pre-completion sales of properties. To incorporate this view, the turnover from service tax collections is given primacy.
3. For financial services, there are two difficulties. First, the coverage of financial services tends to be incomplete being largely limited to fee based services. The present regime of taxation of financial services within Service Tax too is of this form. There is no clear indication to suggest that a radically new approach would be adopted in the proposed GST regime. Therefore, the base corresponding to the present service tax regime is considered a more appropriate base to incorporate into GST RNR estimation in both cases- PROWESS and MeA based estimates. Second, as per the input output table, more than 80 per cent of total financial services are used as inputs. But since a significant part of financial services are in the form of embedded services, the possibility of taking input tax credit can be limited. So using the ratio of FISIM to total financial services, the extent of financial services used as inputs is reduced from 80 per cent to 50 per cent.

In addition to the above, since services provided by railways are not captured within either of these methods, the base is augmented to the

extent of passenger services and transport of exempt services.³⁷

³⁷ Transport of taxable services is not included since this would be a wash transaction – while railways would collect revenue, the taxpayer who pays this tax would claim credit against subsequent transactions.

Table 5: Input coefficients and the Adjusted Base: MeA Database

NIe 2008	Range	Taxable i-o ratio	Share of sales used as inputs	Net additional base available for taxation
19	Bottling of LPGLeNG		1	0
35	Power transmission line infrastructure		1	0
46	Trade		1	0
47	ecommission agent services & Retail outlets		1	0
491	Rail Transport	0.1582	0.8175	1553
492	Road Transport	0.1130	0.5328	24979
493	Transport via Pipeline	0.1130	0.5328	16376
50	Water Transport	0.1803	0.4931	5778
51	Air Transport	0.2265	0.4523	24462
521	Storage and Warehousing	0.0739	0.9894	1397
522	Other transport service activities	0.0624	0.6605	4910
55	Hotel and Restaurant	0.1833	0.1887	36394
61	Post & Telecommunication	0.1020	0.7716	49069
62 & 63	ecomputer related activities	0.0425	0.1256	116242
64, 65 & 66	Banking and other financial services	0.0361	0.6151	110927
42, 68, 77	Real Estate	0.5523	0.4202	126995
72 & 85	Research & Development and Education	0.0075	0.0112	50295
70, 73, 74, 78, 79, 80 & 82	Business services	0.0788	0.9947	7550
84	Public administration	0.0000	0.0000	3781
86	Health	0.2256	0.0231	2177
93, 94	O.com, social & personal services	0.1123	0.4170	43668
	Others l Undifferentiated services	0.0765	0.3567	118838
Total				745390
Total after all corrections³⁸				853235

The total base for GST from the above methods therefore can be summarised as; The RNR corresponding to the proposed design, with eST compensated at 2 per cent is summarised in the table below. The results presented contain four scenarios. The GST bill proposes that in the short term, the States would be enabled to levy a 1 per cent tax on inter-state

³⁸ Two corrections are incorporated here – correction for revenue from railways and

for base corresponding to restaurants which is already included in the base for goods computed from the state side.

sale of goods. Scenario 1 presents a case where there is no such levy while scenario 2 presents the case where such a levy does exist. Further, in each of these cases, the results report an RNR for whether there is a single rate GST or a two rate GST. In single rate case, the entire base is taxed at the same rate. In the two rate case, the base currently taxed at the lower rate and 1 per cent in the States is retained in the same categories and the rest of the base is taxable at the standard rate. The lower rate is assumed to be 6 per cent for Centre and 6 per cent for the States.

Table 6: Additional base for GST: Alternative estimates

	Value (Rs crore)	As of relevant GVA
Incremental Services Base (MeA)	853235	15.87
Services GVA (2011-12 series)	5376045	
Total GST Base (MeA)	3936610	37.57
GVA Total	10477140	

Table 7: Revenue Neutral Rates: Alternative Scenarios

	2 per cent	
	Single rate	Standard rate
Scenario 1		
Centre	8.33	10.42
State (Average)	9.37	12.34
Total	17.69	22.76
Scenario 2		
Centre	8.33	10.42
State (Average)	8.88	11.44
Total	17.21	21.86

To consider an alternative case within scenario 1, if one proposes a 30 per cent tax on all transport vehicles (15 per cent for the Centre and 15 per cent for the States), and retain only the 1 per cent tax on gold and bullion, what will the RNR look like. From the National Accounts Statistics, output of manufacturing in organised sector in transport equipment is Rs 652251 crore. Assuming that value added subsequent to manufacturing, including trader margins and transport costs is 10 per cent of this value, the value of sales of transport vehicles is Rs 717476 crore.³⁹

³⁹ The figures for exports and imports for transport vehicles suggest that there is a net export in this segment. If this be the case then the downward correction in the RNR would be smaller.

Assuming that this part of the base is taxed at 15 per cent each by both Centre and States, the RNR got the rest of the base would be 6.81 per cent for the Centre, 8.09 per cent for the States adding up to 14.91 per cent overall as compared to 17.69 per cent reported above.

To understand what these numbers indicate, it would be useful to look at the composition of the revenues from the States. The composition indicates that 19 per cent of the revenue to be compensated is not adding to the taxable base for the States. Now if the RNR exercise were to be undertaken only with the first set of taxes, then the RNR for the States would turn out to be considerably lower than if we sought to find the resources to compensate for all the other taxes in category II as well. (Table 9)

Table 8: Decomposition of state revenues

I. Revenue adding to base, of which	297312
a. VAT	279278
b. Entry tax not in lieu of octroi	15896
c. Entertainment tax	2138
II. Revenue not adding to the base, of which	71517
a. eST	38338
b. Lottery, betting and gambling	608
c. Luxury tax	1946
d. Entry tax in lieu of octroi	20772
e. toll taxes	552
f. cesses and surcharges	4742
g. Advertisement tax	1
h. purchase tax	4559

Considering the single rate case in scenario 1 above, the RNR excluding revenues from II above would be 7.55 per cent with the overall RNR being 15.88 per cent. Assuming that the rate structure for taxation in the state is 1 per cent, 5 per cent and 12.5 per cent, on bullion, lower rate and standard rate, the corresponding average statutory tax rate would be 9.05 per cent incorporating the fact that VAT is levied on a base inclusive of excise. In other words, the RNR gets placed below the average tax rate. On the other

hand, if one sought to find resources for all the taxes incorporated in category II, then the RNR increases to 9.37 for the States and 17.69 overall.

Table 9: Impact on RNR of design of GST

	State rate	Overall rate
RNR excluding II	7.55	15.88
Effective tax rate for States	9.05	
RNR for finding revenue for II as well	9.37	17.69

Annex 3: Direct Tax Turnover Approach to Estimating RNR

At the producer level, the GST base is equivalent to the value added which is the value that a producer adds to his raw materials or purchases before selling the new or improved product or service. That is, the inputs (the raw materials, transport, rent, advertising, and so on) are bought, people are paid wages to work on these inputs and, when the final good or service is sold, some profit is left. So value added can be looked at from the additive side (wages plus profits) or from the subtractive side (output minus inputs).

2. Value added = wages + profits = output – input. If the tax rate on this value added is 't',

there are four basic forms that can produce an identical result:

- 1) t (wages + profits) : the additive – direct (accounts) method;
- 2) t (wages) + t (profits): the additive – indirect method⁴⁰,
- 3) t (output – input) : the subtractive – direct (accounts) method; and
- 4) t (output) – t (input) : the subtractive – indirect (the invoice or credit) method.

3. While there are four possible ways of levying a VAT, in practice, the method used (number 4) never actually calculates the value added; instead, the tax rate is applied to a component of value added (output and inputs) and the resultant tax liabilities are subtracted to get the final

net tax payable. This is sometimes called the "indirect" way to assess the tax on value added. Since in actual practice, input tax credit will be allowed only on the basis of invoice, we use the subtractive – indirect

⁴⁰This method is so called because value added itself is not calculated but only the tax liability on the components of value added is calculated.

method for calculating the GST base and the consequential, revenue neutral rate (RNR). The present exercise is an attempt to calculate the single RNR using this method. Mathematically,-

$$\begin{aligned}\text{Total Revenues (R)} &= t^* (\text{output}) \\ &\quad - t^*(\text{inputs}) \\ &= t^* (\text{output} - \text{inputs}) \\ &= t^* (\text{Base})\end{aligned}$$

or, Single RNR, '**t**' = R I Base

4. For the purpose of estimating the RNR, we use the extensive producer level data in the form of profit and loss accounts available with the Income Tax Department. These accounts relate to 94, **31, 508 business entities** for the financial year ending on 31st March, 2013 (financial year 2013-14)⁴¹. These entities comprise of all companies, partnership firms and proprietorships but do not include charitable organizations. The activities of these entities are classified into 10 sectors and further sub classified into 75 sub-sectors. We assume that these 94, **31, 508 entities** constitute the universe of the GST taxpayers. This sample does not include taxpayers who have filed their tax returns in paper form⁴² or engaged in charitable activities or wholly engaged in agriculture. The summary of the data is presented in Table 1.

5. The computation of the GST base under the SI method involves the following steps:

- a. The receipt items on the credit side of the Profit and Loss Account, which would be liable to output tax, are identified and appropriately

adjusted for indirect taxes to arrive at the '**value of supply of domestically produced goods and services (net of indirect taxes)**' (hereinafter referred to as '**net value of supply of domestically produced goods and services**');

⁴¹ These accounts have been electronically filed with the Income Tax Department along with their return of income for assessment year 2014-15. They relate to returns filed up to 30th June, 2015.

⁴² This does not affect the estimation results since these are very small taxpayers with low turnover; therefore, they are likely to be below the threshold limit of Rs 40 lakh envisaged under the GST.

- b. Since imports are liable to GST at the point of importation, the '**value of imports**' is aggregated with the '**net value of supply of domestically produced goods and services**' to arrive at the '**net value of domestically available goods and services**'.
- c. Since exports are zero rated in a GST regime, the value of exports is reduced from the '**net value of domestically available goods and services**' to arrive at the '**net value of goods and services available for domestic consumption**' or the '**aggregate output tax base**'.
- d. Similarly, the expense items on the debit side of the Profit and Loss Account, in respect of which input tax credit would be potentially available, are identified and appropriately adjusted for indirect taxes to arrive at the '**value of purchase of intermediate goods and services**'.
- e. Under the GST Model, full and immediate input credit is proposed to be allowed for GST paid on purchase of capital goods in the year of purchase. Therefore, the '**value of purchase of capital goods**' is aggregated with the '**value of purchase of intermediate goods and services**' to arrive at '**gross value of purchase of intermediate goods and services**'.
- f. Since no input tax credit would be available in respect of

purchases made from unregistered dealers, the '**value of purchases from the unregistered dealers**' is reduced from the '**gross value of purchase of intermediate goods and services**' to arrive at the '**aggregate input tax base**'.

- g. Under the proposed GST Model, several sectors will be exempt from the scope of GST; these are petroleum, land component of real estate, the interest component in the financial sector, electricity, gem and jewellery, education and health services, and agricultural produce. Reflecting this, appropriate downward adjustments have been made to both the output and input tax base.
- h. The threshold limit is proposed to be increased to Rs 40 lakh for both goods and services. Therefore, appropriate downward adjustment to the GST base is made to also reflect this.
- i. The '**aggregate output tax base**' is reduced by the '**aggregate input tax base**' to arrive at the '**GST Base**'.

Table 1: Summary of Data

Sl. No.	Description	Unit	All Sectors	Taxable Sectors
A	Sample Size	in nos	9431508	9087529
B	Net value of supply of domestically produced goods and services			
1	Sale of Goods	Rs. In crs	18055276	15180098
2	Sale of Services	Rs. In crs	2818183	2764294
3	Other operating revenues	Rs. In crs	896139	889567
4	Financial services (in case of finance company) excluding interest commission	Rs. In crs	49998	49991
5	Other income	Rs. In crs	63526	63480
6	(excluding rent, interest, dividend, profit on sale of fixed assets, profit on sale of securities liable to STT, profit on sale of other investments, agricultural income and profit on account of currency fluctuation)		336661	332841
7	Total	Rs. In crs	22219783	1928027
C	Purchases from Primary and Secondary Sector			
1	Purchases (net of refunds and duty or tax, if any) including primary goods	Rs. In crs	14879025	
	12969557			
D	Specified services			
1	Freight	Rs. In crs	300557	282113
2	consumption of stores and spare parts	Rs. In crs	241393	214741
3	Repairs to building	Rs. In crs	23320	21642
4	Repairs to machinery	Rs. In crs	99921	81977
5	Insurance	Rs. In crs	31067	28232
6	Workmen and staff welfare expenses	Rs. In crs	46761	43121
7	Entertainment	Rs. In crs	1469	1401
8	Hospitality	Rs. In crs	1385	1336
9	conference	Rs. In crs	2421	2306
10	Sales promotion including publicity (other than advertisement)	Rs. In crs	55018	53507
11	Advertisement	Rs. In crs	67801	66471
12	commission	Rs. In crs	65424	63818
13	Royalty	Rs. In crs	36562	34021
14	Professional fees consultancy fees Fee for technical services	Rs. In crs	102244	93883
15	Hotel, boarding and Lodging	Rs. In crs	12055	11943
16	Traveling expenses other than on foreign traveling	Rs. In crs	69477	66842
17	Foreign traveling expenses	Rs. In crs	12656	12387
18	conveyance expenses	Rs. In crs	24968	23963
19	Telephone expenses	Rs. In crs	27831	27003
20	Guest House expenses	Rs. In crs	499	449
21	club expenses	Rs. In crs	137	128
22	Festival celebration expenses	Rs. In crs	1200	1166
23	Gift	Rs. In crs	414	374
24	Audit fee	Rs. In crs	7290	7042
25	Total (D1 to D24)	Rs. In crs	1231869	1139866
E	Miscellaneous Services			
1	Other expenses	Rs. In crs	2211903	1723601
F	Total value of inputs on which input tax credit could be available	Rs. In crs	18322797	
		15833024		

6. The "**net value of supply of domestically produced goods and services**" is the aggregate of the value of (i) sale of goods; (ii) sale of services; (iii) other operating expenses; (iv) financial services (excluding interest) provided by financial companies; (v) commission; and (vi) other income. The item 'other income' as reported in the accounts excludes rent, interest, dividend, profit on sale of fixed assets, profit on sale of securities liable to STT, profit on sale of other investments, agricultural income and profit on account of currency fluctuation. In practice, a large number of professional entities report their gross receipts under this item since they do not view themselves as carrying on business or engaged in sales. Since all goods and services (except a small negative list) are proposed to be included in the GST base, the value of supply of goods and services must therefore, include the item 'other income'. However, receipts by way of rent, dividend, interest, profit on sale of fixed assets, profit on sale of investment liable to STT, profit on other investment, profit on currency fluctuation and agricultural income have been excluded from the value of the supply of goods and services because either they represent accretion to savings or have been effectively netted out in the calculation of the input base eligible for input tax credit.

7. The "**net value of supply of domestically produced goods and services**" by all sectors is estimated to be Rs. **222,19,873 crore** in the financial year 2013-14. However, diamond cutting, petroleum, rice and flour mill and power and energy sectors (hereafter collectively referred to as "exempt sectors") are proposed to be exempt from GST. After adjusting for the "exempt sectors", the "**net value of supply of domestically produced goods and services**" for the taxable sectors is estimated to be **Rs 192,80,272 crore**.

8. Input tax base comprises of all goods and services used as intermediate inputs in the production of goods and services and on which output tax has been paid. The '**value of purchases of intermediate goods and services**' by **all sectors** is the aggregate of the

expenditure on items listed in Table-1. These purchases can be classified as purchases from the primary sector, secondary sector and tertiary sector. The aggregate of purchases by all entities from these three sectors is estimated to be Rs 183, 22,797 crore during the financial year 2013-14. After adjusting for the exempt sectors, the aggregate of purchases by taxable sectors is estimated to be Rs 158, 33,024 crore.

9. In the case of **purchases from the primary sector** (i.e. primary goods) like cereals and plantation crops, no input tax credit would be allowed since these goods would be exempt from GST. If for some reason, the agriculturist falls within the scope of the GST, he would be liable to collect GST for which the purchaser in our sample would be eligible to claim input credit. However, agriculturists do not ordinarily file an income tax return, and therefore, their sales do not form part of the output base estimated above. In either case, purchases of primary goods in this exercise would not be entitled to any input tax credit. The value of such purchases by the taxable sectors is estimated to be Rs.11, 04,545 crore during the financial year 2013-14.

10. As regards **purchases from secondary sector** is concerned, they are generally made from both registered and unregistered dealers. To the extent these are acquired from registered dealers, full input tax credit would be available. However, where purchases of trading goods and raw materials are made from unregistered dealers, no input tax credit would be available since no output tax would have been paid by the registered dealer purchaser. Since there is no bifurcation of purchases from registered and unregistered dealers in the Profit and Loss Accounts, the amount of purchases from unregistered dealer needs to be estimated. Based on anecdotal information, it is estimated that 10 per cent of the purchases of trading goods and raw materials from the secondary sector is acquired from unregistered dealers on which no input credit would be available. The value of such purchases from unregistered dealers, by taxable sectors, is estimated to be Rs 11, 86,501

cores during the financial year 2013-14.

11. Similarly, value of **specific services and miscellaneous services purchased** by taxable sectors, from unregistered dealers, are estimated to be 25 per cent and 40 per cent, respectively. This translates to Rs 4, 36,619 crore and Rs 6, 89,440 crore, for specific services and miscellaneous services, respectively. The aggregate purchase of services from unregistered dealers is determined at Rs 11, 26,059 crore.

12. Accordingly, the '**value of purchases from unregistered dealers**' in 2013-14 for taxable sectors is determined at Rs.23, 12,560 crore. Since no input tax credit would be allowed on these purchases, the same is deducted from the value of purchases of intermediate goods and services for determining the GST base.

13 In the design of the GST, several **exemptions** are envisaged. In particular, these relate to primary goods including unprocessed food, health, education, petroleum, land component of real estate, alcohol and power and energy. The impact of these exemptions has been factored in the calculation of GST. In the case of some of these exemptions, the producers are not required to file their income tax returns and, therefore, do not form part of the sample. Accordingly, while no adjustment is required to be made to the output tax base, a downward adjustment has been made to the input tax base. In all other cases, downward adjustment has been made to both the output tax and input tax base.

14. In terms of the proposed GST Model, the tax base will include **real estate** to the extent that the present scheme of taxation will continue. In the light of this, the value of rental services has been excluded from both the output tax and the input tax base. However, in the case of land, no information is separately available for the amount embedded in real estate services. Since the value of land is included in both the output tax and input tax base, this

amounts to a wash transaction having no impact on the GST base.

15. Under the GST, a **threshold exemption** is proposed to be provided for registration of dealers. Since no decision has yet been taken on the level of the threshold exemption, we assume that the same will be fixed at Rs 40 lakh. Table -2 shows the distribution of taxpayers across turnover. As would be noted, there are 7442736 dealers with turnover below Rs 40 lakh accounting for a total turnover of Rs 3,00,377 crore only. Effectively, 79 per cent of the total dealers accounting for approximately 1.35 per cent of the total turnover base will remain outside the GST net. Calculated on a pro-rata basis, the value addition by these dealers is estimated at Rs 63,109 crore and the GST base is reduced accordingly.

16. The comprehensive GST is intended to bring within its fold **rail transport services** also. The rail transportation sector is entirely under the Ministry of Railways which is not required to file a tax return. Therefore, the sample does not include rail services. Accordingly, based on the information contained in the National Accounts (2014), the GST Base in respect of rail services is estimated at Rs 79,759 crore.

17. In the light of the aforesaid discussions, the step-wise calculation of the GST Base for base year 2013-14 is presented in Table -3. As would be noted, **the GST base is determined at Rs 58, 15,262 crore.** The implicit value addition is estimated to be 31 per cent of the total output tax base. **Consequently, the RNR for the Centre and the State is estimated to be 5.64 per cent and 6.34 per cent, respectively. The combined RNR is determined at 11.98 per cent.**

Table 2: Distribution across Turnover

Turnover	Corporate		Non-corporate		Total	
	Number of cases	Total Turnover (in Rs. crs)	Number of cases	Total Turnover (in Rs. crs)	Number of cases	Total Turnover (in Rs. crs)
Less than 0	0	0	0	0	0	0
Between 0 and Rs 10 lakh	356036	3186	6077867	81777	6433903	84964
Between Rs 10 lakh and Rs 25 lakh	35152	5898	647707	105854	682859	111751
Between Rs 25 lakh and Rs 40 lakh	21875	7010	304099	96652	325974	103662
Between Rs 40 lakh and Rs 1 crore	51385	34476	616905	412195	668290	446671
Between Rs 1 crore and Rs 2 crore	41455	59682	461638	653155	503093	712837
Between Rs 2 crore and Rs 5 crore	48910	158340	378129	1182874	427039	1341213
Between Rs 5 crore and Rs 10 crore	31696	226691	155235	1081062	186931	1307752
Between Rs 10 crore and Rs 100 crore	60571	1891079	124932	2800947	185503	4692026
Above Rs 100 crore	14130	12579433	4186	1146675	18316	13726108
Total	661210	14965794	8770698	7561190	9431908	22526984

Table 3: Estimate of RNR for GST: SI Method

		Unit	Amount
A Sample Size		Nos	9431508
B Output Tax Base			
1	Net value of supply of domestically produced goods and services	Rs. In crs	22219783
2	Value of imports	Rs. In crs	1744465
3	Total value of goods and services (1+2)	Rs. In crs	23964248
4	Value of supply by exempt sectors	Rs. In crs	2939511
5	Value of exports	Rs. In crs	2177633
6	Aggregate Output Tax Base (3-4-5)	Rs. In crs	18847105
C Input Tax Base			
1	Value of purchase of capital goods	Rs. In crs	606609
2	Value of purchase of intermediate goods and services	Rs. In crs	18322797
3	Gross value of intermediate goods and services (1+2)	Rs. In crs	18929406
4	Value of purchases by exempt sectors	Rs. In crs	2489773
5	Value of purchases of primary goods	Rs. In crs	1104545
6	Value of purchases from unregistered dealers	Rs. In crs	2312560
7	Aggregate Input Tax Base (3-4-5-6)	Rs. In crs	13022528
D	Estimated value addition by dealers below threshold exemption of Rs 40 lakhs	Rs. In crs	63109
E	Estimated value addition attributable to alcohol sector	Rs in crs	25965
F	Estimated value addition by Rail Sector		79759
G	GST Base (B6-C7-D-E+F)	Rs. In crs	5815262
H	Revenues to be compensated		
1	Centre	Rs. In crs	327728
2	States	Rs. In crs	368829
3	Combined (1+2)	Rs. In crs	696557
I	Revenue Neutral Rate (RNR)		
1	Centre	in percent	5.64
2	State	in percent	6.34
3	Combined	in percent	11.98
J	GST Productivity Ratio	11345056	0.51
K	GST e-Efficiency Ratio	9698671	0.60

Annex 4: The Possible Impact of the GST on Small Scale Industries (SSIs)

Sl. No.	Description	Existing Position	Under GST	Remarks
1	Central tax rate			
	a. Output	12	8	We assume that the GST rate would be 8 percent each for Centre and States
	b. Input	12	8	
2	State tax rate			
	a. Output	13.5	8	
	b. Input	5	8	
3	Base value of Inputs	60	60	
4	UED on Inputs	7.2	4.8	
5	Value of inputs for State VAT	67.2	60	
6	Input VAT	3.36	4.8	
7	Value Addition	32.8	32.8	We assume that the value addition is 32.8
8	Base value of Output (Row 3 + Row 7)	100	92.8	In the existing regime, the output is and no input credit is allowed. UED on inputs become a cost for the taxpayer therefore included as part of value addition.
9	UED on Output	0	7.42	no UED on output
10	Output VAT (Row 8 * Row 2a)	13.5	7.42	
11	Aggregate Value addition (excluding embedded taxes, if (Row 3 + Row 7)	92.8	92.8	
12	Price to the consumer (Row 8 + Row 9 + Row 10)	113.5	107.65	
13	Combined Tax Incidence (Row 9 + Row 10 plus Row 4 if Row 9 is zero)	20.7	14.85	
14	Rate of tax incidence (Row 13 divided by Row 11)	22.31%	16.00%	

Note: Under GST, the tax incidence on small-scale industries would be lower in spite of withdrawal of exemption. Similarly the price of the products manufactured by SSIs would be lower under the GST regime if the SSIs pass on the benefit of lower tax incidence to consumers. Alternatively, their profitability would increase. Therefore, the new GST regime without SSI exemption will be more beneficial to SSIs.

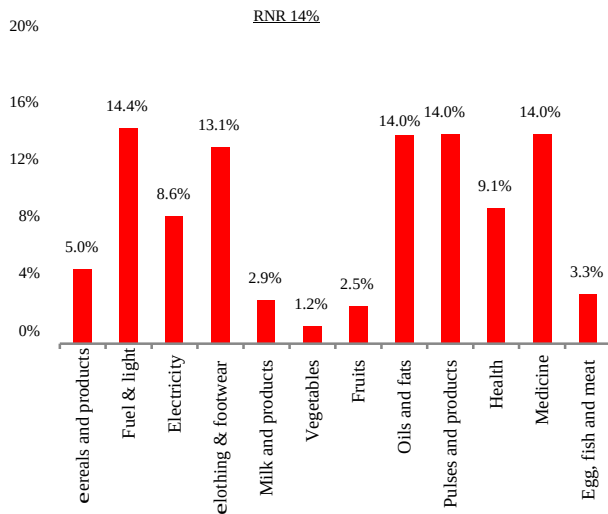
Annex 5: Effective tax rates by commodities under 3 GST scenarios

Figure 1 (Scenario 1: a single rate GST of 14%)

Figure 2 (Scenario 2: a dual-rate GST, with a low rate of 12%, a standard rate of 18%, and a high rate of 35%)

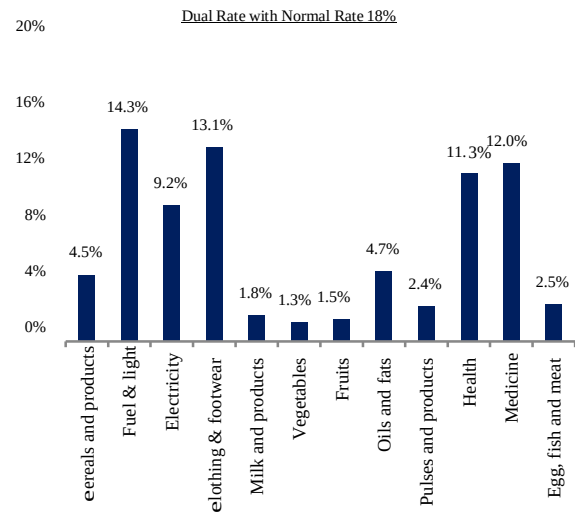
Figure 3 (Scenario 3: Scenario 2 with just the standard rate changed to 22%).

Figure 1: Effective tax rates in Scenario 1



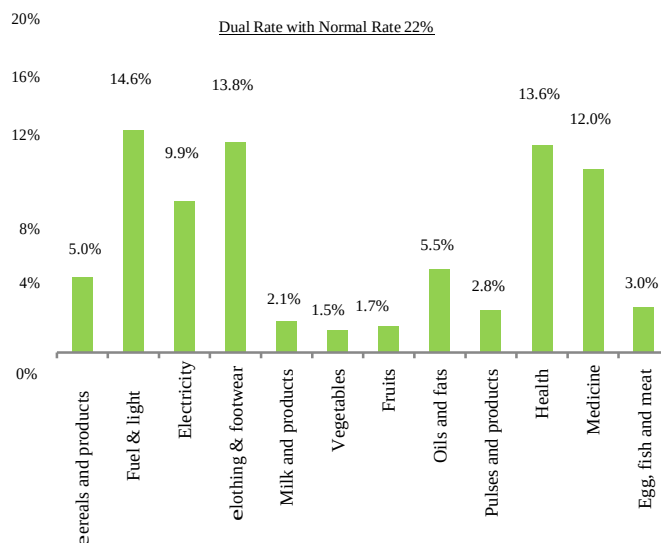
Source: CBEC, State Governments, Estimates

Figure 2: Effective tax rates in Scenario 2



Source: CBEC, State Governments, Estimates

Figure 3: Effective tax rates in Scenario 3



Source: CBEC, State Governments, Estimates

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7.6 Report of Select Committee

REPORT OF THE SELECT COMMITTEE

ON

THE CONSTITUTION

(ONE HUNDRED & TWENTY-SECOND AMENDMENT) BILL, 2014

**PARLIAMENT OF INDIA
RAJYA SABHA**

REPORT OF THE SELECT COMMITTEE

ON

THE CONSTITUTION
(ONE HUNDRED & TWENTY-SECOND AMENDMENT) BILL, 2014

PRESENTED TO THE RAJYA SABHA ON 22nd July, 2015



**RajyaSabha Secretariat, New Delhi 22nd
July, 2015/A shadha, 1937 (Saka)**

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COMPOSITION OF THE COMMITTEE
(Constituted on 12/05/2015)

1. ShriBhupenderYadav – Chairman
2. Dr.ChandanMitra
3. Shri Ajay Sancheti

4. ShriMadhusudanMistry
5. Shri Mani Shankar Aiyar
6. Dr.BhalchandraMungekar
7. ShriNareshAgrawal
8. Shri K. C. Tyagi
9. Shri Derek O'Brien
10. Shri A. Navaneethakrishanan
11. ShriSatish Chandra Misra
12. Shri K. N. Balagopal
13. ShriDilip Kumar Tirkey
14. Shri C. M. Ramesh
15. ShriPraful Patel
16. ShrimatiKanimozhi
17. Shri Anil Desai
18. ShriNareshGujral
19. Mir Mohammad Fayaz
20. Shri D. Raja
21. Shri Rajeev Chandrasekhar

SECRETARIAT

1. Shri A. K. Singh, *Joint Secretary*
2. ShriVimal Kumar, *Director*
3. Shri Sameer Suryapani, *Joint Director*
4. Shri Deepak Kalra, *Assistant Director*

PREFACE

I, the Chairman of the Select Committee of the RajyaSabha on The Constitution (One Hundred and Twenty-second Amendment) Bill, 2014, to whom the aforesaid Bill, as passed by LokSabha on 6th May, 2015, was referred, having been authorised by the Select Committee to present the report on its behalf, present this Report of the Select Committee along with the Bill, annexed thereto.

2. The Committee heard the Secretaries, Ministry of Finance (Department of Revenue), Ministry of Law & Justice (Legislative Department), Ministry of Urban Development and Ministry of Panchayati Raj on the Bill. Apart from that, the Committee heard the views of Experts/Financial Institutions/ State Governments and other Stakeholders through this Bill.

3. While considering the Bill, the Committee took note of the following documents/papers placed before it:-

- (a) The Constitution (One Hundred & Twenty-Second Amendment), Bill, 2014 as passed by the Lok Sabha on 6th May, 2015;
- (b) Background Note on the Bill furnished by the Ministry of Finance (Department of Revenue);
- (c) Information/Papers on the Bill furnished by the Ministry of Law and Justice (Legislative Department);
- (d) Background note on the Bill furnished by the Ministry of Urban Development;
- (e) Background Note on the Bill furnished by the Ministry of Panchayati Raj;
- (f) Memoranda furnished by the State Governments;
- (g) Memoranda furnished by the Experts/other Stakeholders; and
- (h) Replies to Memoranda no. 1-58 furnished by Ministry of Finance (Department of Revenue)

4. The Committee heard the views of the Ministries of Finance (Department of Revenue) and Law & Justice (Legislative Department) at its sitting held on 22nd May, 2015. The Committee then held its second meeting on 29th May, 2015 and heard the view of the representatives of the Ministries of Urban Development, Panchayati Raj, Finance (Department of Revenue) and Law & Justice (Legislative Department). On 16th June, 2015, the Committee heard the view of Shri K. M. Mani, Finance Minister, Government of Kerala and Chairman, Empowered Committee of State Finance Ministers; Shri Sumit Dutt Majumdar, Consulting Editor, TIOL & Former Chairman, CBEC; Dr. Rathin Roy, Director, National Institute of Public Finance and Policy; Prof. Pinaki Chakraborty, National Institute of Public Finance and Policy; Prof. Abhijit Sen, Former Member, Planning Commission; Shri Sagar Shah, International Liaison Partner, BDO, India LLP; Shri Satya Poddar, Ernst & Young LLP; Prof. Arun Kumar, Centre for Economic Studies and Planning, School of Social Sciences, JNU, Delhi and representative of Voluntary Health Association of India (VHAI); National Association of Software and Services Companies (NASSCOM); Manufacturers' Association of Information and Technology (MAIT); American Chamber of Commerce in India (ACCI); Cellular Operators Association of India (COAI). In this meeting, the Ministries of Finance (Department of Revenue) and Law and Justice (Legislative Department), also clarified points/issues raised by the Hon'ble Members on the Bill. The Committee held clause by clause consideration of the Bill at its sitting held on 3rd, 10th and 17th July, 2015. Representatives of Ministries of Finance (Department of Revenue) and Law & Justice (Legislative Department) were also present in the meeting.

5. Apart from appropriate modifications in Enacting Formula and Clause I of the Bill, the Committee has also given some recommendations which are of critical importance but were not covered by the Bill. It is important that these recommendations are duly incorporated.

6. The Committee also conducted its study visit to Chennai, Kolkata and

Mumbai from 21st to 25th June, 2015, wherein the Committee heard the views of State Government of Tamil Nadu, Puducherry, Kerala, West Bengal, Maharashtra, Gujarat and Goa. The Committee also heard the views of the experts namely Dr. V. Bhaskar, Former Special Chief Secretary, Finance Department, Govt. of Andhra Pradesh; Dr.ParthoShome, Former Chairman, Tax Administration Reforms Commission and Dr.Asim Das Gupta, Former Finance Minister, Government of West Bengal. Apart from this the Committee also heard various stakeholders (list enclosed at **Annexure-I**)

7. The Committee considered and adopted the report in its meeting held on the 20th July, 2015.

8. The Committee wishes to express its thanks to the officials of the Ministries of Finance (Department of Revenue) and Law & Justice (Legislative Department) concerned with the Bill for their cooperation and all the State Governments, Associations, Experts and other stakeholders for their valuable suggestions on the Amendment Bill.

9. The recommendations/observations of the Committee are set out at appropriate places in the report.

New Delhi
22nd July, 2015

....Ashadha, 1937 (Saka)

BHUPENDER YADAV
Chairman,
Select Committee on The Constitution
(One Hundred & Twenty-Second Amendment),
,Bill, 2014,
Rajyasabha

Acronyms

1.	ASSOCHAM	The Associated Chambers of Commerce and Industry of India
2.	CII	The Confederation of Indian Industry (CII)
3.	CST	Central Sales Tax
4.	CGST	Central Goods and Services Tax
5.	CVD	Countervailing Duty

6.	EC	Empowered Committee
7.	FICCI	Federation of Indian Chambers of Commerce and Industry
8.	GST	Goods and Services Tax
9.	GSTN	Goods and Services Tax Network
10.	VAT	Value Added Tax
11.	IGST	Integrated Goods and Services Tax
12.	MCGM	Municipal Corporation of Greater Mumbai (MCGM)
13.	NIPFP	National Institute of Public Finance and Policy
14.	NCAER	National Council of Applied Economic Research
15.	NSDL	National Securities Depository Limited
16.	RNR	Revenue Neutral Rates
17.	SGST	State Goods and Services Tax
18.	SFC	State Finance Commission

REPORT CHAPTER- I

INTRODUCTION

1.1 The Constitution (One Hundred and Twenty Second Amendment) Bill, 2014 was passed by Lok Sabha on 6th May, 2015. The said Bill on a motion (**Annexure-I**) moved by the Minister of Finance, Corporate Affairs and Information and Broadcasting, was referred to the Select Committee for examination and the Committee was asked to submit its Report by the last day of the first week of the next Session(Monsoon Session).

1.2 The Bill contains 21 clauses on which the Committee has been asked to submit a report and these clauses proposes to, inter alia, amend Constitution of India by inserting new Articles-246 A, 269A and 279 A with respect to special provision to Goods and Services Tax, levy and collection of Goods and Services Tax in course of inter-state trade or commerce and Goods and Services Tax council, respectively. Apart from that, the bill also purports to amend Articles 248, 249, 250, 268, 269, 270, 271, 286, 366 and 368 of Constitution of India and amendment of the Sixth and the Seventh schedule of the Constitution as well. The Bill also seeks to repeal Article 268A of the

Constitution.

1.3 By bringing this bill into effect, the Govt. of India intends to usher in fundamental systemic reforms in the indirect taxes dispensation currently being implemented in the country by integrating and harmonizing the tax structure across the country in the form of Goods and Services Tax (GST). The proposed amendments would subsume a number of indirect taxes presently being levied by Central and State Governments into GST thereby doing away the cascading of taxes and providing a common national market for Goods and Services. The aim to bring about these amendments in the Constitution is to confer simultaneous power on Parliament and State legislatures to make laws for levying GST simultaneously on every transaction of supply and Goods and Services.

1.4 This bill is a next step forward towards a comprehensive indirect tax reform in the country after the introduction of Value Added Tax (VAT). Though the indirect tax system in the country has been going through a series of reforms over the last two decades and one of them is the introduction of Value Added Tax called, CENVAT at the Central level providing credit of tax paid on inputs and capital goods upto the manufacturing stage and Subsequently, in 1994, a tax on services (commonly known as Service Tax) was introduced by the Centre. The Service Tax with the passage of time expanded its domain to cover more services and now applies to about 115 service categories which contributed growth in revenue from this tax. In 2004, the input tax credit scheme for CENVAT and Service Tax was merged to permit cross flow of credit across these taxes. As for the States, they have switched over from a multiple point Sales tax to a Value Added Tax (VAT) covering all transactions of sale of goods within the State up to the retail stage in a phased manner starting from 2005-06.

1.5 In spite of the fact that many of the aforesaid measures have been taken, goods and services continue to be bogged down with multiple indirect taxes at different stages of the value chain with significant tax cascading under the present indirect tax regime and therefore a need to introduce GST was strongly felt.

1.6 In international arena GST is known for its end user consumption tax. The broad objectives of introducing the Goods and Services Tax (GST) would widen the tax base through the coverage of multifarious economic activities into its ambit and by cutting down exemptions; mitigate cascading and double taxation and enabling better compliance through the lowering of overall tax burden on goods and services. By doing away with latent or embedded taxes, it would provide leeway for the competitiveness of domestic industry vis-à-vis imports and in international markets. Unifying the tax structure across States, the new scheme of tax regime would pave way for a common national market for goods and services.

1.7 The proposal for the introduction of GST was first mooted in the Budget Speech for the financial year 2006-07. Since then, detailed deliberations and negotiations were held with the Empowered Committee of State Finance

Ministers (EC) on the topic. The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST was first introduced in the Lok Sabha in March 2011. The Bill was referred to a Parliamentary Standing Committee (PSC) which submitted its report in August 2013. The Bill however lapsed with the dissolution of the 15th Lok Sabha.

Rationale behind moving towards GST:

1.8 Presently, the Constitution empowers the Central Government to levy excise duty on manufacturing and service tax on the supply of services. Further, it empowers the State Governments to levy sales tax or value added tax (VAT) on the sale of goods. This exclusive division of fiscal powers has led to a multiplicity of indirect taxes in the country. In addition, central sales tax (CST) is levied on intra-State sale of goods by the Central Government, but collected and retained by the exporting States. Further, many States levy an entry tax on the entry of goods in local areas.

1.9 This multiplicity of taxes at the State and Central levels has resulted in a complex indirect tax structure in the country that is ridden with hidden costs for the trade and industry. Firstly, there is no uniformity of tax rates and structure across States. Secondly, there is cascading of taxes due to 'tax on tax'. No credit of excise duty and service tax paid at the stage of manufacture is available to the traders while paying the State level sales tax or VAT, and vice-versa. Further, no credit of State taxes paid in one State can be availed in other States. Hence, the prices of goods and services get artificially inflated to the extent of this 'tax on tax'.

1.10 The introduction of GST would mark a clear departure from the scheme of distribution of fiscal powers envisaged in the Constitution. The proposed dual GST envisages taxation of the same taxable event, i.e., supply of goods and services, simultaneously by both the Centre and the States.

1.11 GST will simplify and harmonise the indirect tax regime in the country. It is expected to reduce cost of production and inflation in the economy, thereby making the Indian trade and industry more competitive, domestically as well as internationally. It is also expected that introduction of GST will foster a common or seamless Indian market and contribute significantly to the growth of the economy.

1.12 Further, GST will broaden the tax base, and result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that would incentivize tax compliance by traders.

Roadmap for the implementation of GST:

1.13 Amendment of the Constitution: Government introduced on 19.12.2014 the Constitution (122nd) Amendment Bill, 2014 in the Lok Sabha for amending the Constitution of India to facilitate introduction of Goods and Services Tax (GST) in the country. The Bill has been passed by the Lok Sabha on 06.05.2015 and is pending in Rajya Sabha. After the Bill is passed in both the Houses of the Parliament by two-thirds majority, the Constitutional Amendment Bill will be sent to State Legislatures for ratification. The

ratification by at least 50% of the State Legislature will be required before the proposed amendments are brought in effect.

1.14 Enactment of enabling legislation in the Centre and States: For the levy of CGST, SGST and IGST, a set of three laws would need to be enacted. CGST and IGST laws would need to be enacted by the Parliament, and the SGST law would have to be enacted by each of the State Legislatures.

Status on design and mechanics of GST:

1.15 The contours of GST are still evolving. Key aspects of GST like the tax rate, tax base, exemption limits, place of supply rules for services, appropriate IGST model etc. will be finalized on passage of the Bill. In this regard, the Empowered Committee of State Finance Ministers(EC) and the Department of Revenue, GOI, have constituted several working groups and committees for drafting the GST Rules and processes as follows:-

- i. Committee on Dual Control, Threshold and Exemptions in GST Regime;
- ii. Committee on IGST and GST on imports;
- iii. Committee on Revenue Neutral rates for State GST & Central GST and Place of Supply Rules;
- iv. Committee to draft model GST Law;
- v. Committee to examine the Report of the sub-Group-I on Business Processes.

Salient features of the Constitution (122nd) Amendment Bill, 2014:

1.16 The salient features of the GST Bill as introduced in the Lok Sabha are as follows:-

- (a) subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, Special Additional Duty of Customs, and Central Surcharges and Cesses so far as they relate to the supply of goods and services;
- (b) subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling; and State cesses and surcharges in so far as they relate to supply of goods and services;
- (c) dispensing with the concept of 'declared goods of special importance' under the Constitution;
- (d) levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;
- (e) levy of an additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce to be collected by the Government of India for a period of two years, and assigned to the States from where the supply originates;

- (f) conferring concurrent power upon Parliament and the State Legislatures to make laws governing goods and services tax;
- (g) coverage of all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till a date notified on the recommendation of the Goods and Services Tax Council.
- (h) compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period which may extend to five years;
- (i) creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken by a majority of not less than three-fourths of the weighted votes of the members present and voting in accordance with the following principles:—
 - (A) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
 - (B) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.

Deliberations

1.17. The Committee held its first meeting on 22nd May, 2015. At its introductory meeting the Committee decided to chalk out its future course of action. As the State Governments were the main stakeholders, it was unanimously decided by the Committee to seek their written views on the Bill by 5th June, 2015. The Members were also requested to suggest the names of the Experts/stakeholders to be heard by the Committee.

1.18 In response thereto, the Committee received written memorandum from the State Governments of Madhya Pradesh, Bihar, Odisha, Himachal Pradesh, Uttar Pradesh, Punjab, Sikkim, UT of Puducherry, Maharashtra, Chhattisgarh, Goa, Gujarat, Kerala, West Bengal, Tamil Nadu, Karnataka and Assam. The Committee heard the views of the Secretaries of Ministries of Finance (Department of Revenue) and Law & Justice (Legislative Department) on the Bill.

1.19 Secretary, Department of Revenue made a presentation before the

Committee informing the Committee about a brief history and background of the Bill and the reason and purpose to bring about the constitutional Amendments proposed in the Bill.

1.20 The Committee held its second meeting on 29th May, 2015. As the Bill was going to have a wider implication on the Municipal Bodies and Gram Panchayat, the Committee invited Ministries of Urban Development and Panchayati Raj in the meeting. In addition to this, the Secretaries, Ministries of Finance (Department of Revenue) and Law and Justice (Legislative Department) had also been invited to be present in the meeting to clarify points/issues, if any, being raised by the Members on the Bill.

1.21 In his deposition before the Committee, Secretary, Ministry of Urban Development highlighted the importance of the Municipalities in the wake of urbanization and also thereby deteriorating the quality of life in the cities. He also emphasized that due to urbanization and their meager financial resources to cope with the demands of their present needs, these municipalities were facing unprecedented cash flow problems so the basic infrastructure in the cities has deteriorated to a great extent though on a comparable scale the life in cities has been more rewarding and comfortable than that of countryside. So, by way of the proposed constitutional amendment, the Ministry expected some positive changes in the present scenario whereby financial independence of the local bodies including gram panchayat could be realized in the new scheme of things and these bodies could match up and cope up with the demands and pressure being exerted on their resources and may not remain financially dependent on the sweet will of their respective states. In his deposition, before the Committee, Secretary, Panchayati Raj endorsed the views expressed by Secretary, Urban Development.

1.22. As the Bill was of very vast nature and has been described as a reform measure of unparalleled importance in the sphere of Indian Taxation regime in independent India, the Committee felt that State Governments being major stakeholders, their views would be crucial in preparation of Report on the Bill. Therefore, the Committee decided to undertake a study visit to Chennai, Kolkata and Mumbai from 21st to 25th June, 2015 to interact with the representatives of the various State Governments, Public and Private authorities/organisations/ financial institutions, etc on the Bill.

1.23 During its visit to Chennai, Kolkata and Mumbai, the Committee heard the views of the State Governments/ UTs of Tamil Nadu, Puducherry, Kerala, West Bengal, Maharashtra, Gujarat and Goa. Apart from this the Committee also heard the views of the experts namely Dr. V. Bhaskar, Former Special Chief Secretary, Finance Department, Govt. of Andhra Pradesh, Dr. Partho Shome, Former Chairman, Tax Administration Reforms Commission, Dr. Asim Das Gupta, Former Finance Minister, Govt. of West Bengal including the Industrial Houses i.e. CII, ASSOCHAM and FICCI on the Bill.

1.24 In addition to this, the Committee also heard the views of financial institutions/Associations/Organisations during the visit of the Committee. A list of the same is enclosed at **Annexure-II**

1.25 The Committee received 58 Memoranda from State Governments/ Experts/other Stakeholders. These Memoranda were transmitted to the Ministry of Finance (Department of Revenue) for their comments and suggestions. While framing the specific and general recommendations on the Bill, the Committee has duly taken into consideration the suggestion made by the State Government/experts/other Stakeholders and the Department of Revenue on these memoranda.

CHAPTER-II

CLAUSE BY CLAUSE CONSIDERATION

Clause 1

2.1 This clause provides for short title and commencement of the Constitution

(Amendment) Bill.

Recommendation

2.2 This clause has been adopted with no change.

Clause 2

2.3 This clause makes enabling provisions for the Union and States with respect to GST.

2.4 Sub-clause (1) of this clause seeks to provide that notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

2.5 Sub-clause (2) of the said clause seeks to provide that Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce with an explanation that that provision of this article in respect of goods and services tax referred to in clause (5) of article 279A, that is, on petroleum crude, high speed diesel, petrol, natural gas and aviation turbine fuel shall take effect from the date recommended by the Goods and Services Tax Council.

2.6 In respect of this clause, apprehensions were expressed by some Members that the clause may affect the powers of the State Governments mentioned under the concurrent list. In this regard, the Committee felt that their apprehensions were unwarranted as the clause will not affect any powers of the State Government under concurrent list.

2.7 As regards the amendments proposed in article 246A (1) to insert the words, "not exceeding 18 per cent" between "goods and services tax" and imposed by the Union or by such State" is concerned, the Members moving the amendment stressed the need to keep GST rates moderate and reasonable so that consumers are not excessively burdened, and to this end proposed that the GST Council be bound by the Constitution to not exceed

18% as the rate for an adequately revenue-generating GST."

Views of the Government

2.8 In response thereto, the Ministry of Finance, Department of Revenue has stated that rates of GST cannot be fixed in the Constitution as this is a dynamic variable. The rates of GST would have to be recommended by the GST Council depending on various factors such as economic conditions, revenue buoyancy, etc. At the same time, every effort would be made by the GST Council to ensure that the rate of GST is reasonable. Further, there may be certain demerit goods such as tobacco, or luxury goods, that may, if the GST Council so decides, attract a higher rate of GST. RNR was calculated by NIPFP before introduction of GST Constitution amendment Bill. NIPFP and the Committee headed by CEA are working out rates under GST as per provisions of Bill.

2.9 The Department of Revenue stated that Petroleum products have been included under definition of "goods and services tax" provided in proposed clause (12A) of article 366. An Explanation has been added in proposed article 246A to clarify that GST will not be levied on petroleum and petroleum products till a future date to be recommended by the GST Council. This has been done after FM's meeting with State Finance Ministers on 15.12. 2014 and is also as per the recommendations of the Empowered Committee to protect the revenue streams of the States.

2.10 With regard to providing for a maximum rate of GST in the Bill, the Department of Revenue mentioned that rates of GST cannot be fixed in the Constitution, as this is a dynamic variable. The rates of GST would have to be recommended by the GST Council depending on various factors such as economic conditions, revenue buoyancy, etc. To allay fears of revenue loss a provision of compensation to States has been provided in the Bill. At the same time, every effort would be taken to ensure that the rate of GST is reasonable. Further, there may be certain demerit goods such as tobacco, or luxury goods, that may attract a higher rate of GST.

Views of the Stakeholders

2.11 Most of the State Governments in their written replies have objected to bringing petroleum products under the ambit of GST. Another suggestion was to include Aviation Gasoline in that list.

2.12 However, the Experts/stakeholders were of the considered opinion that it needs to be emphasised that since a large part of the petroleum and petroleum products are important intermediate inputs, it is absolutely necessary to bring them under the GST ambit sooner than later to eliminate cascading effect and its associated inefficient economic cost. Even in a GST regime, these could be taxed at higher rate if revenues have to be protected. It is well known that petroleum and petroleum products and alcohol together contribute around 40 to 45 per cent of VAT/Sales tax revenues of States. The share of excise duty collection from petroleum and petroleum products is

substantial for Central Government as well. It appears that revenue consideration alone is holding back inclusion of these items in GST. It is necessary for the Bill to specify a specific date for inclusion of these items under GST especially when the economic efficiency benefit from inclusion is much more than the direct short run revenue impact to the Central and the State Governments.

Recommendation

2.13 The clause has been adopted with no change.

Clause 3

2.14 This clause seeks to make consequential amendments in article 248 of the Constitution in view of the proposed amendment in clause 2 of the Bill. Since Union has residuary power to make laws on subjects not mentioned in any of the Lists, it is proposed to make it clear that if anything is not covered specifically then, as per Constitutional Scheme, it would fall under article 248.

Recommendation

2.15 This clause has been adopted with no change.

Clause 4

2.16 This clause seeks to make consequential amendments in article 249 of the Constitution in view of the proposed amendment in clause 2 of the Bill. This amendment enables Parliament to make laws in national interest, if so required as per the procedure laid therein.

Recommendation

2.17 This clause has been adopted with no change.

Clause 5

2.18 This clause seeks to make consequential amendments in article 250 of the Constitution in view of the proposed amendment in clause 2 of the Bill. The amendment makes it clear that Union may legislate as in other cases if a proclamation of emergency is in operation.

Recommendation

2.19 This clause has been adopted with no change.

Clause 6

2.20 This clause seeks to amend article 268 of the Constitution to omit the duties of excise on medicinal and toilet preparations from the purview of the power of the Government of India in view of the proposed imposition of goods and services tax on goods and services.

Recommendation

2.21 This clause has been adopted with no change.

Clause 7

2.22 This clause seeks to omit article 268A of the Constitution as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003. The said article empowers the Government of India to levy taxes on services. As it is proposed to bring tax on services under GST, such a provision would no longer be required for the reason that the provision though enacted, it is yet to be notified so far.

Recommendation

2.23 This clause has been adopted with no change.

Clause 8

2.24 This clause seeks to amend clause (1) of article 269 of the Constitution to insert after the words “consignment of goods” the words, figures and letter “except as provided in article 269A” in view of the new article 269A which provides for levy of goods and services tax on supplies in the course of inter-State trade or commerce and apportionment of such tax between the Union and the States in the manner provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

Recommendation

2.25 This clause has been adopted with no change.

Clause 9

2.26 This clause seeks to insert a new article 269A which provides for goods and services tax on supplies in the course of inter-State trade or commerce which shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council. It also provides that Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

2.27 As regards this clause, Members sought clarifications about the distinction between “supplies, sales and purchase; and consignment”.

2.28 Some Members suggested that after 269A (1), the following proviso may be added:-

2.29 “Provided that the expression “supplies” shall not apply to goods and services supplied by one unit of a firm to another unit of the same firm under the same ownership in another location or State.

Provided further that if two or more firms are together engaged in the supply of the same end product, the expression “supplies” shall not apply to such transactions.”

Views of the Government

2.30 In this regard, the Ministry of Finance, Department of Revenue stated that while “sale” is for consideration, “consignments” are in the nature of branch transfers. “Supplies” would constitute both “sale” as well as “consignment” transactions. Further, since GST charged on supply of goods and services would be VATable, this would not have any cascading impact. Since input tax credit would be available for GST paid on both sales as well as consignments in the course of inter-State trade, there would be no cascading impact of levying GST on supplies of goods and services in the course of inter-State trade.

2.31 The words ‘on the recommendations of the GST Council’ have been added to proposed article 269A (1) vide this clause. This would ensure that the law made by Parliament for apportioning the proceeds of IGST between the Union and the States will be made on the recommendation of the GST Council. This has been done as per the recommendations of the Empowered Committee after their meeting in Shillong in November 2013.

Views of the Stakeholders

2.32 The stakeholders were of the view that proceeds of IGST shall be used for settlement of accounts among the States for flow of input tax credit in inter-State transactions, and in theory, there should be zero balance in the proceeds of IGST in a fiscal year. But, in practice, there may be a distinct possibility of a positive balance in the proceeds of IGST at the end of a fiscal year. In that event, there should be a constitutionally appropriate mechanism for distribution of these remaining proceeds in a year, to be provided in terms of suitable provision in article 269A in clause 9.

Recommendation

2.33 The Committee feels that since imposition of GST on the supplies of goods and services in the course of inter-State trade would not lead to cascading of taxes, hence the Clause has been adopted with no change.

Clause 10

2.34 This clause seeks to amend clause (1) of article 270 of the Constitution to substitute the words, figures and letter “article 268, 268A and 269”, the words, figures and letter “article 268, 269 and article 269A” in view of the proposed amendments referred to above; to insert a new clause (1A) after the existing clause (1) of article 270 to provide that the goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).

Views of the Stakeholders

2.35 It was proposed by one of the State Government that the words “not apportioned” should be replaced with “not appropriated” in order to be in sync with the term used in the proposed Article 269A(1). Likewise, the word

“distributed” should be replaced with the expression appropriated”.

Recommendation

2.36 This clause has been adopted with no change.

Clause 11

2.37 Clause 11 of the Bill seeks to amend article 271 of the Constitution to insert after the words “in those articles”, the words “except the goods and services tax under article 246A”, with a view to put restrictions on the powers of Parliament to levy surcharge for the purposes of the Union on the GST. In other words, it provides that goods and services on which GST is levied shall not be subject to any surcharge under article 271.

Recommendation

2.38 This clause has been adopted with no change.

Clause 12

2.39 Sub-clause (1) of this clause seeks to provide for insertion of a new article 279A which empowers the President to constitute, by order, a Council to be called the Goods and Services Tax Council consisting of the Members referred to in sub-clause (2) of this clause.

2.40 Sub-clause (2) of the said clause seeks to provide that the Goods and Services Tax Council shall consist of the Union Finance Minister as Chairperson; the Union Minister of State in charge of Revenue or Finance as Member; the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government as Members.

2.41 Sub-clause (3) of the said clause seeks to provide that the Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

2.42 Sub-clause (4) of the said clause seeks to provide that the Goods and Services Tax Council shall make recommendations to the Union and the States on the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax; the goods and services that may be subjected to, or exempted from the goods and services tax; model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply; the threshold limit of turnover below which goods and services may be exempted from goods and services tax; the rates including floor rates with bands of goods and services tax; any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster; special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and any other matter relating to the goods and services tax, as the Council may decide.

2.43 Some Members proposed that under clause 4 (c), among the "principles" to be considered by the GST Council while preparing GST laws the

principle of "share of local bodies in revenue buoyancy and compensation for losses sustained through taxes subsumed" should be included as articles 243H and 243X provide for State Legislatures to, by law, ensure the "sound finances" of the local bodies. This would also enable State Finance Commissions set up under articles 243 I and 243 Y to provide for augmenting the share of local bodies in revenue buoyancy generated by the adoption of GST.

2.44 With reference to sub-clause (4) (g) which provides for "special consideration" to certain States, some Members proposed, in keeping with article 243 B (2), that "special consideration" may also be extended to States like Goa and Union territories like Puducherry by adding at the end of 4(g) "and any State or Union territory having a population not exceeding twenty lakhs".

2.45 Sub-clause (5) of the said clause seeks to provide that the Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. These items have been kept out of GST to protect the revenue interest of the States.

2.46 Some members sought the inclusion in clause 12(5) of highly revenue-generating products like tobacco and tobacco products, alcohol for human consumption and electricity supply and consumption within a period not later than five years so that India, within a few years, fulfills the fundamental GST objective of making the entire nation a single common market for all products.

2.47 Sub-clause (6) of the said clause seeks to provide that while discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

2.48 Sub-clause (7) of the said clause seeks to provide that one half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings so that the States have say in the matters of their interest.

2.49 Sub-clause (8) of the said clause seeks to provide that the Goods and Services Tax Council shall determine the procedure in the performance of its functions.

2.50 Sub-clause (9) of the said clause seeks to provide that every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the vote of the Central Government shall have a weightage of one-third of the total votes cast, and the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting. Sub-clause (10) of the said clause

provides that No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of— any vacancy in, or any defect in, the constitution of the Council; or any defect in the appointment of a person as a member of the Council; or any procedural irregularity of the Council not affecting the merits of the case. Sub-Clause (11) of the said Clause provides that the Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendation.

2.51 In respect of this clause some Members proposed amendment that while discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the destination based taxation principle and need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

2.52 Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:-

(a) The vote of the Central Government shall have a weightage of one-fourth of the total votes cast, and

(b) The votes of all the State Governments taken together shall have a weightage of three-fourth of the total votes cast, in that meeting. And the vote of each state shall have a weightage proportionate to the population of that State. After 279A, add the following new article 279B:

2.53 (1) Parliament may, by law, provide for the establishment of a Goods and Services Tax Dispute Settlement Authority to adjudicate any dispute or complaint referred to it by a State Government or Governments of the Government of India arising out of a deviation from any of the recommendations of the Goods and Services Tax Council constituted under article 279A that results in a loss of revenue to a State Government or Governments or the Government of India or affects the harmonized structure of the Goods and Services Tax.

2.54 (2) The Goods and Services Tax Dispute Settlement Authority shall consist of a Chairperson and two other Members.

2.55 (3) The Chairperson of the Goods and Services Tax Dispute Settlement Authority shall be a person who has been Judge of the Supreme Court or Chief Justice of a High Court to be appointed by the President on the recommendation of the Chief Justice of India.

2.56 (4) The two other members of the Goods and Services Tax Dispute settlement Authority shall be persons of proven capacity and expertise in the field of law, economics or public affairs to be appointed by the President on the recommendation of the Goods and Services Tax Council.

2.57 (5) The Goods and Services Tax Dispute Settlement Authority shall pass suitable orders including interim orders.

2.58 (6) A law made under clause (1) may specify the powers which may be exercised by the Goods and Services Tax Dispute Settlement Authority and provide for the procedure to be followed by it.

2.59 (7) Notwithstanding anything in this Constitution, Parliament may, by law, provide that no Court other than the Supreme Court shall exercise jurisdiction in respect of any such adjudication or dispute or complaint as is

referred to in clause (1).

Explanation- For the purposes of this article, "State" includes a Union territory with Legislature.

2.60 Explanation- For the purposes of this article, "State" includes a Union territory with Legislature.

Views of the Government

Proposed article 279A (4)(c):

2.61 The GST Council would now make recommendations on the model GST laws, principles of IGST apportionment, and place of supply rules. This has been done as per the recommendations of the Empowered Committee after their meeting in Shillong in November 2013. It may not be appropriate for the GST Council or any other body to stipulate the share of local bodies in the revenues collected by the respective States. 73rd Amendment of the Constitution provides for setting up of State Finance Commissions which have been given the responsibility to make recommendations on principles which govern distribution of finances between the States and local bodies i.e., Panchayats and Municipalities. Deficiencies, if any, in functioning of State Finance Commissions in individual States may have to be dealt with separately.

2.62 The Department further clarified that taxing powers of local bodies -- Panchayats and Municipalities -- are derived from Acts and laws passed by the State Legislatures. The State Legislatures, under Article 243H and 243X of the Constitution, are authorized to make laws, which are the taxes that the local bodies will levy. This power has not been interfered with and the current structure in the Constitution remains intact.

2.63 So far as other arrangements which are currently provided under the Constitution with regard to formation of the State Finance Commissions and with regard to devolution which the State Governments should make are concerned, they also remain intact in the Constitution. These have not been interfered with.

Proposed article 279A (4)(e)

2.64 To give flexibility to the States, the provision of 'bands' over the GST floor rates, to be recommended by the GST Council, has been introduced. Depending on the local situations and requirements, the States have the option to levy slightly higher tax within this band. This shall also enable the States to cushion the impact of any potential loss of revenue arising out of implementation of GST. The word "band" does not need to be defined in the Constitution but would need to be defined in the model State tax law or the SGST law and the CGST law which shall be recommended by the GST Council. This provision has been made as per the recommendations of the Empowered Committee after their meeting in Bhubaneswar in January 2013, and also the recommendations of the Parliamentary Standing Committee.

Proposed article 279A (4) (f), (g)

2.65 Special category status has been granted to 11 States by the National Development Council comprising the Prime Minister, Union Ministers, Chief Ministers and members of the erstwhile Planning Commission (Now NITI Aayog). Provision of special category States is not based on population but on specific issues such as hilly and difficult terrain, strategic location along borders with neighbouring countries, economic and infrastructural backwardness, and non-viable nature of state finances. The proposed amendment shall mean inclusion of the State of Goa and UT of Puducherry in the list of States with special provisions. Goa has the highest per capita income in the country while Puducherry has fifth highest per capita income in the country. Neither of them have any of the specific problems listed in the criteria above.

Proposed article 279A (5)

2.66 Initially, as recommended by the Parliamentary Standing Committee on Finance and the Empowered Committee in its Bhubaneswar meeting in January 2013, 'petroleum products' had been proposed to be subsumed in GST. However, since taxes on petroleum products constitute a major portion of State revenues, many States expressed apprehension over possible revenue loss in case petroleum products are subsumed under GST. Hence, these products have been constitutionally brought under GST and it has been provided that they would not be subject to GST till notified at a future date on the recommendation of the GST Council. It may be mentioned that petroleum products constitute a major input in most manufacturing industries and their non inclusion would mean these industries would not be able to claim input tax credit for such inputs resulting in cascading of taxes and increased cost of production. It is expected that once GST regime is stabilised, the States may want to include petroleum under GST after two or three years itself. As per the proposed amendment, the GST Council shall not be able to make any recommendation before five years to include petroleum products under GST. Hence, it is better to keep the option open for Council to decide rather than binding the GST Council for five years.

2.67 Further, the Bill leaves it to the GST Council to recommend the date on which GST shall be applicable on petroleum products. Since the States would have 2/3rd vote share in the Council, if the States do not want GST to be imposed on petroleum products, in any case it would not be possible for GST to be imposed on petroleum products as long as the States do not agree. Further, losses, if any suffered by the States, will be compensated by the Centre.

Proposed article 279A (9)

2.68 The structure of GST Council represents the federal nature of governance in this country. This has been done as per the recommendations of the Empowered Committee after their meeting in Bhubaneswar in January 2013, and also the recommendations of the Parliamentary Standing

Committee. This provision has been consciously adopted to ensure the federal balance in the functioning of the GST Council, and also to enhance co-operative federalism. The existing pattern of vote-share in the GST Council ensures that no decision can be taken by the Council either by the Centre or the States acting on their own. Hence, neither the States nor the Centre alone can take a decision in the Council. Providing 3/4th weightage to the States would upset the federal balance between the Centre and the States. Presently, in the concurrent list, in case of any difference between Central and State legislation, the Central legislation prevails. The present weightage of votes in the GST Council would ensure that neither the Centre nor the States are able to take a decision without the support of the other. In other words both would enjoy a veto.

2.69 Further, with Centre holding only 1/3rd of the votes, the Centre would require support of 20 States/Union Territories to get a resolution passed. This shows that Centre would need co-operation of States to get any decision taken at the GST Council.

Proposed article 279A (11)

2.70 The hitherto proposed article 279B for the creation of a GST Dispute Settlement Authority *has been omitted*, and a provision has been made in Article 279A itself empowering the GST Council to decide about the modalities to resolve the disputes arising out of its recommendations. The States were apprehensive that the proposed GST Dispute Settlement Authority under proposed article 279B would affect the fiscal powers of the States and the Union. Hence, this provision has been done away with. This has been done as per the recommendations of the Empowered Committee after their meeting in Bhubaneswar in January 2013, and also the recommendation of the Parliamentary Standing Committee.

2.71 It may further be mentioned that Article 279A (11) only provides that GST Council may decide the 'modalities' to resolve disputes arising out of its recommendations. The 'modalities' could include any dispute resolution mechanism which could be *inter-alia* negotiation, mediation, arbitration or even a judicial authority as deemed appropriate by the GST Council depending on the nature of dispute before it. Thus, as per the proposed Bill, the GST Council shall, by itself, not be resolving the disputes but decide on the modalities for resolving the disputes.

Views of the Stakeholders

2.72 The Stakeholders were of the view that vote of the Central Government and State Government shall have the weightage of 1/4th and 3/4th respectively otherwise it would be difficult to get the proposals approved, in the constitution of GST Council instead of the words 'Union Minister of State in charge of Revenue or Finance' it should be 'Ministers' in charge for these functions, as these positions are not explicitly mandated in the Constitution, No dispute resolution mechanism can be meaningful and effective without an

explicit linkage between the empowerment clause for the levy of GST (Articles 246A and 366(12A)) and the GST Council recommendations, Goods and Services Tax Council shall be guided by the destination based taxation principle and need for a harmonized structure of goods and services tax and for the development of a harmonized national market for goods and services, Requisite provisions may be incorporated to make the decisions of the GST Council binding on the States and the Union, Include the State/UT of Goa and Puducherry in Article 279A (4) (G), The Threshold limit for applicability of GST may be fixed at Rs. 50 Lacs, GST Rate may be kept in the range of 16-18%, Tax rate on Goods and Services is to be same to avoid disputes, Tax on interstate supply of goods from one state to other of the same company may be exempted from the purview of GST, The Input taxes paid by the exporters are to be refunded automatically, etc.

Recommendation

2.73 After having deliberated on the issue of finances of local bodies, the Committee strongly feels that the revenues of local bodies need to be sustained and protected for ensuring that standards of local governance are maintained. The Committee, thus, strongly recommends that the State Governments take adequate measures to ensure that adequate revenues flow to the local bodies, and their resources are not adversely affected. The Committee noted that Article 243H and 243X contain provisions for State Legislatures to authorize Panchayats and Municipalities to collect and appropriate taxes in the State list. The Committee further noted that Article 243I and 243Y provide for setting up of State Finance Commissions to make recommendations regarding devolution of funds to local bodies. The Committee noted that the above provisions notwithstanding, local bodies find managing their resource requirements quite challenging.

2.74 In light of above, with respect to Article 279A 4(e), the Committee strongly recommends that the word 'band' used in the proposed Article may be defined in GST laws. The Committee recommends the following definition of 'band':

"Band" : Range of GST rates over the floor rate within which Central Goods and Service Tax (CGST) or State Goods and Services Tax (SGST) may be levied on any specified goods or services or any specified class of goods or services by the Central or a particular State Government as the case may be.

2.75 With respect to Article 279A(5), taking note of the provision that inclusion of petroleum products into GST can take place only on recommendation of GST Council which could happen only with the consent of both the Centre and the States, the Committee recommended that the clause be adopted with no change.

2.76 The Committee is aware that while discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

2.77 In view of the clarifications submitted by the Department of Revenue and Legislative Department, the Committee finds no merit in disturbing the voting pattern proposed in the Bill, as the same has been worked out on a formula where no one is at an disadvantageous or dominating position be it Centre or States. Moreover, under clause 2 Parliament and the Legislature of every State shall have power to make laws with respect to GST simultaneously.

2.78 In the GST Council, all the decisions have to be taken collectively by the Centre and States and in order to take decision on any issue 75% votes are necessary. So, in order to strike a fine balance Centre vote share has been kept at 1/3rd and that of the States at 2/3rd. In that backdrop, the Committee recommends that these amendments may not be necessary since our Constitution is a federal Constitution and so, it is necessary to make the provisions providing for a manner that disallow the dominance of one over the other. Keeping this in view, the voting formula has been worked out. Hence, the clause has been adopted with no change.

2.79 The Committee, having noted the point mentioned by the Department of Revenue that the GST Council shall decide only the 'modalities' to resolve disputes, did not agree to recommend inclusion of Article 279B as was proposed in Constitution(115th Amendment) Bill, 2011.

Clause 13

2.80 This clause seeks to amend clauses (1) and (2) of article 286 of the Constitution which is a consequential amendment in view of the proposed amendments in clause 2 of the Bill.

2.81 One Member proposed insertion of a new clause (1A) in article 286 of the Constitution to provide as under-

"No law of a State shall impose, or authorize the imposition of, any restriction on reimbursement of a tax levied under the law of a State in respect of any supply of goods or of services of both inside the State, when such goods or services or both are supplied in the course of inter-State trade or commerce or export outside the territory of India.

Explanation.- For the purpose of this clause, consumption or use of goods or services or both whether partly or wholly, in supply of any other goods or services or both in the course of inter-State trade or

commerce or export outside the territory of India, shall be deemed to be supply of goods or services or both in the course of inter-State trade or commerce or export outside the territory of India to the extent of such consumption or use. ”

Views of the Government

2.82 Article 286 put restriction on the imposition of tax on the sale or purchase of goods if such sale or purchase takes place outside the States or in the course of import of goods into or export of goods outside the territory of India. By making amendments so as to substitute the words “sale or purchase of goods” the words “supply of goods or services or both”, the restrictions would continue to apply any IGST or CGST and therefore it may not be necessary to go for the above amendment.

2.83 Some Members sought the definition in the Constitution amendment Bill itself of the term "supply" in proposed clause I (A) of article 286.

Recommendation

2.84 The term 'supply' would be defined in the various GST laws relating to CGST and SGST. Hence, the Committee feels that it would not be appropriate to insert the definition of supply in this clause. This clause has been adopted with no change.

Clause 14

2.85 Clause 14 of the Bill seeks to insert a new definition clause (12A) in article 366 of the Constitution to define the words “goods and services tax”. It also seeks to insert two clauses (26A) and (26B) to define the words “Services” and “State”, respectively.

2.86 Some Members proposed amendments in clause (12A) to delete the word “any” and the words “except taxes on the supply of alcoholic liquor for human consumption so as to progressively ensure a true common market for all goods”.

2.87 In (26A) delete “anything other than goods” and substitute with “commercial transactions in intangibles so as to avoid the circular definition of 'services' meaning 'anything other than goods.'”

Views of the Government

2.88 In this regard the Ministry of Finance, Department of Revenue has stated that term ‘services’ has been so defined in order to give it wide amplitude so that all supplies that are not goods can potentially be covered within the ambit of services and no activity remains outside the taxable net. This would also minimize disputes.

2.89 On the issue of inclusion of Petroleum and petroleum products under GST constitutionally, Department of Revenue in their written submission stated that:

2.90 Petroleum and petroleum products have been included under GST constitutionally by keeping only “alcoholic liquor for human consumption” outside of definition of “goods and services tax” given in newly introduced clause (12A) of article 366. However, GST would be leviable on these products only w.e.f. the date recommended by the GST Council. This has been done taking into consideration the concern expressed by Empowered Committee in their various meetings about the likely loss of Revenue, if the Petroleum products are included in GST. Parliamentary Standing Committee had recommended that there should be no exclusions from GST provided under the Constitution Amendment Bill.

2.91 The Department of Revenue mentioned that petroleum products constitute a major input in most manufacturing industries and their non inclusion would mean these industries would not be able to claim input tax credit for such inputs resulting in cascading of taxes and increased cost of production. It is possible that once GST regime is stabilised, the States may want to include petroleum under GST after two or three years itself. In such a situation, since petroleum products have been included Constitutionally, including petroleum products under GST would not require a Constitution amendment.

Views of the Stakeholders

2.92 The Experts/Stakeholders were of the considered views that:

Definition of Services

2.93 “Supply of Services’ means any business activity which is not supply of goods.”

2.94 In view of Article 246A empowering both Centre and States to levy tax on supply of goods and services, it is the view that the Clause (29A) of Article 366 may be considered for deletion as this would become redundant.

Petroleum

2.95 The international practice is to include petroleum in the GST base, and then apply a supplementary excise on selected petroleum products (e.g., petrol and diesel). A credit is allowed for the GST portion of the tax to commercial or industrial use of the fuels, but not for the supplementary excise. It would be advisable for India also to adopt this structure.

2.96 Thus, it is recommended that the provisions limiting the scope of GST (to exclude petroleum products) be deleted. Specifically, Explanation to Article 246A is redundant. The GST Council has the powers in any case to exclude any products from the GST base, if it so decides.

Goods and Services Tax

2.97 It is advisable to change the definition of 'goods and services tax' in Article 366 (12A) as follows. Further, goods in Article 366(12) need to be redefined to include real property.

2.98 "goods and services tax" means a multi-stage destination-based value added tax on supply of goods, or services, or both, and levied as per the framework recommended by the GST Council.

2.99 "goods" includes, for purposes of the goods and services tax, all materials, commodities, articles, and immovable property

Recommendation

2.100 Endorsing the view of the Department, the Committee feels that 'services' has been so defined in order to give it wide amplitude so that all supplies that are not goods can potentially be covered within the ambit of services and no activity remains outside the taxable net. This would also minimize disputes. Further, having noted the points mentioned by the Department of Revenue regarding inclusion of petroleum products under GST, the clause has been adopted with no change.

Clause 15

2.101 This clause seeks to amend article 368 of the Constitution in view of the proposed amendments referred to in clause 12 of the said Bill so as to apply the special procedure provided in the proviso to clause (2) thereof which requires the ratification of the Bill by the Legislatures of not less than one half of the States in addition to the method of voting provided for amendment of the Constitution.

Recommendation

2.102 This clause has been adopted with no change.

Clause 16

2.103 This clause seeks to amend the sub-paragraph (3) of paragraph 8 of the Sixth Schedule to the Constitution with a view to empower the District Council for an autonomous district to have the power to levy and collect taxes on entertainment and amusements within such district.

Recommendation

2.104 This clause has been adopted with no change.

Clause 17

2.105 This clause seeks to amend the Seventh Schedule of the Constitution to substitute the items under entry 84 of the List I and to omit entries and 92 and 92C; to omit entries 52 and 55 of List II and substitute the entries 54 and 62 of List II of the Seventh Schedule to the Constitution. These amendments are consequential to the insertion of new article 246A.

2.106 With a view to progressively promoting a common market in all goods

and services, some Members proposed amendment to Entry 84 of Union List as follows:

- (g) sale and consumption of electricity'
- (h) alcohol for human consumption.

2.107 Some Members also sought clarifications as it does not figure in the Constitution (a) (ii): What is entry 92C?

Recommendation

2.108 Regarding the aforesaid Entry, the Committee is of the view that Entry 92C was inserted by the Constitution (Eighty-Eighth Amendment) Act, 2003 to empower the Union to impose service tax on certain services read with article 268A of the Constitution.

2.109 Notwithstanding, the service tax levied under the Finance Act, 1994 were continuing as such. The amendment was carried out in the Constitution but the provision was never brought into force. Since Parliament has enacted the said constitutional provision and as such the provision stands as the part of Constitution; and therefore, unless it is omitted by a Constitution Amendment Act by Parliament, it will continue to sit in the Constitution. On the need for formal repeal, the Law Commission, in its One Hundred and Forty-eighth Report on "Repeal of Certain Pre-1947 Central Acts", has observed that "the statutes, unlike human beings, do not die a natural death, with the possible exception of statute whose life is pre-determined by the Legislature at the time of their enactment. A statute, unless it is expressly enacted for a temporary period, survives until it is killed by repeal. To this extent, statutes enjoy immortality." Therefore, it is necessary to omit the said provision to ward of any future doubts about GST.

(iii) After Clause 17(b)(i), **add:** Entry 53 shall be omitted

(iv) Further amend entry 54 to add between "alcohol ic liquor for human consumption," and "but not including sale" the word s: and tobacco and tobacco products and sale and consumption of electricity,

(v) Further amend Clause 17(b)(iv) to read as follow:

2.110 "Entry 62. Taxes on entertainment and amuseme nts and any other taxes, duties, tolls, levies, or royalties devolved by State legislatures to institutions of local self-government under articles 243 H and 243 X to the extent levied, collected and appropriated by a Panchayat or a Municipality or a Regional Council or a District Council".

Views of the Government

2.111 Inclusion of electricity under GST has not been envisaged ever since the First Discussion Paper was published in 2009 on GST. Neither the

Empowered Committee, nor the Parliamentary Standing Committee ever recommended inclusion of electricity under GST. Taxes on electricity and water have been treated separately from taxes on other goods and services in the Constitution. Entry 53 of List II (State List) deals with taxes on sale or consumption of electricity, and this entry is not being touched by the Constitution (122nd Amendment) Bill, 2014.

2.112 Further, in the case of alcohol, the States have been consistently opposing the inclusion of alcohol under GST. Even in the First Discussion Paper, it had been recommended that alcohol be excluded from GST. This is also as per the recommendations of the Empowered Committee.

2.113 Under the proposed Constitution scheme, the Centre has the power to tax one demerit good (tobacco), while the States have the power to tax the other demerit good (alcohol). Tobacco, unlike alcohol has been subsumed in GST, and

the States will have the right to levy SGST on it. This arrangement was specifically recommended in this light where alcohol, being the other demerit good, has not been subsumed into GST, and States retain the powers to levy excise duty as well as sales tax on alcohol. Centre has no powers *vis-à-vis* alcohol.

Views of the Government

2.114 As regards petroleum and petroleum products, the views of the Department have been recorded while dealing with the proposed Article 279A (5).

2.115 In their written replies, the Department of Revenue stated that all forms of Entry Tax have been subsumed under GST by omitting Entry 52 of List II (State list) of Seventh Schedule. The Parliamentary Standing Committee had recommended Entry tax to be subsumed under GST. At the same time, a Constitutional commitment has also been given to the States that their losses caused due to introduction of GST would be compensated for five years. The Department has also mentioned that provision of Entry tax is an impediment to creation of common market, which is a goal of GST, as it acts like a tariff barrier on movement of goods into a local area and discriminates between goods produced within and outside the area. It impedes free movement of goods and also increases compliance cost for business.

Views of the Stakeholders

Clause 17 (b) (ii) in List II-State List 2.116 For Entry 54, the following entry shall be substituted, namely:- "54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel, tobacco and tobacco products and alcoholic liquor for

human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

2.117 State Governments may be allowed to levy higher taxes on tobacco and tobacco products; betting and Gambling activity may be kept out of the purview of GST; retain Entry 52 and Omit Entry 55; Insert a new Entry 54A "other polluting goods and services to be notified by GST Council.

2.118 Clause 17 (b) (iii) in List II-State List

2.119 "55. Taxes on advertisement other than advertisements published in the newspapers and advertisements broadcast by radio or television,"

Electricity

2.120 Electricity must form an integral part of the GST base, as is any other normal good. It is therefore suggested that electricity duty also be subsumed within the GST framework. This approach can reduce the cost of electricity by 20%, significantly enhancing the competitiveness of our domestic manufacturing sector.

2.121 The GST need not be a full replacement of the electricity duty. Only a part of the duty can be replaced by GST, which should be fully creditable to industrial/commercial users of electricity.

2.122 Given that Article 246A empowers the Union and States impose GST, notwithstanding anything contained in articles 246 and 254, GST can be extended to electricity even if Entry 53 in List II – State List (Taxes on the consumption or sale of electricity) is not omitted. Continuing this entry would allow States the flexibility to levy a supplementary tax to electricity in addition to GST, if they consider it necessary or desirable.

Real Estate

2.123 Real Estate merits inclusion in GST from another significant perspective, i.e., to bring transparency to the sector. Real estate is known to be the breeding ground of corruption. Bringing this sector into GST will significantly reduce tax evasion through more efficient transactions tracking and improved enforcement and compliance.

2.124 For inclusion of real Estate in the GST base, the definition of 'goods and services tax' under Clause 14 of the Bill should be broadened to include property, movable or immovable as suggested below.

2.125 Given the practice in other jurisdictions to levy supplementary taxes in the form of land transfer taxes, levy stamp duties, and registration fees on real property transactions, the existing entries in the Union and State Lists relating to these taxes on land and buildings can be left unchanged. The tax

rates and base for these levies can be adjusted (including reducing them to zero) as per the recommendations of the GST.

Alcohol

2.126 Any explicit restrictions on the application of GST to alcohol in the Constitution itself are thus not appropriate. Accordingly, a change in the definition of GST in Article 366(12A) is recommended.

2.127 Alcohol should be given the same treatment as is being given to Petroleum and its products. In that case, the clause 'except taxes on the supply of the alcoholic liquor for human consumption' would have to be deleted from the definition of GST at Clause 12A of the Bill. Further, as has been done in the case of Petroleum and its products, the levy of GST on Alcohol may be postponed to a later date to be decided by the GST council. Till that time, the States will continue to levy State Excise duty and State VAT on Alcohol. The advantage would be that no further amendment of the Constitution would be needed, when the States agree to bring in Alcohol within GST at a later date.

Entertainment Tax

2.128 The Bill proposes that local levies such as octroi and entry taxes should be fully subsumed under the GST. This is necessary to ensure free flow of goods and services within the common market of India. This is equally true of the entertainment tax. The funding needs of the local bodies can be better addressed through vertical devolution of State GST revenues to local bodies, as opposed to such nuisance taxes which are difficult to administer and comply with, and do not yield much revenue. The quantum of revenues earned by local bodies from entertainment tax levied and collected by them is insignificant and constitutes a miniscule fraction of their budgets. For smaller towns and cities, the revenues from the tax might not cover even the cost of administration and enforcement.

2.129 It is recommended that Entry 62 in List II – State List be omitted.

Entry 84

2.130 List I Union List, the powers of the Union to levy supplementary taxes on petroleum and tobacco are limited to excise on the manufacture or production of these goods. By contrast, the powers of States for levy of supplementary taxes extend to purchase or sale of the specified products. It is desirable that the Union powers also be likewise extended to sale or purchase of the specified goods.

2.131 Purchase Tax/Entry Tax/Octroi are to be allowed as input Tax credit.

Recommendation

2.132 **The Committee is of the view that the entry in the list II- State List empowers the State Government to make laws in respect of the**

subjects mentioned therein. The Committee is also of the considered view that taxes on electricity and water have been treated separately from taxes on other goods and services in the Constitution. Entry 53 of the List II (State List) deals with taxes on sale or consumption of electricity, and this entry is not being touched by the Constitution (122nd Amendment) Bill, 2014. The Committee also noted the rationale for the provisions relating to alcohol for human consumption and tobacco as provided by the Department of Revenue. Hence, the clause has been adopted with no change.

Clause 18

2.133 Sub-clause (1) of this clause seeks to provide that an additional tax on supply of goods, not exceeding one per cent in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in clause (2).

2.134 Sub-clause (2) of this clause seeks to provide that the net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates.

2.135 Sub-clause (3) of this clause seeks to provide that the Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under clause (1).

2.136 Sub-clause (4) of this clause seeks to provide that Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce.

2.137 Some Members of the Committee proposed to delete this clause because under clause 19, 100 percent compensation be provided for a period not less than five years. In view of guaranteed compensation for any loss incurred by any State or Union Territory, there is no need to levy a market-distorting 1% additional levy

Views of the Government

2.138 In this regard the Ministry of Finance, Department of Revenue has explained that since GST is a destination based tax, the manufacturing States were apprehensive of their loss in revenues. To allay their fears, and to bring them on board, a provision has been made for the levy of 1% additional tax

on the supply of goods. This tax shall be credited to the exporting State. Since it is expected that in the medium and long run, the revenues of all the States would increase due to better compliance and enforcement under GST, this provision of 1% additional tax has been made only for the first two years. The GST Council would have the power to recommend continuation of this tax at the end of 2 years, if it so deems fit. This was decided in view of the consultations with State Finance Ministers by FM on 15.12.2014. It is also in line with the recommendations made by the Empowered Committee in their various meetings for the protection of the revenues of the manufacturing States. Clause 18 in itself does not make any distinction of a "manufacturing state" and this tax shall be levied by all States who send their produce outside the State.

Views of the Stakeholders

- o In place of "An Additional Tax" in Clause 18 (1) and "additional tax" in Clause 18(2), it may be "Central Sales Tax." Instead of introducing a new additional tax, the same purpose may be served by "Central Sales Tax," which is already known to the Centre, the States, in industry, trade and others.
- o 1% levy against the spirit of GST.
- o Any specific reference to a period of two years would be arbitrary and unnecessary. The portion, "a period of two years", may therefore be considered for deletion.
- o It is important to recognize that GST is a destination based tax levied at the point of consumption. Introduction of an additional tax on supply of goods, not exceeding one per cent for two years would make the tax partly origin based and partly destination based. Allowing continuation of origin based tax system would be a major distortion and continuation of significant tax exportation from the richer producing states to the poorer consuming states.
- o In fact, this method of compensating the manufacturing states through one percent origin based tax is not at all necessary, since in any case the Bill itself envisages compensation by Centre for the states in case of revenue loss. Therefore, the view is that this provision would need to be deleted.
- o Since, the Bill already contains a provision for compensating the States for any losses under GST for five years, it would result in no net revenue gain to the States where they indeed suffer a revenue loss under the GST and are recipient of compensation from the Centre. It would effectively mean an extra profit to the States who gain revenues from the GST. If so, it does not serve its intended purpose. These concerns warrant a removal of the 1% origin based tax.
- o Restricting the levy only to 2 years, with no powers to extend

the same for any further period. Restricting levy only to interstate sale and purchase of goods. This means that no such additional tax should be levied on interstate supply of goods otherwise than by way of sale and purchase.

Recommendation

2.139 **The Committee feels that the provision of 1% additional tax in its present form is likely to lead to cascading of taxes. Therefore, the Committee strongly recommends that in the concerned GST law, an explanation should be given that for the purpose of Clause 18, the word 'supply' would mean:**

Supply: "All forms of supply made for a consideration".

Clause 19

2.140 This clause seeks to provide that Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

In this clause some Members proposed amendments by adding the words "100 per cent" in the second line between "provide for" and "compensation to the States" and by **deleting** "such period which may extend to five years" and **substituting** with "a period not less than five years" **and to insert a new clause in clause 19 that–**

2.141 19(1) To this end, there shall be established a Goods and Services Compensation Fund under the administrative control of the Goods and Services Tax Council into which the Central Government shall deposit the Goods and Services Tax Compensation.

2.142 **By inserting** the words, "as well as the panchayats and Municipalities through States" between the words "to the States" between the words "to the States" and "for the loss of the revenue"

2.143 Further, some of the Members proposed amendments that for the words "Parliament may", the words "Parliament shall" should be substituted.

2.144 Some Members proposed the addition of the words "as well as the Panchayats and the Municipalities through State Legislatures" so as to ensure the "sound finances" of the local bodies while respecting the Constitutional order that as local bodies are in the State List it is for State Legislatures, by law, to "authorise a Panchayat/Municipality to levy, collect and appropriate" such taxes.

Views of the Government

2.145 Regarding the said amendments the Ministry of Finance, Department of Revenue has stated that it may not be appropriate to stipulate that States would compensate the local bodies for any losses caused to them. 73rd Amendment of the Constitution provides for setting up of State Finance Commissions which have been given responsibility to make recommendations on principles which would govern distribution of finances between the States and local bodies i.e., Panchayats and Municipalities. Deficiencies, if any, in the functioning of State Finance Commissions in individual States may have to be dealt with separately.

2.146 Further, one of the Members proposed amendments that for the words "Parliament may", the words "Parliament shall" should be substituted.

2.147 Regarding the proposed amendment to substitute the words "for a period of not less than five years", in place of the words "which may extend to five years", the Ministry of Finance, Department of Revenue has stated that to bridge the trust deficit with the States, and to ensure no revenue loss to them, it has been Constitutionally provided that the States shall be compensated for five years for their losses caused due to introduction of GST. This has also been recommended by the 14th Finance Commission.

Views of the Government

2.148 Regarding substitution of word 'may' by 'shall', the Legislative Department has clarified that under the Constitution, wherever law making power is conferred on Parliament, the language used is "may" in view of the fact that within the constitutional parameters Parliament is supreme. However, in contrast, wherever, the power to make law is subject to certain contingency, then in such situation like Proclamation of Emergency, the provisions of the Constitution, uses the word "shall". (as used in article 250 below). In view of this, it may not be necessary to substitute the word "may" with the word "shall"

2.149 In this connection, it would be appropriate to reproduce the provisions of the following articles, namely:—

2.150 "2. Admission or establishment of new States. —Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit.

2.151 Formation of new States and alteration of areas, boundaries or names of existing States.—Parliament may by law—

(a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State....

2.152 Art 245. Extent of laws made by Parliament and by the Legislatures of States.—(1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.

2.153 Art 247. Power of Parliament to provide for the establishment of certain additional courts.—Notwithstanding anything in this Chapter, Parliament may by law provide for the establishment of any additional courts for the better administration of laws made by Parliament or of any existing laws with respect to a matter enumerated in the Union List.

2.154 Art 250. Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.—(1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

2,155 Art 368. Power of Parliament to amend the Constitution and procedure therefor.— (1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.”.

2.156 On the issue of period of GST Compensation, Department has stated that:- "It is expected that the revenues of the Central and State Governments will not be impacted in the long run. However, due to a shift from origin-based to destination-based indirect tax structure, some States might face drop in revenue in the initial years. To help the States in this transition phase, a number of provisions have been incorporated in the Bill as enumerated in Para I, points (a) to (e), above. In the medium and long run, the revenues of all States and Centre are expected to grow due to widening of tax base, better tax compliance and enforcement, and growth in the economy".

2.157 Further, the smaller and weaker States will benefit from GST from the start. Since these are primarily consuming States, all SGST collected on goods and services will flow to the consuming States under the GST regime. Hence, the revenue of these States will increase and they are not likely to suffer any loss even during initial years.

Views of the Stakeholders

- Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period not less than five years.

- In place of “protection to,” it may be ‘protection of 100 percent to’. This will provide required comfort fully to the States and shield against anxiety during the initial phase of introduction of GST.
- On the basis of past experience, the need for timely payment of compensation, without delay, in every financial year.
- As the Bill made a provision for compensation in the event of revenue loss to the States after the introduction of GST, on the recommendations of the GST council, for such period which may extend to five years, this should provide comfort to the States. Since Union government eventually by law would be committed to compensation for revenue loss, it may be proper to eliminate tax on interstate supply of goods as proposed in the new Bill during the first two years of GST regime to introduce a destination based tax system.
- Having agreed to give compensation, there is no harm in Centre agreeing to give 100% compensation for all five years, in case of loss of revenue; – that would raise the comfort level of the States, and bridge the evident trust-deficit between Centre and the States.

2.158 In view of the clarifications given by the Legislative Department, the Committee feels that there is no justification for substitution of the word ‘may’ with ‘shall’.

2.159 Having regard to the concerns expressed by the various States and some of the Members of the Committee in their submissions made before the Select Committee, the Committee recommends amendment in clause 19. The amended clause 19 should read as follows:

“19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for the loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years.”

Clause 20

2.160 This clause seeks to provide for transitional provisions which provides that notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.

2.161 This clause prescribe a timeframe within which the subsuming of

different indirect taxes into GST would take place and enable the competent Legislature to amend or repeal their existing laws to pave the way for imposition of SGST in the States.

Recommendation

2.163 **This clause has been adopted with no change.**

Clause 21

2.164 This clause seeks to provide that if any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty.

2.165 However, no such order shall be made after the expiry of three years from the date of such assent. It also seeks to provide that every order made under sub-clause (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

Recommendation

2.166 **This clause has been adopted with no change.**

CHAPTER -III

OTHER RELATED ISSUES IN CONTEXT OF THE BILL

3.1 The Committee, thereafter, discussed plethora of inter-connected issues like source of revenue of Panchayats and Municipalities, Losses to Municipalities on account of deletion of Entry 52, creation of National Compensation Fund, non-functioning of State Finance Commissions, provision of Dispute Settlement Authority, inclusion of enabling clause to bring alcohol at a later stage to avoid constitutional amendment, GST Rate and Revenue Neutral Rate (RNR), etc. which have been dealt separately in the succeeding paras.

Issue of Legislative Competence

3.2 Concerns were raised before the Committee on the adverse impact which the Constitution (122nd Amendment) Bill, 2014, may have on the finances of local bodies.

3.3 ***Competence of States to authorize local bodies to levy, collect and appropriate taxes, duties, tolls and fees***

3.4 The Constitution makes elaborate provisions to deal with powers, authority and responsibilities of Panchayats, their power to impose taxes and Constitution of Finance Commission to review their financial position (articles 243G, 243H and 243-I). Similar provisions exist in case of Municipalities (articles 243W, 243X and 243Y). These provisions speak of powers, functions, responsibilities, power to levy and collect tax by Panchayats and Municipalities. The powers to levy and collect taxes is delegated by State Legislatures by enacting law for the purpose and thus enabling them to perform the Constitutional functions and duties entrusted to them.

3.5 Articles 243H and 243X speak of power that the State Legislatures may give to Panchayats and Municipalities to levy collect and appropriate taxes, duties, tolls and fees and also of assigning such of them as are levied and collected by the State Government and to provide grants-in-aid from the Consolidated fund of the States.

3.6 From the provisions, it may be seen that the State's power to levy taxes is derived from the Constitution and the Panchayats and Municipalities power to tax is derived from the State Legislature which it would delegate in the manner Constitution permits. Those articles make it clear that the concerned State Legislature has to pass a law to confer taxing power on Panchayats and Municipalities. Further, it may be seen that the source of power rests with State Legislatures and the Constitution has not empowered the Panchayats and the Municipalities to impose taxes on their own. In the present set up there are State laws which enable the Panchayats and Municipalities to levy and collect the taxes.

3.7 In conclusion, it can be submitted that the provisions of articles 243H and 243X bestow a Constitutional obligation and responsibility on the State to enable revenue generation of Panchayats and Municipalities by enacting laws; which shall continue to apply when the States get the simultaneous power to levy GST under the proposed article 246A once the indirect taxes are subsumed into GST. The present Constitutional Amendment also requires enactment of State laws on the basis of Model GST Laws recommended by the GST Council and while making such laws States would abide by the Constitutional provisions relating to Panchayats and Municipalities.

Subsuming of Entry 52 under GST

3.8 Thereafter, the Committee discussed the rationale for deletion of Entry 52, State List and its possible impact on the revenue sources of the local bodies. Entry 52, State List provides for "Taxes on the entry of goods into a local area for consumption, use or sale therein."

3.9 The Committee felt that municipal-level taxes are an important source of revenue for many local bodies. If, we take the example of city of Mumbai, municipalities' main source of revenue is octroi. The revenue collection in 2014-15 on octroi in the city of Mumbai was somewhere around Rs. 6733 crores which is individually around 42% of the entire finance generated there. If that is taken away how development would be ensured. Although

the Government of India is assuring that compensation would be given to State Governments for the losses incurred by them but that too would be through State Government.

3.10 In his submission, Secretary, Department of Revenue stated that 'Entry tax is an impediment to the free flow of goods and services in India. It creates inefficiencies in the supply chain. Further, in many States, Entry tax is not VATable, and hence, results in compounding and cascading of taxes. Therefore, 13th Finance Commission headed by Dr Vijay Kelkar, had recommended that Entry tax should be fully subsumed under GST. The same view was endorsed by the Standing Committee on Finance, while examining the Constitutional 115th Amendment Bill, 2011. Keeping that in mind, in the proposed Bill, a provision of "floor rate with bands" has been made, under which the States may levy additional SGST within the band to raise additional resources for passing on to the local bodies.

Impact of subsuming of Entry Tax on the financial independence of local bodies

3.11 He further stated that 'It has been seen that Entry tax in lieu of octroi or Octroi is only collected by local bodies in Maharashtra. Most States like Gujarat, Karnataka, and Punjab already levy and collect Entry tax for distribution to local bodies. As stated above, under the GST regime, provision of "floor rate with bands" has been provided in the Bill which shall enable the States to raise additional resources through levy of additional SGST within the band, for passing it on to the local bodies.

3.12 Since Mumbai is the largest beneficiary of revenue collected from octroi, the case of Mumbai has been presented in detail. All other local bodies in the country are not so dependent on Entry tax or octroi for their revenue. In their 2015-16 budget, the Municipal Corporation of Greater Mumbai (MCGM) has estimated that they would earn about Rs. 7900 crores from octroi, out of a total revenue income of Rs. 19,255 crores, or about 41%. The other sources of revenue for MCGM are property tax, receipts from development plan, various user fees and charges, etc, which are not being affected by the Constitutional Amendment, and will continue to accrue to MCGM.

3.13 Further, in their 2015-16 budget, the MCGM has identified that they would need to introduce new taxes such as property tax on slums, transport cess, conservancy cess and fire cess. Incidentally, Mumbai is expected to yield very high revenues from service tax to the State of Maharashtra. It is open to the State to devolve suitable amount there from to the MCGM. Further, under Articles 243 H and 243 X of the Constitution, the State Government can also empower the local bodies to collect certain other levies such as profession tax or other taxes in the State List in the concerned Jurisdiction.

Devolution of funds to the local bodies by the State Government

3.14 The issue of devolution of funds to the local bodies and Municipalities by the respective State Government engaged the attention of the Committee from the day the Bill was referred to the Select Committee. Apprehensions and concerns were expressed from all quarters, even after the clarifications given by the Department of Revenue and Legislative Department, that the bodies which were actually doing the work at the ground level may find it difficult to cope up with their requirements in the post GST era. Concerned over the availability of funds to them, several points were raised i.e how much funds would be allocated to them, how it would be done, whether the funds would ultimately be passed on to them, whether the amount so received would be enough to run their day today activities, there has to be a mechanism in the Bill to protect their interests, how constitutional provisions related to them would be protected and taken care of, etc. otherwise these bodies where actual activity is done would be at the sheer mercy of the Governments in their States. Here, the role of the State Finance Commissions becomes all the more important because while submitting their report they have to give due impetus to this fact that these bodies may not be deprived of their legitimate right guaranteed by the Constitution of India

3.14 The Committee felt that there is no question at all that the concerned State Governments have to devolve funds to the local bodies for their smooth functioning, and in order to do that they have to accept the recommendations of the State Finance Commissions, but what concerned most of the Members was that, either the State Finance Commissions are non-existent or even when they exist their recommendations were not followed in right spirit/ accepted. So, ultimately the local bodies suffer and this in turn hampers the various development works to be undertaken by them.

3.15 In his clarifications, Secretary Revenue stated that Constitution 73rd Amendment provides for setting up of State Finance Commissions which have been given responsibility to make recommendations on principles which would govern distribution of finances between the States and local bodies i.e. Panchayats and Municipalities. Deficiencies, if any, in the functioning of State Finance Commissions in individual States may have to be dealt with separately.

Recommendation

3.16 The Committee feels that the concerns expressed by all the Members of the Committee related to local bodies and Municipalities are not unwarranted. Based on the years of experience and being witnessed to their work in their respective constituencies they were of the view that their interest needs to be protected. The same view was also endorsed by nearly all the stakeholders who have either submitted their memorandum or

appeared before the Committee on the Bill.

3.17 But, at the same time we may not forget that the Constitution of India clearly defines the ambit under which the Centre and each of the State has to function. Any encroachment into the State List would disturb the whole system and could strain the Centre-State relations.

3.18 The Committee feels that although the issues raised by the Members to protect and preserve the interest of local bodies are valid, it would not be appropriate for the Committee to advise, recommend and guide the State Governments what they have to do with regard to the interests of the local bodies.

3.19 As per the provisions of the Bill, while the Parliament would pass law relating to CGST, every State Government has to pass a similar law relating to SGST. Hence, while drafting the SGST, the role of the drafters and the concerned State Governments becomes all the more important as they have a duty to protect the revenue sources of the Panchayats, Municipalities, etc, enshrined under Constitution of India. The Committee also feels that here the role of the GST Council is also very important, because while recommending to the Centre and State Governments for subsuming of the taxes, cesses and surcharges levied by the Union, the States and the local bodies in the goods and services tax under article 279 (4) (a), it may also ensure protection of revenue sources of local bodies under provisions of article 279 (4) (c) and (h).

3.20 In the light of the above, the Committee feels that in a cooperative federalism, each unit of it interacts cooperatively and collectively resolves their problems by taking appropriate action at their end. On the same analogy, Government at the helm of the affairs is duty bound both morally and constitutionally to protect the interest of local bodies by giving them suitable space of functioning and power to levy and generate taxes for their day today functioning. Having full faith in our Constitution from where each tier of the Government draws its powers, the Committee believes that all the State Governments would enact laws on the basis of Model GST Laws recommended by the GST Council and while making such laws States would abide by the constitutional provisions relating to Panchayats and Municipalities.

3.21 Concerned about the very existence and survival of local bodies, the Committee feels that Local government is a State subject figuring as item 5 in List II of the Seventh Schedule to the Constitution. Article 243 G of the Indian Constitution enshrines the basic principle for devolution of power to the local bodies. In the nation's journey

towards becoming an economic power, local bodies play an important part in enabling infrastructure availability to the citizens. Local bodies are institutions of the local self governance, which look after the administration of an area or small community such as villages, towns, or cities. The local bodies in India are broadly classified into two categories. The local bodies constituted for local planning, development and administration in the rural areas are referred as Rural Local Bodies (Panchayats) and the local bodies, which are constituted for local planning, development and administration in the urban areas are referred as Urban Local Bodies (Municipalities) and the Constitution of India gives protection to them through various articles, so while drafting the SGST laws due consideration should also be given to this fact. In that backdrop, the Committee strongly recommends that while drafting the SGST laws due consideration to the third tier of the Government as has been guaranteed by the Constitution be given and provisions of devolution of taxes to the local bodies be made.

3.22 The Committee is perturbed to know that State Finance Commissions (SFC) in some of the States are either non-existent or even when exist their recommendations were not accepted by the respective State Governments. The Committee understands that each tier of the Government draws its powers through the Constitution and there is a clear demarcation of fields through List I, II and III within which each tier has to function. Any encroachment by any of them would paralyze the whole system and defeat the very foundation of our Constitution. Hence, the Committee while not venturing into the domain of the State List desires that for the betterment of our States in general and country in particular it would be prudent to abide by the recommendations of the SFCs.

Creation of National Compensation Fund

3.23 The issue of creation of National Compensation Fund on the lines of National Calamity Fund also engaged the attention of the Committee. One of the Members opined that once the Government of India has decided to compensate the State Governments for any losses incurred by them after the introduction of GST, it would be judicious enough to make National Compensation Fund be part of the Bill. This would act as a confidence building measures and allay their fears as well to a great extent. The Standing Committee on Finance had in their report recommended for creation of such fund.

3.24 In their response, Secretary, Department of Revenue stated that to bridge the trust deficit of the States vis-à-vis the Centre, and to ensure that there is no revenue loss to them, a provision has been made in the Bill to provide compensation to States through a Central Legislation for loss of

revenue arising on account of implementation of GST for a period which may extend up to five years on the recommendation of GST Council.

3.25 He further stated that as noted by the Fourteenth Finance Commission, GST Compensation would be a temporary feature, and hence, there is no need to create a GST Compensation Fund through Constitutional Amendment. It is therefore proposed to consider creation of a GST Compensation Fund through Central Legislation.

Recommendation

3.26 Endorsing the view envisaged by Fourteen Finance Commission, the Committee feels it would be wise to keep the GST Compensation Fund out of the purview of the Bill as has been done in the present case, because it is a temporary component and that too only for five years.

Dispute Settlement Authority

3.27 Some of the Members were of the opinion that disputes arising out of the recommendations of the GST Council will be decided by a system to be evolved by GST Council. They were of the view that as the principles of natural justice hold that a party to a dispute cannot be a judge in its own cause, leaving disputes to be settled in accordance with the directives of the GST Council would be tantamount to allowing all disputes, which would necessarily involve one or more members of the GST Council as judges in disputes to which they are party.

3.28 With regard to the Dispute Settlement Authority, the Ministry of Finance (Department of Revenue) clarified that the States were apprehensive that the earlier proposed GST Dispute Settlement Authority under proposed new Article 279B will have powers of overriding the supremacy of the Parliament and the State Legislatures and will, thus, affect the fiscal autonomy of the States. The Parliamentary Standing Committee had, therefore, recommended that proposed Article 279B be omitted. On the recommendations of the Parliamentary Standing Committee on Finance and the Empowered Committee, it was decided to delete this provision, and instead, clause (11) in the proposed Article 279A was inserted to enable the GST Council to decide the modalities to resolve disputes arising out of its recommendations.

3.29 In the proposed Bill, every State would enjoy one vote in the GST Council. Thus there would be no possibility of 'crowding out' of small States in the GST Council.

Recommendation

3.30 The Committee feels that each and every State is being represented in the GST Council by their Revenue/Finance/Taxation Minister. Be it a small State or a big State, in the GST Council, all of them enjoy equal status and power to cast one vote. In the event of

difference, it can very well be presumed that the GST Council will try to evolve consensus on contentious issues before going for casting of votes, as all the States are members of the Council. Thus, modality to resolve any differences internally lies with the Council. If any Dispute Settlement Authority is created separately it will certainly hamper the functioning of the GST Council in general and Legislatures (Parliament and States) in particular. Thus, it would be judicious not to have a separate and distinct authority having far reaching powers and which could preempt and supersede the powers of Parliament and State Legislatures in the long run.

3.31 The Committee also feels that when concept of Empowered Committee (EC) was coined for the first time, it may not have been presumed how it would function, whether it would serve the purpose for which it would be created, how States would be represented/heard, how issues would be taken up and resolved, etc. But experience has shown that the faith with which the concept of EC was coined has actually delivered. Empowered Committee headed by one among the State Finance/ Revenue Ministers of all States deliberate meticulously on each of the issues raised by its Members and with the passage of time it had taken the shape of arbitration centre where disputes related to them or between two or many States are raised, deliberated and settled amicably without any arbitration charges or fees borne by the disputant States. It would not be over exaggeration of facts if the Committee would say that on the one hand EC had worked as a forum where any issue of State importance could be raised and on the other hand it had gained the confidence of States in solving their problems and allaying their fears. Such confidence building measure had been initiated by the EC that it could well be termed as a forum where disputes are settled broadly with consensus.

Benefit to Consumers

3.32 GST will largely eliminate cascading of taxes and this will benefit the consumers because manufacturers, traders and service providers are expected to be forced to pass on the benefit to ultimate consumers due to operation of market forces and competition. Simplification and automation under GST regime will reduce transaction cost, improve compliance and transparency and will curb undue rent seeking and profiteering in the long run. Such efficiency gains are expected to have beneficial effects on prices which will also ultimately benefit the consumers.

Results of studies conducted in other countries like Australia, Canada and New Zealand on the impact of GST on consumer prices

3.33 Ministry of Finance (Department of Revenue) in their written submission before the Committee stated that 'Results of studies conducted in other countries cannot be directly applied to the Indian economy as India is at a

different stage of development and has its own unique features. A study by National Council of Applied Economic Research (NCAER) commissioned by the Thirteenth Finance Commission has projected that after introduction of GST, the overall price levels will go down due to more efficient allocation of factors of production. It also projects that introduction of GST would lead to GDP growth in the range of 0.9 to 1.7 percent and export growth of between 3.2 and 6.3 percent'.

Recommendation

3.34 The Committee feels that it would be too early to presume as to whether the price levels will go down or up in the post GST era. What has to be seen and watched by the Government with eyes open is whether the benefit, if any, arises would certainly be passed on to the consumers or not. Hence, the Committee feels that at the most if price stability is achieved it would serve the very purpose of GST in the entire country as inflation, nowadays has not left even a single field untouched.

Role of Financial Institutions in post GST era

3.35 The Committee was of the considered opinion that concerns of the Financial Institutions must be given due weightage as their views would be equally important as those expressed by other stakeholders in forming an opinion on the Bill.

3.36 In that backdrop, the Committee interacted with the representatives of various Financial Institutions during its study visit to Chennai, Kolkata and Mumbai. When the question was raised by the Committee as to whether the financial institutions were willing to play the role of nodal bank, receive the CGST and SGST and act as a 'clearing house' for the tax, all the financial institutions expressed their willingness to do so. The public Sector Banks informed the Committee that they should given a greater role under GST. The Committee asked the financial institutions to submit their written views on it.

3.37 In response thereto, the views received from United Bank of India and State Bank of India are as under:-

United Bank of India

3.38 GSTN which is a special purpose vehicle set up under u/s 125 of the Companies Act to provide IT infrastructure and service support to the Central and State Governments for implementation of GST has shareholders other than Government of India and State Government, three Banks, viz. ICICI Bank HDFC Ltd., HDFC Bank constitute 30% of the total shareholding of the company. No public sector bank is a stakeholder in the company. As the bulk of tax collection is undertaken by public sector banks, including State Bank of India, we hereby submit to kindly consider inducting at least one of the

public sector banks as stakeholder in the GSTN. However, if the same is not possible due to any administrative reason, at least a representation of public sector bank should be given in the Board of GSTN.

Since the fee earned on services being provided by the banks to customer may also be covered under the proposed GST, we submit before the Committee that filing of return and deposit of GST so collected be made applicable in the centralized manner as is being currently done by the Bank while levying service tax on the fees earned on services rendered to the customer.

State Bank of India

3.39 (i) Financial services are exempt from GST/VAT in almost all countries. However, In India, service tax is leviable on fee based services provided by the banks and financial institutions. Presently, the tax is applicable on all fee based activities including the services provided to weaker section of society, whose accounts were opened for financial inclusion to achieve the social goal of the Government. Retail transactions, in terms of volume, constitute more than 90% in banks. The value of service for most of these transactions does not exceed Rs. 100/- considering the larger goal of the Government, it is requested that GST should not be applicable on services rendered to retail depositors. In case the Government wishes to levy GST on such services, some abatement may be considered so that the cost of services to retail customers does not go up, as GST rate is likely to be substantially higher than the present service tax rate. This will go a long way in continuing with affordable banking services to all.

3.40 (v) Considering the huge network of branches/ATM and also considering the complexities involved, we request that banks should be permitted to have a single registration and discharge GST liability centrally and credits of SGST should be available across States.

3.41 (xi) Newspaper reports that the GST rate is likely to be 20-22% as against service tax rate of 14%. Considering that in most of the countries, banking services are outside GST, the increase in the tax rate will further increase the cost of banking services. This results into cost of doing business to be much higher in India as compared to other competing countries. To be internationally competitive, the GST rate for banking industry should be minimum and in no case should it be more than what is being levied today.

3.42 We request that the best practices followed internationally may be followed and banking services are kept outside GST. If this is not possible then, interest, trading in securities and foreign currency and services to retail customers should not be liable to GST and suitable provision should be there to avail of CenVAT credit of input services taken to provide activities involved in such services. Further, single registration coupled with IGST provision should be made available to enable CenVAT credit for consumers of banking services.

Recommendation

3.43 The Committee feels GSTN shall play a crucial role in implementation of GST as it shall provide the IT infrastructure for implementation of GST. It noted that Non Government shareholding of GSTN is dominated by private banks. This is not desirable because of two reasons . Firstly, public sector banks have more than 70% share in total credit lending in the country. Secondly, GSTN's work is of strategic importance to the country and the firm would be a repository of a lot of sensitive data on business entities across the country. In light of above, the Committee strongly recommends that Government may take immediate steps to ensure Non Government financial institution shareholding be limited to public sector banks or public sector financial institutions.

3.44 Endorsing the views of the SBI, the Committee having same feeling as the bank recommends that the best practices followed internationally may be followed and if possible banking services may be kept outside GST. Furthermore, if this is not possible then, interest, trading in securities and foreign currency and services to retail customers should not be liable to GST and suitable provision should be there to avail of CenVAT credit of input services taken to provide activities involved in such services. Further, single registration coupled with IGST provision should be made available to enable CenVAT credit for consumers of banking services.

3.45 The Committee is of the considered opinion that if the GST rate is more than the service tax rate of 14%, the increase in the tax rate will further increase the cost of banking services. This results into cost of doing business to be much higher in India as compared to other competing countries. Therefore, the Committee recommends that to be internationally competitive, the GST rate for banking industry should be minimum.

3.46 On a point raised during the meetings about the differential treatment to alcoholic liquor for human consumption, efforts made to encourage manufacturing activity and Floor Rates with Bands, the Department of Revenue in their written submission stated that:

Treatment of alcoholic liquor for human consumption

3.47 Only alcoholic liquor for human consumption has been excluded from the ambit of GST Constitutionally. All other forms of alcohol like alcohol for industrial use and medicinal and toilet preparation containing alcohol which falls in the taxing domain of the Central Government have been included in GST. This exclusion has been done to address the strong concern of the states regarding loss of revenue if potable alcohol was to be subsumed under GST.

Incentives to State Government to encourage manufacturing activities

3.48 The very nature of GST has features to incentivize manufacturing activity. As GST is a destination based consumption tax, higher the consumption of goods and services in a state, higher would be tax collection. It is well known that higher level of manufacturing activity results in a host of ancillary benefits such as creation of more jobs, higher earnings and higher standard of living, all of which encourage higher consumption of goods and services within the state leading to higher tax collection.

Floor Rates with Bands

3.49 To give flexibility to the States, the provision of 'bands' over the GST floor rates, to be recommended by the GST Council, has been introduced. Depending on the local situations and requirements, the States have the option to levy slightly higher tax within this band.

GST Rate

3.50 I. On the aforesaid issue, experts in their written comments stated the following:

3.51 Once the enabling framework is created for the levy of GST, the next most crucial step in its implementation is the determination of the tax base and tax rate. This issue has been discussed in detail in the "Report of the Task Force on GST" that was submitted to the 13th Finance Commission. The Report recommends a broad base for the GST, and a combined Centre and State revenue neutral rate of 12%.

3.52 A broad base and moderate rate is an essential feature of a good tax system. Multiplicity of tax rates is also to be avoided. A majority of the VAT/GST system introduced in the last three decades embrace these features. For example, VAT/GST in New Zealand is levied on a comprehensive base at a single rate of 12.5% (at inception), in Singapore at 3%, Japan at 3%, Australia at 10%, South Africa at 16%, and Malaysia at 6% (most recent, implemented in 2015). Levy of GST on a comprehensive base makes it an economically efficient and productive source of revenue. In each of the examples cited, the revenue yield as a percent of GDP is estimated to be 0.5% or more for each percentage point of the GST rate. In New Zealand, the GST yield was the highest, at 0.74% of GDP (i.e., 12.5% GST was yielding revenues in excess of 9% of GDP).

3.53 The Centre and State revenues in India to be replaced by GST are a little less than 6% of GDP. The international benchmark revenue productivity of 0.5% of GDP yields a target revenue neutral rate for India of less than 12%. In their view, this remains a realistic option for India, which would be politically appealing, catalyse voluntary compliance, and provide a significant

boost to investment and economic growth. While the tax base and rates are to be decided by the GST Council, the Bill should not create any barriers to levy of such a tax, i.e., it should allow the levy of tax to the broadest possible base.

GST Rate – it must not be inflationary

3.54 II. In terms of the proposed Article 279A (4)(e), the GST Council shall make recommendations to the Union and the States on 'the rates including floor rates with bands of goods and services tax'. The GST rate is a very important factor in earning the trust of the tax payers. Howsoever efficient the GST machinery may be, the tax-payers won't welcome GST happily if the GST rate is kept high because that will lead to high inflation. Even in developed countries like Australia and Canada, GST was opposed by the poorer sections of the taxpayers because of high GST rate.

GST and Revenue Neutral Rate (RNR)

3.55 The GST rate would normally be based on the Revenue Neutral Rate (RNR). In the present circumstances, the RNR is expected to be high because Petroleum and its products and Alcohol have been kept out of GST and consequently, the tax base would shrink. But, a high GST rate in line with high RNR would definitely lead to high inflation. India cannot afford to have high inflation at this stage of the economy. Therefore, it is submitted that **not to go strictly by the RNR while fixing the GST rate.** The newspaper reports suggested first a RNR of around 27%, and later it was reported to be somewhere between 20 and 23%. Internationally, GST rate normally varies between 16 to 20%, with exceptions like Australia at 10%, New Zealand at 15%, Japan at 8%, Germany at 23% and Malaysia at 6%. France has four rates, the highest 20% and lowest 2.1%, while UK has two rates 20% and 5%. To start with, **India's GST rate should not go beyond 20% for standard rate and perhaps 14% for reduced rate.**

Recommendation

3.56 **The Committee feels that although the GST Council has been entrusted with the task of fixing the rate including floor rates with bands in mutual consent with other State Governments who are part and parcel of the Council. But implementation of GST in other countries has shown GST rate is a very important factor in earning the trust of the consumers. If the GST rate is kept high, it will surely erode the confidence of the consumers badly and may lead to high inflation. Therefore, the Committee is of the considered view that while fixing the rate, the GST Council may opt for a broad base and moderate rate as it is an essential feature of a good tax system and as far as possible multiplicity of tax rates may be avoided.**

Non-Interference in the State Governments powers stated in Concurrent List

3.57 The issue as to whether the proposed Article 246A intends to interfere in the State Governments powers mentioned under in the Concurrent List was also raised during the meeting of the Committee held on 3rd July, 2015. Replying to the Query, the Secretary, Department of Revenue informed the Committee that *"GST is a composite tax. Both the Centre and the States will have the power to levy it. Therefore, a separate specific provision is being made in Article 246A to enable both the Parliament and the State Legislatures to enact a proposal to levy and collect this tax. In no way this is diluting the powers of the States."* This will in no way interfere with the powers of the States under the Concurrent list.

IT Preparedness

3.58 Building IT infrastructure and developing IT services through GSTN: Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders for implementation of GST. GSTN was incorporated in March 2013. GSTN is working on creating a GST portal and related ICT infrastructure together with an interface with State IT systems. To support the States, GSTN will prepare the necessary software for front-end modules which would include Registration and Returns. GSTN would also prepare back end processing modules like assessment, audit, etc. which would be required by the various States. In case the States want to develop their own software for backend modules, they shall be free to do so and in case they want to use the backend modules prepared by GSTN, they shall be provided the same.

3.59 The Committee was given to understand that an 'As-Is' Study was conducted by the NSDL to assess the capacities of the existing State IT systems and operational procedures, and to identify gaps with respect to the envisaged GST system. It is also expected that development of IT infrastructure and services is to complete by March, 2016.

3.60 The Committee is aware that Goods and Services Tax Network (GSTN) a not-for-profit, non-Government Company has been jointly set up by the Central and State Governments and it will provide shared IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders. Further, it is expected that GSTN would complete the development of IT infrastructure and services by March, 2016 i.e. exactly one month before the date from which the Government of India intends to implement it throughout the country.

3.61 Apprehensions related to level of IT preparedness have been expressed at various fora together with concerns related to its implementation. There are many questions to be answered and many more will arise at the time of its implementation and how it is to be linked with the system available with states, but at the very same time what has to be seen is its long lasting benefits that would accrue to the nation in the years to come.

3.62 The Committee feels that together with IT preparedness, training would be a crucial element to look for. Our is a society where most of the population is not techno savvy and there would be hitch in using it by those who are at the helms of affairs. Hence, to overcome all these apprehensions it would be imperative to impart training to the personnel's at all levels and at the very onset so that their fear about its usage, implementation, affects, etc may be removed and results in building their confidence in doing or performing various tasks.

Recommendation

3.63 In that backdrop, the Committee recommends that all out effort should be made to improve upon the IT preparedness of the States, so that the apprehensions related to its level of preparedness may gets addressed. For its smooth implementation, the Committee immediately recommends implementation of comprehensive training programmes at all levels to allay the fears of consumers, stakeholders, organisations, etc. A message should go loud and clear to all that we as a country are ready to adopt tax reform of unparalleled nature. The Committee also recommends that for having no discernible blemishes in the implementation of GST, it is imperative that not only IT preparedness is at very high level but also prerequisites like IT infrastructure, unified tax credit clearing mechanism, etc may be put in place for its implementation.

Apprehension among State Governments

3.64 Many State Governments/UTs either submitted their written views or appeared before the Committee on the Bill. Doubts clubbed with apprehensions of numerous types were raised and brought to the notice of the Committee. Apprehensions were cast over the losses in revenue and their sources after the implementation of Goods and Services Taxes in India. Similarly, there were apprehensions relating to/ demands from all corners that whether States may be empowered to levy higher taxes on tobacco and tobacco products, 100% compensation for a period of 5 years should be given, Abrupt deletion of entry 52 from the state list may financially cripple the local bodies, Flexibility may be given to the states to fix SGST rates as per their needs from time to time, to protect the revenue of the local bodies special category states may be allowed to levy entry tax, Inclusion of petroleum products in the present bill with the safeguard that it shall be operationalised on the recommendation of GST Council on a date later than five years, In clause 19 of the Bill, instead of the words "for such period which may extend to five year" words "f or a period not less than five years" may be replaced. Similarly, for the words "P arliament may" the words "Parliament shall" be substituted, Amend the entry 62 to read it as under 62 taxes on entertainment, betting and gambling". Similar de mands in respect of Entertainment, Amusement, Betting & Gambling that proposed Amendment by way of insertion of clause 16 (e) be omitted, Taking into

consideration of adverse impact on environment, proposes for levy of an additional non-rebatable cess subject to suitable framing of guidelines, "Taxes on food grains contributed by the States to National Food Grains Pool subject to any limitations imposed by Parliament by law", etc.

Recommendation

3.65 Having heard the views of the main stakeholders i.e. State Governments/UTs, the Committee feels that States are like the arteries of the India and if the arteries find themselves choked the whole body will fall. Hence, for the sake of our survival, what needs to be done is to protect and preserve our arteries. Based on that analogy, the Committee feels that although the apprehensions brought to the notice of the Committee are not unwarranted but due care have been taken constitutionally to overcome any constraints come in their way. All these initiatives ushered by the Government of India having been evolved and brought in the form of current Bill are based on the views expressed in the Empowered Committee meetings. To allay the fear of all State Governments in general and manufacturing states in particular, safeguards like 1% additional tax on supply of goods, compensation to States/UTs for losses in the revenue, States have been given the voting weightage of 2/3rd , decision in GST Council to be arrived at by the majority of not less than 3/4th , etc on the recommendation of the GST Council have been provided. More so, all this has been done constitutionally so that there may not be any doubt in the minds of the States/UTs.

3.66 Therefore, the Committee feels due consideration has been given by the Government of India to the aforesaid apprehensions raised by the States/UTs while coming forward with this comprehensive Constitutional Amendment Bill. The Committee feels that apprehensions cast over the introduction of goods and services taxes are early hiccups and with the introduction of it, the States/UTs would realise that they have many more options available to them to generate and augment their revenue source. Survival of the Union is on the States, the Committee close by saying that would the body (Centre) survive if arteries get choked, so vibrancy of the States comes first for the survival of the Centre.

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND
AMENDMENT) BILL, 2014

AS REPORTED BY THE SELECT COMMITTEE No.- of 2015

	THE CONSTITUTION (ONE HUNDRED AND FIRST AMENDMENT) BILL, 2015 <i>[Words underlined indicate the amendments suggested by the Select Committee and asterisks indicate omissions]</i>	
	A BILL	
	<i>further to amend the Constitution of India.</i>	
	BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows: —	
	1. (1) This Act may be called the Constitution (One Hundred -----Amendment) Act, 2015.	Short title and commencement.
	(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.	
	2. After article 246 of the Constitution, the following article shall be inserted, namely: —	Insertion of new article 246A.

	"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with	Special provision with respect to goods and services tax.

	respect to goods and services tax imposed by the Union or by such State.	
	(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce. <i>Explanation.</i>—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect from the date recommended by the Goods and Services Tax Council."	
	3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.	Amendment of article 248.
	4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.	Amendment of article 249.
	5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.	Amendment of article 250.
	6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.	Amendment of article 268.
	7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted.	Amendment of article 268A.
	8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.	Amendment of article 269.
	9. After article 269 of the Constitution, the following article shall be inserted, namely: —	Insertion of new article 269A.

	"269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council. <i>Explanation.</i>—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.	Levy and collection of goods and services tax in course of inter-State trade or commerce.
	(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce."	
	10. In article 270 of the Constitution, —	Amendment of article 270.
	(i) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted;	
	(ii) after clause (1), the following clause shall be inserted, namely: —	
	"(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2)."	
	11. In article 271 of the Constitution, after the words "in those articles", the words, figures and letter "except the goods and services tax under article 246A," shall be inserted.	Amendment of article 271.
	12. After article 279 of the Constitution, the	Insertion of new

	following article shall be inserted, namely : –	article 279A.
	'279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred ----- Amendment) Act, 2015, by order, constitute a Council to be called the Goods and Services Tax Council.	Goods and Services Tax Council.
	(2) The Goods and Services Tax Council shall consist of the following Members, namely:—	
	(a) the Union Finance Minister Chairperson; (b) the Union Minister of State in charge of Revenue or Finance.....Member; (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.	
	(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.	
	(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on— (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax; (b) the goods and services that may be subjected to, or exempted from the goods and services tax; (c) model Goods and Services Tax Laws, principles of levy, apportionment	

	of Integrated Goods and Services Tax and the principles that govern the place of supply; (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax; (e) the rates including floor rates with bands of goods and services tax; (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster; (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and (h) any other matter relating to the goods and services tax, as the Council may decide.	
	(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.	
	(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.	
	(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its	

	meetings.	
	(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.	
	(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the Members present and voting, in accordance with the following principles, namely : – (a)the vote of the Central Government shall have a weightage of one-third of the total votes cast, and (b)the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,in that meeting.	
	(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of— (a)any vacancy in, or any defect in, the constitution of the Council; or (b)any defect in the appointment of a person as a Member of the Council; or (c)any procedural irregularity of the Council not affecting the merits of the case.	
	(11) The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendations."	
	13. In article 286 of the Constitution, —	Amendment of article 286.
	(i)in clause (1), — (A)for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of	

	services or both, where such supply takes place" shall be substituted; (B)in sub-clause (b), for the word "goods", at both the places where it occurs, the words "goods or services or both" shall be substituted; (ii)in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted; (iii)clause (3) shall be omitted.	
	14. In article 366 of the Constitution, —	Amendment of article 366.
	(i)after clause (12), the following clause shall be inserted, namely: — '(12A) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;'; (ii)after clause (26), the following clauses shall be inserted, namely: — '(26A) "Services" means anything other than goods; (26B) "State" with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;'.	
	15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures "article 162 or article 241", the words, figures and letter "article 162, article 241 or article 279A" shall be substituted.	Amendment of article 368.
	16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3), — (i)in clause (c), the word "and" occurring at	Amendment of Sixth Schedule.

	the end shall be omitted; (ii)in clause (d), the word "and" shall be inserted at the end; (iii)after clause (d), the following clause shall be inserted, namely: — "(e) taxes on entertainment and amusements."	
	17. In the Seventh Schedule to the Constitution, —	Amendment of Seventh Schedule.
	(a)in List I — Union List, — (i)for entry 84, the following entry shall be substituted, namely: — "84. Duties of excise on the following goods manufactured or produced in India, namely: — (a)petroleum crude; (b)high speed diesel; (c) motor spirit (commonly known as petrol); (d)natural gas; (e) aviation turbine fuel; and (f) tobacco and tobacco products."; (ii)entries 92 and 92C shall be omitted;	
	(b)in List II — State List, — (i) entry 52 shall be omitted; (ii) for entry 54, the following entry shall be substituted, namely: — "54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale	

	in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.", (iii)entry 55 shall be omitted, (iv)for entry 62, the following entry shall be substituted, namely: — "62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council."	
	18. (1) An additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in sub-section (2).	Arrangement for assignment of additional tax on supply of goods to States for two years or such other period recommended by Council.
	(2) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates. (3) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under sub-section (1). (4) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce. (5) For the purposes of this section, "State" shall have the meaning assigned to it in clause (26B) of article 366 of the Constitution.	

	19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a* period **** of five years.	Compensation to States for loss of revenue on account of introduction of goods and services tax.
	20. Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier.	Transitional provisions.
	21. (1) If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty: Provided that no such order shall be made after the expiry of three years from the date of such assent. (2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.	Power of President to remove difficulties.

**RAJYA SABHA SELECT COMMITTEE ON THE GOODS AND
SERVICES TAX**

**NOTE OF DISSENT BY
MADHUSUDAN MISTRY, MANI SHANKARAIYAR,**

BHALCHANDRA

MUNGEKAR

New Delhi, 20 July 2015

We are in favour of a Goods and Services Tax that is simple and comprehensive. The Constitution (122nd) Amendment Bill, 2015 is neither. It is pitted with compromises, exclusions and exceptions that make it impossible for us to extend our support to the Bill in the absence of the amendments we have proposed being incorporated in the Bill, as drafted at present.

First, to ensure that GST rates are moderate and reasonable and do not impose an unfair burden on consumers, particularly poor consumers, it is necessary that a ceiling rate be specified in Article 246A so that, in the pursuit of higher revenues, the GST Council desists from crossing the ceiling. We have proposed a ceiling of 18% as a reasonable, moderate, adequately revenue-generating GST rate.

Second, we find the proposal to levy an additional 1% tax to be market-distortion, especially in view of the fact that we have proposed 100% compensation for a minimum of five years to States that might lose revenues. Further, in our view, the compensation should be deposited in a GST Compensation Fund, under the administrative control of the GST Council, as proposed by the Standing Committee on Finance.

Third, the single most crucial word in the Bill is "supply lies", which is used in clause 9 and clause 18 without being defined. We have, therefore, sought to amend clause 9 through two provisos to article 269(A) to clarify that goods moving from one unit to another unit of a firm in different States under the same ownership, or when two or more firms are collaborating in units located in different States for the manufacture of the same end-product, should be excluded from the term "supply lies". This would also apply to the same term used in clause 18. However, representatives of the Government have failed to define this term in the Committee on the ground that three governmental committees are engaged in defining the term in preparing Bills for GST, SGST and IGST. We believe that a Select Committee of the Rajya Sabha cannot be subordinated to bureaucratic committees and that it would not be proper for the Select Committee to commend a draft Constitution amendment to Parliament without a proper agreed definition of this key term.

Fourth, given that the fundamental aim of GST is to establish a common market for the whole country, we are unable to support a GST Bill that excludes indefinitely from the purview of the GST tobacco and tobacco products, alcohol for human consumption and electricity supply and consumption. We propose that all three be included in clause 12 of the Constitution amendment bill with the condition that the GST Council take a decision for their inclusion in GST within a period of five years.

Fifth, we cannot support a GST Council that is unduly weighted in favour of the Centre. In the interests of true "cooperative federalism", the share of the States in voting in the GST Council must be enhanced to 75% and the share of the Centre brought down to 25%

Sixth, we cannot support a Bill that transgresses the elementary principle of law that parties to a dispute cannot be judges in their own cause. The failure to incorporate a GST Disputes Settlement Authority, as was provided for in the 2011 Bill, is a serious lacuna that must be filled. The GST Council, comprising members who will necessarily be party to any dispute relating to the implementation of GST, must be supplemented and reinforced with GST disputes Settlement Authority in toto as provided for in the 2011 Bill.

Seventh, the sources of revenue of the Panchayats and Municipalities, as provided for in Parts IX and IXA of the Constitution, must be safeguarded and they must be assured of their due share in the revenue buoyancy that is expected to arise from the enactment and implementation of the GST. It is only with such assurance, through the amendments we have suggested in this regard to the Bill, that we might find it possible to support the proposed legislation.

Eighth, special consideration might be given by the GST Council to any State or Union territory, with or without a Legislature, such as Goa and Puducherry, whose population does not exceed twenty lakh. Further, we strongly protest the failure to include in the Report of the Committee the detailed rationale for the various amendments we have moved to the Constitution (One Hundred and Twenty Second) Amendment Bill, 2015, while providing ample space for the Government to explain its rationale. Accordingly, we attach in the Annexe to this Note of Dissent the amendments we have moved to the draft Report of the Select Committee.

Further, we strongly protest the failure to include in the Report of the Committee the detailed rationale for the various amendments we have moved to the Constitution (One Hundred and Twenty Second) Amendment Bill, 2015, while providing ample space for the Government to explain its rationale. Accordingly, we attach in the Annexe to this Note of Dissent the amendments we have moved to the draft Report of the Select Committee.

This Note of Dissent is submitted in view of the failure of the Select Committee to take our points adequately into account.

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(Madhusudan Mistry)
Mungekar

Mani Shankar Aiyar)

(Bhalchandra

**Annexe
to**

Note of Dissent submitted by

Madhusudan Mistry, Mani Shankar Aiyar and Bhalchandra Mungekar

**Text of amendments to the draft Report submitted by
Madhusudan Mistry, Mani Shankar Aiyar, Bhalchandra, Mungekar
Clause 2**

Paragraph 5.4

In the third line, after "concerned" and before "the Ministry of Finance"
add:

"the members moving the amendment stressed the need to keep GST rates moderate and reasonable so that consumers, particularly poor consumers, are not excessively burdened, and to this end proposed that the GST Council be bound by the Constitution to not exceed 18% as the rate for an adequately revenue-generating GST. They clarified that there is the precedent of a specific rate of taxation provided for in article 276(2) as also in clause 18 of the Bill before the committee."

Clause 9

Paragraph 32.3A

Add new paragraph to read as follows:

"These members rejected the argument made by Government representatives that as the definition of the term was being decided by three government committees working on GST, SGST and IGST there was no need to define the term in the Constitution, stating that a Select Committee of Parliament cannot be subordinated to ongoing work of governmental committees and, therefore, it would be improper to commend a Bill to Parliament that did not adequately define so crucial a term as "supply /supplies".

Paragraph 35.3A Clause 12

Add new paragraph to read as follows:

Some members proposed that under clause 4(c), among the "principles" to be considered by the GST Council while preparing GST laws the principle of "share of local bodies in revenue buoyancy and compensation for losses sustained through taxes subsumed" should be included as articles 243H and 243X provide for State Legislatures to, by law, ensure the "sound finances" of the local bodies. This would also enable State Finance Commissions set up under articles 243 I and

243 Y to provide for augmenting the share of local bodies in revenue buoyancy generated by the adoption of GST.

Paragraph 35.38

Add a new paragraph to read as follows:

With reference to sub-clause (4) (g) which provides for "special consideration" to certain States, some members proposed, in keeping with article 243(2), that "special consideration" may also be extended to States like Goa and Union territories like Puducherry by adding at the end of 4(g) "and any State or Union territory having a population not exceeding twenty lakhs". This proposal was made in response to the specific request of Goa and Puducherry to be given special consideration in view of their small size and limited sources of revenue.

Paragraph 35.4

Amend the last sentence to read: "These items have been kept out of GST **for the present** to protect the revenue interest of the States"

Paragraph 35.4A

Add the following paragraph to read as follows:

Some members sought the inclusion in clause 12(5) of highly revenue-generating products like tobacco and tobacco products, alcohol for human consumption and electricity supply and consumption within a period not later than five years so that India, within a few years, fulfills the fundamental GST objective of making the entire nation a single common market for all products.

Clause 13

Paragraph 39.3A

Add the following new paragraph to read as follows:

Some members sought the definition in the Constitution amendment itself of the term "supply" in proposed clause I(A) of article 286

Clause 14

Paragraph 40.1

Add at the end of the draft sentence the words: "so as to progressively ensure a true common market for all goods"

Paragraph 40.2

Add at the end of the draft sentence the words: "so as to avoid the circular definition of 'services' meaning 'anything other than goods'."

Clause 16

Paragraph 46.1

Amend the opening line to read as follows: "With a view to

progressively promoting a common market in all goods and services,"before "Some members"

Paragraph 46.2

Add at the end of the present draft sentence the following words: "as it does not figure in the Constitution?"

Paragraph 46.8A

Add the following new paragraph:

Some members did not accept Government's views as set out under paragraphs 46.6, 46.7 and 46.8 as the overarching objective of GST is to progressively render India a common market for all goods and services, including so-called 'demerit' goods. If a higher rate of tax has to be imposed on such goods, the GST Council may be authorised to do so.

Clause 18

Paragraph 52.5

Add at the end of the draft sentence the following words: "because these members have proposed that, under clause 19, 100 percent compensation be provided for a period not less than five years. In view of guaranteed compensation for any loss incurred by any State or Union territory, there is no need to levy a market-distorting 1% additional levy"

Clause 19

Paragraph 53.4A

Add the following new paragraph:

Some members proposed the addition of the words: ", as well as The Panchayats and The Municipalities through State Legislatures" so as to ensure the "sound finances" of the local bodies while respecting the Constitutional order that as local bodies are in the State List it is for State Legislatures, by law, to "authorise a Panchayat/Municipality to levy, collect and appropriate" such taxes. They held that a mere recommendation to this effect by the Select Committee would not be binding in the sense that an appropriate provision in the Constitution would be.

Chapter IV Dispute Settlement Authority

Paragraph 62.1

Amend the second sentence to read as follows:

They were of the view that as the principles of natural justice hold that a party to a dispute cannot be a judge in its own cause, leaving disputes to be settled in accordance with the directives of the GST

Council would be tantamount to allowing all disputes, which would necessarily involve one or more members of the GST Council as judges in disputes to which they are party.

A.NAVANEETHAKRISHNAN.
MEMBER OF PARLIAMENT
(RAJYA SABHA)
9, OLD TAMIL NADU HOUSE,
UTIL YA MARG,
ANAKYAPURI,
NEW DELHI

LEADER,
AIADMK PARTY IN RAJYA SABHA.
NEW DELHI,
21.07.2015.

The Hon'ble Chairman,

Select committee on Constitution (One Hundred and Twenty Second Amendment) Bill, 2014,
Rajya Sabha,
New Delhi

Respected Sir,

Vanakkam,

A Dissent Note by AIADMK party on the report of the Select Committee on the Constitution (One Hundred and Twenty-Second Amendment) Bill,2014 is submitted after having gone through the report.

Thank You,

Yours Sincerely,

~~~  
(A. NAVANEETHAKRISHNAN)



**DISSENT NOTE BY AIADMK PARTY ON THE REPORT  
OF THE SELECT COMMITTEE ON THE  
CONSTITUTION  
(ONE HUNDRED AND TWENTY-SECOND AMENDMENT)  
BILL, 2014**

The views of the AIADMK Party on the Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 on Goods and Services Tax (GST) passed by the Lok Sabha on 6th May, 2015, and which is presently under consideration of the Select Committee by the Rajya Sabha, are in consonance with the letters dated 17.8.2014 and 19.12.2014 addressed by our Leader and the Hon'ble Chief Minister of Tamil Nadu to the Hon'ble Prime Minister and the letter dated 10.9.2014 addressed to the Union Finance Minister, in so far as they impinge upon the fiscal autonomy of States, and are as follows: -

**I. PROVISIONS RELATING TO GOODS AND SERVICES TAX COUNCIL:**

GST Council as a constitutional body impinges on the legislative sovereignty of both Parliament and the State Legislatures. It also completely jeopardizes the autonomy of the States in fiscal matters. In spite of our repeated objections, the present Bill also envisages the formation of the GST Council. We strongly object to the provision for the GST Council. Ideally it should not exist. The existing mechanism of the Empowered Committee of State Ministers which dealt with VAT issues is adequate. No statutory GST Council is required. Furthermore, the decision making rule and voting weightage in the proposed Council are completely unacceptable. They give the Government of India an effective veto in the GST Council and no distinction is sought to be made amongst the States in weightage. Hence, if at all a Council is formed, the weightage of the vote of the Central Government should be reduced to **one-fourth** of the total votes cast and that of the States should be increased To **three-fourths** of the total votes cast. Further, the weightage of each State's vote should be in proportion to the representation of each State in the Council of the States. This is important as the changeover to GST has different implications for different States based on their size and reliance on own tax revenues. However, the Select Committee has not considered these views on the GST Council and has not recommended appropriate amendments. Hence the AIADMK Party dissents from the report of the Select Committee.

**II. PROVISIONS RELATING TO PETROLEUM AND PETROLEUM PRODUCTS:**

Petroleum and Petroleum products, which are currently outside the purview of State VAT in most States, are proposed to be covered under GST in the Constitution Amendment Bill though the date on which such

tax will be levied on these products has been left to the recommendation of the GST Council. Bringing these products under the ambit of GST will entail huge revenue loss to the States as Input Tax Credit will have to be provided eventually. Further, there is no guarantee that GST will not be prematurely imposed on these products. Hence, considering the limited revenue resources of the State, as has been repeatedly insisted upon by our Leader, the Hon'ble Chief Minister of Tamil Nadu Puratchi Thalaivi Amma, Petroleum and Petroleum products should be totally kept outside GST. However, the Select Committee has not considered these views on the provisions relating the petroleum and petroleum products and has not recommended appropriate amendments. Hence the AIADMK Party dissents from the report of the Select Committee.

### **III. PROVISIONS RELATING TO TOBACCO AND TOBACCO PRODUCTS:**

States should also be empowered to levy higher taxes on Tobacco and Tobacco products over and above SGST similar to what has been allowed to the Centre. However, the Select Committee has not considered these views on the provisions relating tobacco and tobacco products and has not recommended appropriate amendments. Hence the AIADMK Party dissents from the report of the Select Committee.

### **IV. PROVISIONS RELATING TO ADDITIONAL LEVY OF 10/0 IN THE COURSE OF INTER-STATE TRADE OR COMMERCE:**

Manufacturing States like Tamil Nadu stand to permanently lose substantial revenue if GST is implemented, as GST will be based on the destination principle. Though the Bill envisages that an additional tax on supply of goods to the extent of 1% in the course of inter-State trade or commerce for a period of 2 years or such other period as the GST Council may recommend, it also empowers the Government of India to exempt goods from this additional levy of 1%. The Select Committee has recommended that this additional levy of 1 per cent shall be restricted to "all forms of supply made for a consideration".

None of these formulations relating to the levy of 1 per cent additional tax really meet the requirements of a manufacturing State like Tamil Nadu. **Instead, the States should be permitted to retain 4% of CGST part of the IGST on all inter-State sales/transfer of both goods and services.** This will enable a substantial reduction in the compensation payable to the States. At the same time, since it would come out of the CGST part of the IGST, hence it would not place the destination States at any disadvantage with regard to revenue flow. However, the Select Committee has not considered these very valid views on the issue of taxation of interstate rate and has not recommended appropriate amendments. Hence the AIADMK Party dissents from the report of the Select Committee.

### **V. PROVISIONS RELATING TO COMPENSATION OF REVENUE LOSS**

## TO THE STATES:

The Bill provides for Parliament to enact a law to provide for compensation to the States years for such period which may extend to 5 on the recommendation of the GST Council. The Select Committee has suggested a modification indicating provision of compensation for a period of five years. While this removes the uncertainty regarding the period for which the compensation would be provided, it still falls short of the demands of the States regarding the extent of compensation. In the 14th Finance Commission's Report it has been recommended that 100% compensation may be provided for the first 3 years, 75% for the 4th year and 50% for the 5th year. In discussions it appears that the Government of India is in line with this view. However, taking into account the permanent loss that would accrue to the States, the AIADMK party suggests that **1000/0 compensation should be provided for a period of not less than 5 years** and a consensus should be arrived at on the methodology of computation of compensation and the mechanism to administer the compensation. As the Select Committee's report falls short of the expectations of the AIADMK Party we dissent from the report of the Select Committee.

## VI. CONSENSUS ON IMPORTANT ISSUES RELATING TO GOODS AND SERVICES TAX:

As our Leader, the Hon'ble Chief Minister of Tamil Nadu has pointed out, it would be appropriate to arrive at a **broad consensus** on a number of other important issues relating to GST like revenue neutral rates, floor rates with bands, commodities to be excluded from GST, IGST model and clarity on dual administrative control before proceeding further with the enactment, so as to allay the genuine fears of the States over loss of fiscal autonomy and permanent revenue loss. The Select Committee has also gone beyond its brief on the issue of Revenue Neutral Rate (RNR) and recommended that to start with, India's GST rate should not go beyond 20% for standard rate and perhaps 14% for reduced rate. This is a matter for the Empowered Committee of State Finance Ministers/ GST Council on which to take an appropriate view. Hence the AIADMK Party is unable to accept this recommendation in the Select Committee's report.

**On behalf of the AIADMK Party, the Select Committee of the Rajya Sabha was requested to duly take into account the above serious concerns relating to the Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 while finalizing the report of the Committee.**

As these views have not been duly considered by the Select Committee, this note may be appended to the Report as a dissent note containing the views of the AIADMK Party.

## **Dissent Note to the Select Committee Report on Constitution 122nd Amendment (GST) Bill**

Some provisions of the Constitution (One Hundred and Twenty Second Amendment) Bill i.e. Goods and Services Tax Bill are likely to adversely impact the federal structure of the country.

There is a need for decentralization of powers and devolution of the taxes in favour of the States and further to the Local bodies. Fiscal Federalism and protection of the powers of the states is important while a frame work is created for a Pan Indian Common Economic Zone and market through goods and services Tax Structure. The key issue arises in Clause XII of the Bill is the formation of a GST Council. According to the Clause, every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles,namely:-

- (a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and
- (b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast. Naturally, the Centre will have enormous power in the GST Council, given its structure prescribed in the Bill. So, the weightage of the Centre in the council should be reduced to at least one-fourth of the total votes cast and that of the States should be increased to at least three-fourth of the total votes cast.

The clauses are designed in a way that the Centre will have absolute powers in deciding tax proposals.This is likely to harm the concept of Union and States. It will be turning into a structure of Union alone.While special provision with respect to the states of Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand is made. Similar provision could have been made in case of Puducherry.

For protecting a particular local brand of MSME product and protecting Agri-based products, for promoting farmers and industry, States should have leverage. GST should not be in the interest of big corporate houses, who want a free flow of goods and services with the technology promoted and owned by them. With the Centre having an absolute say over the decision making process on the GST, the States will lose its financial independence in the long run and corporate will dictate the policies of even the local Governments. So, these concerns must be given due consideration in the Bill.

**Recommendations/Observations at a Glance**

- 1. CLAUSE 1 TO CLAUSE 8 : THESE CLAUSES HAVE BEEN ADOPTED WITH NO CHANGE.**
- 2. Clause 9 - The Committee feels that since imposition of GST on the supplies of goods and services in the course of inter-State trade would not lead to cascading of taxes, the Clause may be adopted with no change.**
- 3. CLAUSE 10 & CLAUSE 11 : THESE CLAUSES HAVE BEEN ADOPTED WITH NO change.**
- 4. Clause 12 - After having deliberated on the issue of finances of local bodies, the Committee strongly feels that the revenues of local bodies need to be sustained and protected for ensuring that standards of local governance are maintained. The Committee, thus, strongly recommends that the State Governments take adequate measures to ensure that adequate revenues flow to the local bodies, and their resources are not adversely affected. The Committee noted that Article 243H and 243X contain provisions for State Legislatures to authorize Panchayats and Municipalities to collect and appropriate taxes in the State list. The Committee further noted that Article 243I and 243Y provide for setting up of State Finance Commissions to make recommendations regarding devolution of funds to local bodies. The Committee noted that the above provisions notwithstanding, local bodies find managing their resource requirements quite challenging.**

**In light of above, with respect to Article 279A 4(e), the**

**Committee strongly recommends that the word 'band' used in the proposed Article may be defined in GST laws. The Committee recommends the following definition of 'band':**

***"Band" : Range of GST rates over the floor rate within which Central Goods and Service Tax (CGST) or State Goods and Services Tax (SGST) may be levied on any specified goods or services or any specified class of goods or services by the Central or a particular State Government as the case may be.***

**With respect to Article 279A(5), taking note of the provision that inclusion of petroleum products into GST can take place only on recommendation of GST Council which could happen only with the consent of both the Centre and the States, the Committee recommended that the clause be adopted with no change.**

**The Committee is aware that while discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.**

**In view of the clarifications submitted by the Department of Revenue and Legislative Department, the Committee finds no merit in disturbing the voting pattern proposed in the Bill, as the same has been worked out on a formula where no one is at an disadvantageous or dominating position be it Centre or States. Moreover, under clause 2 Parliament and the Legislature of every State shall have power to make laws with respect to GST simultaneously.**

**In the GST Council, all the decisions have to be taken collectively by the Centre and States and in order to take decision on any issue 75% votes are necessary. So, in order to strike a fine balance Centre vote share has been kept at 1/3<sup>rd</sup> and that of the States at 2/3<sup>rd</sup>. In that backdrop, the Committee recommends that**

**these amendments may not be necessary since our Constitution is a federal Constitution and so, it is necessary to make the provisions providing for a manner**

**that disallow the dominance of one over the other. Keeping this in view, the voting formula has been worked out. Hence, the clause may be adopted with no change.**

**The Committee, having noted the point mentioned by the Department of Revenue that the GST Council shall decide only the 'modalities' to resolve disputes, did not agree to recommend inclusion of Article 279B as was proposed in Constitution(115<sup>th</sup> Amendment) Bill, 2011.**

**5. Clause 13 - The term 'supply' would be defined in the various GST laws relating to CGST and SGST. Hence, the Committee feels that it would not be appropriate to insert the definition of supply in this clause. This clause has been adopted with no change.**

**6. Clause 14 - Endorsing the view of the Department, the Committee feels that 'services' has been so defined in order to give it wide amplitude so that all supplies that are not goods can potentially be covered within the ambit of services and no activity remains outside the taxable net. This would also minimize disputes. Further, having noted the points mentioned by the Department of Revenue regarding inclusion of petroleum products under GST, the clause may be adopted with no change.**

**7. Clause 15 & Clause 16 -These clauses have been adopted with no change.**

**8. Clause 17- 2.108 Regarding the aforesaid Entry, the Committee is of the view that Entry 92C was inserted by the Constitution (Eighty-Eighth Amendment) Act, 2003 to empower the Union to impose service tax on certain services read with article 268A of the Constitution.**

**Notwithstanding, the service tax levied under the Finance Act, 1994 were continuing as such. The amendment was carried out in the Constitution but the provision was never brought into**

force. Since Parliament has enacted the said constitutional provision and as such the provision stands as the part of Constitution; and therefore, unless it is omitted by a Constitution Amendment Act by Parliament, it will continue to sit in the Constitution. On the need for formal repeal, the Law Commission, in its One Hundred and Forty-eighth Report on "Repeal of Certain Pre-1947 Central Acts", has observed that "the statutes, unlike human beings, do not die a natural death, with the possible exception of statute whose life is pre-determined by the Legislature at the time of their enactment. A statute, unless it is expressly enacted for a temporary period, survives until it is killed by repeal. To this extent, statutes enjoy immortality." Therefore, it is necessary to omit the said provision to ward off any future doubts about GST.

The Committee is of the view that the entry in the list II- State List empowers the State Government to make laws in respect of the subjects mentioned therein. The Committee is also of the considered view that taxes on electricity and water have been treated separately from taxes on other goods and services in the Constitution. Entry 53 of the List II (State List) deals with taxes on sale or consumption of electricity, and this entry is not being touched by the Constitution (122nd Amendment) Bill, 2014. The Committee also noted the rationale for the provisions relating to alcohol for human consumption and tobacco as provided by the Department of Revenue. Hence, the clause may be adopted with no change.

**9. Clause 18-** 2.139 The Committee feels that the provision of 1% additional tax in its present form is likely to lead to cascading of taxes. Therefore, the Committee strongly recommends that in the concerned GST law, an explanation should be given that for the purpose of Clause 18, the word 'supply' would mean:



***Supply: "All forms of supply made for a consideration".***

**10. Clause 19 - 2.158** In view of the clarifications given by the Legislative Department, the Committee feels that there is no justification for substitution of the word 'may' with 'shall'.

Having regard to the concerns expressed by the various States and some of the Members of the Committee in their submissions made before the Select Committee, the Committee recommends amendment in clause 19. The amended clause 19 should read as follows:

***"19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for the loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years."***

**11. Clause 20 & Clause 21 :** This clause has been adopted with no change.

**12.** The Committee feels that the concerns expressed by all the Members of the Committee related to local bodies and Municipalities are not unwarranted. Based on the years of experience and being witnessed to their work in their respective constituencies they were of the view that their interest needs to be protected. The same view was also endorsed by nearly all the stakeholders who have either submitted their memorandum or appeared before the Committee on the Bill.

But, at the same time we may not forget that the Constitution of India clearly defines the ambit under which the Centre and each of the State has to function. Any encroachment into the State List would disturb the whole system and could strain the Centre-State relations.

**The Committee feels that although the issues raised by the Members to protect and preserve the interest of local bodies are valid, it would not be appropriate for the Committee to advise, recommend and guide the State Governments what they have to do with regard to the interests of the local bodies.**

**As per the provisions of the Bill, while the Parliament would pass law relating to CGST, every State Government has to pass a similar law relating to SGST. Hence, while drafting the SGST, the role of the drafters and the concerned State Governments becomes all the more important as they have a duty to protect the revenue sources of the Panchayats, Municipalities, etc, enshrined under Constitution of India. The Committee also feels that here the role of the GST Council is also very important, because while recommending to the Centre and State Governments for subsuming of the taxes, cesses and surcharges levied by the Union, the States and the local bodies in the goods and services tax under article 279 (4) (a), it may also ensure protection of revenue sources of local bodies under provisions of article 279 (4) (c) and (h).**

**In the light of the above, the Committee feels that in a cooperative federalism, each unit of it interacts cooperatively and collectively resolves their problems by taking appropriate action at their end. On the same analogy, Government at the helm of the affairs is duty bound both morally and constitutionally to protect the interest of local bodies by giving them suitable space of functioning and power to levy and generate taxes for their day today functioning. Having full faith in our Constitution from where each tier of the Government draws its powers, the Committee believes that all the State Governments would enact laws on the basis of Model GST Laws recommended by the GST Council and while making such laws States would abide by the constitutional**

**provisions relating to Panchayats and Municipalities.**

**Concerned about the very existence and survival of local bodies, the Committee feels that Local government is a State subject figuring as item 5 in List II of the Seventh Schedule to the Constitution. Article 243 G of the Indian Constitution enshrines the basic principle for devolution of power to the local bodies. In the nation's journey towards becoming an economic power, local bodies play an important part in enabling infrastructure availability to the citizens. Local bodies are institutions of the local self governance, which look after the administration of an area or small community such as villages, towns, or cities. The local bodies in India are broadly classified into two categories. The local bodies constituted for local planning, development and administration in the rural areas are referred as Rural Local Bodies (Panchayats) and the local bodies, which are constituted for local planning, development and administration in the urban areas are referred as Urban Local Bodies (Municipalities) and the Constitution of India gives protection to them through various articles, so while drafting the SGST laws due consideration should also be given to this fact. In that backdrop, the Committee strongly recommends that while drafting the SGST laws due consideration to the third tier of the Government as has been guaranteed by the Constitution be given and provisions of devolution of taxes to the local bodies be made.**

**The Committee is perturbed to know that State Finance Commissions (SFC) in some of the States are either non-existent or even when exist their recommendations were not accepted by the respective State Governments. The Committee understands that each tier of the Government draws its powers through the Constitution and there is a clear demarcation of fields through List I, II and III within which each tier has to function. Any encroachment by any of them would paralyze the whole system and defeat the very foundation of our Constitution. Hence, the**

**Committee while not venturing into the domain of the State List desires that for the betterment of our States in general and country in particular it would be prudent to abide by the recommendations of the SFCs.**

**13. Endorsing the view envisaged by Fourteen Finance Commission, the Committee feels it would be wise to keep the GST Compensation Fund out of the purview of the Bill as has been done in the present case, because it is a temporary component and that too only for five years.**

**14. The Committee feels that each and every State is being represented in the GST Council by their Revenue/Finance/Taxation Minister. Be it a small State or a big State, in the GST Council, all of them enjoy equal status and power to cast one vote. In the event of difference, it can very well be presumed that the GST Council will try to evolve consensus on contentious issues before going for casting of votes, as all the States are members of the Council. Thus, modality to resolve any differences internally lies with the Council. If any Dispute Settlement Authority is created separately it will certainly hamper the functioning of the GST Council in general and Legislatures (Parliament and States) in particular. Thus, it would be judicious not to have a separate and distinct authority having far reaching powers and which could preempt and supersede the powers of Parliament and State Legislatures in the long run.**

**The Committee also feels that when concept of Empowered Committee (EC) was coined for the first time, it may not have been presumed how it would function, whether it would serve the purpose for which it would be created, how States would be represented/heard, how issues would be taken up and resolved, etc. But experience has shown that the faith with which the concept of EC was coined has actually delivered. Empowered**

**Committee headed by one among the State Finance/ Revenue Ministers of all States deliberate meticulously on each of the issues raised by its Members and with the passage of time it had taken the shape of arbitration centre where disputes related to them or between two or many States are raised, deliberated and settled amicably without any arbitration charges or fees borne by the disputant States. It would not be over exaggeration of facts if the Committee would say that on the one hand EC had worked as a forum where any issue of State importance could be raised and on the other hand it had gained the confidence of States in solving their problems and allaying their fears. Such confidence building measure had been initiated by the EC that it could well be termed as a forum where disputes are settled broadly with consensus.**

**15. The Committee feels that it would be too early to presume as to whether the price levels will go down or up in the post GST era. What has to be seen and watched by the Government with eyes open is whether the benefit, if any, arises would certainly be passed on to the consumers or not. Hence, the Committee feels that at the most if price stability is achieved it would serve the very purpose of GST in the entire country as inflation, nowadays has not left even a single field untouched.**

**16. The Committee feels GSTN shall play a crucial role in implementation of GST as it shall provide the IT infrastructure for implementation of GST. It noted that Non Government shareholding of GSTN is dominated by private banks. This is not desirable because of two reasons . Firstly, public sector banks have more than 70% share in total credit lending in the country. Secondly, GSTN's work is of strategic importance to the country and the firm would be a repository of a lot of sensitive data on business entities across the country. In light of above, the Committee strongly recommends that Government may take**

**immediate steps to ensure Non Government financial institution shareholding be limited to public sector banks or public sector financial institutions.**

**Endorsing the views of the SBI, the Committee having same feeling as the bank recommends that the best practices followed internationally may be followed and if possible banking services may be kept outside GST. Furthermore, if this is not possible then, interest, trading in securities and foreign currency and services to retail customers should not be liable to GST and suitable provision should be there to avail of CenVAT credit of input services taken to provide activities involved in such services. Further, single registration coupled with IGST provision should be made available to enable CenVAT credit for consumers of banking services.**

**The Committee is of the considered opinion that if the GST rate is more than the service tax rate of 14%, the increase in the tax rate will further increase the cost of banking services. This results into cost of doing business to be much higher in India as compared to other competing countries. Therefore, the Committee recommends that to be internationally competitive, the GST rate for banking industry should be minimum.**

**17. The Committee feels that although the GST Council has been entrusted with the task of fixing the rate including floor rates with bands in mutual consent with other State Governments who are part and parcel of the Council. But implementation of GST in other countries has shown GST rate is a very important factor in earning the trust of the consumers. If the GST rate is kept high, it will surely erode the confidence of the consumers badly and may lead to high inflation. Therefore, the Committee is of the considered view that while fixing the rate, the GST Council may opt for a broad base and moderate rate as it is an essential feature of a good tax system and as far as possible multiplicity of tax rates may be**

**avoided.**

**Non-Interference in the State Governments powers stated in Concurrent List**

**18. In that backdrop, the Committee recommends that all out effort should be made to improve upon the IT preparedness of the States, so that the apprehensions related to its level of preparedness may gets addressed. For its smooth implementation, the Committee immediately recommends implementation of comprehensive training programmes at all levels to allay the fears of consumers, stakeholders, organisations, etc. A message should go loud and clear to all that we as a country are ready to adopt tax reform of unparallel nature. The Committee also recommends that for having no discernible blemishes in the implementation of GST, it is imperative that not only IT preparedness is at very high level but also prerequisites like IT infrastructure, unified tax credit clearing mechanism, etc may be put in place for its implementation.**

**19. Having heard the views of the main stakeholders i.e. State Governments/UTs, the Committee feels that States are like the arteries of the India and if the arteries find themselves choked the whole body will fall. Hence, for the sake of our survival, what needs to be done is to protect and preserve our arteries. Based on that analogy, the Committee feels that although the apprehensions brought to the notice of the Committee are not unwarranted but due care have been taken constitutionally to overcome any constraints come in their way. All these initiatives ushered by the Government of India having been evolved and brought in the form of current Bill are based on the views expressed in the Empowered Committee meetings. To allay the fear of all State Governments in general and manufacturing states in particular, safeguards like 1%**

**additional tax on supply of goods, compensation to States/UTs for losses in the revenue, States have been given the voting weightage of 2/3rd , decision in GST Council to be arrived at by the majority of not less than 3/4th , etc on the recommendation of the GST Council have been provided. More so, all this has been done constitutionally so that there may not be any doubt in the minds of the States/UTs.**

**Therefore, the Committee feels due consideration has been given by the Government of India to the aforesaid apprehensions raised by the States/UTs while coming forward with this comprehensive Constitutional Amendment Bill. The Committee feels that apprehensions cast over the introduction of goods and services taxes are early hiccups and with the introduction of it, the States/UTs would realise that they have many more options available to them to generate and augment their revenue source. Survival of the Union is on the States, the Committee close by saying that would the body (Centre) survive if arteries get choked, so vibrancy of the States comes first for the survival of the Centre.**

#### **Annexure-I**

### **8. Message from Lok Sabha - Reported**

Secretary-General reported to the House, a message from the Lok Sabha informing the Rajya Sabha that the Lok Sabha at its sitting held on the 12<sup>th</sup> May, 2015, had adopted a Motion informing that the Lok Sabha concurs in the recommendation of the Rajya Sabha that the Lok Sabha do agree to leave being granted to withdraw the Motor Vehicles (Amendment) Bill, 2014, which was passed by the Lok Sabha on the 18<sup>th</sup> of December, 2014 and laid on the Table of the Rajya Sabha on the 19<sup>th</sup> of December, 2014.1-01 p.m.

*The House adjourned and re-assembled at 2-01 p.m.2-01 p.m.*



**9. Government Bill — Motion for Reference of the Bill to a Select Committee — Adopted.**

**The Constitution (One Hundred and Twenty-second Amendment)  
Bill, 2014.**

Shri Arun Jaitley, Minister of Finance, Corporate Affairs and Information and Broadcasting, moved the following motion:—

“That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:—

1. Shri Bhupender Yadav
2. Dr. Chandan Mitra
3. Shri Ajay Sancheti
4. Shri Madhusudan Mistry
5. Shri Mani Shankar Aiyar
6. Dr. Bhalchandra Mungekar
7. Shri Naresh Agrawal
8. Shri K. C. Tyagi
9. Shri Derek O'Brien
10. Shri A. Navaneethakrishnan
11. Shri Satish Chandra Misra
12. Shri K.N. Balagopal
13. Shri Dilip Kumar Tirkey
14. Shri C.M. Ramesh
15. Shri Praful Patel
16. Shrimati Kanimozhi
17. Shri Anil Desai
18. Shri Naresh Gujral
19. Mir Mohammad Fayaz
20. Shri D. Raja
21. Shri Rajeev Chandrasekhar

with instructions to report to the Rajya Sabha by the last day of the first week of the next Session.”

2-03 p.m.

The motion was adopted. %2-21 p.m.

**10. Statement by Minister**

Shri Nitin Jairam Gadkari, Minister of Road Transport, Highways

and

Shipping, made a statement regarding certain allegations against him made by

some Members in the context of a CAG Report laid on the Table of the Rajya

Sabha on the 30th of April, 2015

Thereafter, some Members sought clarifications.

Y2-57 p.m.

*The House adjourned and re-assembled at 3-12 p.m.*

## Annexure-II

### List of Organisations heard during the visit of the "The Constitution (One Hundred and Twenty- Second Amendment) Bill, 2014".

1. Gail (India) Limited
2. Oil India Limited
3. Oil and Natural Gas Corporation
4. Indian Overseas Bank
5. Indian Bank
6. UCO Bank
7. United Bank of India
8. Bank of Baroda
9. State Bank of India
10. Chambre de Commerce
11. Tamil Nadu Vanigar Sangankalin Peramaippu
12. Puducherry Trader's Federation
13. Karaikal Chamber of Commerce
14. Pondicherry Chamber of Industries
15. Tamil Nadu Chamber of Commerce & Industry
16. The Bengal Chamber
17. Tamil Nadu Small & Tiny Industries Association
18. The Tamil Nadu Automobile & Allied Industries Federation
19. The Tamil Nadu Food Grains Merchants Association Ltd
20. Tamil Nadu Chamber Brick Manufacturers Association
21. The Southern India Mills' Association
22. Salem City Chamber of Commerce
23. The Southern India Chamber of Commerce and Industry
24. FICCI
25. All India Federation of Tax Practitioners
26. The Film & Television Producers Guild of India Ltd
27. CII

28. Indian Broadcasting Foundation
29. Advertising Agencies Association of India
30. Express Industry Council of India
31. ASSOCHAM
32. SIAM
33. Indian Foundation of Transport Research and Training
34. All India Confederation of Commercial Taxes Associations

## **7.7 First Discussion Paper**

# **First Discussion Paper On Goods and Services Tax In India**

**The Empowered Committee  
Of  
State Finance Ministers**

**New Delhi  
November 10 , 2009**

**First Discussion Paper  
On  
Goods and Services Tax  
In India**

**The Empowered Committee  
Of  
State Finance Ministers**

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November 10 , 2009**

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## **Foreword**

If the Value Added Tax (VAT) is considered to be a major improvement over the pre-existing Central excise duty at the national level and the sales tax system at the State level, then the Goods and Services Tax (GST) will be a further significant breakthrough - the next logical step - towards a comprehensive indirect tax reform in the country.

Keeping this overall objective in view, an announcement was made by Shri P. Chidambaram, the then Union Finance Minister in the Central Budget (2007-2008) to the effect that GST would be introduced from April 1, 2010 and that the Empowered Committee of State Finance Ministers, on his request, would work with the Central Government to prepare a road map for introduction of GST in India. After this announcement, the Empowered Committee of State Finance Ministers decided to set up a Joint Working Group (May 10, 2007), with the then Adviser to the Union Finance Minister and the Member-Secretary of Empowered Committee as Co-convenors and the concerned Joint Secretaries of the Department of Revenue of Union Finance Ministry and all Finance Secretaries of the States as its members. This Joint Working Group, after intensive internal discussions as well as interaction with experts and representatives of Chambers of Commerce and Industry, submitted its report to the Empowered Committee (November 19, 2007).

This report was then discussed in detail in the meeting of Empowered Committee (November 28, 2007). On the basis of this discussion and written observations of the States, certain modifications were made and a final version of the views of Empowered Committee at that stage was prepared and was sent to the Government of India (April 30, 2008). The

comments of the Government of India were received on December

12, 2008 and were duly considered by the Empowered Committee (December 16, 2008). It was decided that a Committee of Principal Secretaries/Secretaries of Finance/Taxation and Commissioners of Trade Taxes of the States would be set up to consider these comments, and submit their views. These views were submitted and were accepted in principle by the Empowered Committee (January 21, 2009). Consequent upon this in-principle acceptance, a Working Group, consisting of the concerned officials of the State Governments was formed who, in close association with senior representatives of the Government of India, submitted their recommendations in detail on the structure of GST. An important interaction has also recently taken place between Shri Pranab Mukherjee, the Union Finance Minister and the Empowered Committee (October 19, 2009) on the related issue of compensation for loss of the States on account of phasing out of CST. The Empowered Committee has now taken a detailed view on the recommendations of the Working Group of officials and other related matters. This detailed view of the Empowered Committee on the structure of GST is now presented in terms of the First Discussion Paper, along with an Annexure on Frequently Asked Questions and Answers on GST, for discussions with industry, trade, agriculture and people at large.

The Discussion Paper is divided into four sections. Since GST would be further improvement over the VAT, Section 1 begins with a brief reference to the process of introduction of VAT at the Centre and the States and also indicates the precise points where there is a need for further improvement. This section also shows how the GST can bring about this improvement. With this as the background for justification of GST, Section 2 then describes the process of preparation for GST. Thereafter, Section 3 presents in detail the comprehensive structure of the GST model. For illustrating this GST model further, there is in the end an Annexure on Frequently Asked Questions and Answers



This Discussion Paper has been the result of truly collective efforts on the basis of hardwork of all the concerned officials of the States, the officials of Empowered Committee Secretariat and the Adviser and officials of the Union Finance Ministry, the counsel and active participation of Finance Ministers and concerned Senior Ministers of the States at each stage, and the encouragement and advice of the Union Finance Minister.

With the release of this First Discussion Paper and the Annexure on Frequently Asked Questions and Answers, we now sincerely invite interaction with the representatives of industry, trade, agriculture and common people. This interaction and campaign will immediately start at the national level and at the State levels. As a part of this interaction, we look forward to receiving the views of industry, trade, agriculture as well as consumers in a time-bound manner.

Asim Kumar Dasgupta  
Chairman, Empowered  
Committee of State  
Finance Ministers  
&  
Minister of Finance & Excise,  
Government of West Bengal

New Delhi,  
November 10,  
2009

## **1. Introduction**

1.1 Introduction of the Value Added Tax (VAT) at the Central and the State level has been considered to be a major step – an important breakthrough – in the sphere of indirect tax reforms in India. If the VAT is a major improvement over the pre-existing Central excise duty at the national level and the sales tax system at the State level, then the Goods and Services Tax (GST) will indeed be a further significant improvement – the next logical step – towards a comprehensive indirect tax reforms in the country.

1.2 Keeping this objective in view, an announcement was made by the then Union Finance Minister in the Central Budget (2007-08) to the effect that GST would be introduced with effect from April 1, 2010 and that the Empowered Committee of State Finance Ministers, on his request, would work with the Central Government to prepare a road map for introduction of GST in India. After this announcement, the Empowered Committee of State Finance Ministers decided to set up a Joint Working Group (May 10, 2007), with the then Adviser to the Union Finance Minister and Member-Secretary of the Empowered Committee as its Co-convenors and concerned four Joint Secretaries of the Department of Revenue of Union Finance Ministry and all Finance Secretaries of the States as its members. This Joint Working Group got itself divided into three Sub-Groups and had several rounds of internal discussions as well as interaction with experts and representatives of Chambers of Commerce & Industry. On the basis of these discussions and interaction, the Sub-Groups submitted their reports which were then integrated and consolidated into the report of Joint Working Group (November 19, 2007).

1.3 This report was discussed in detail in the meeting of the Empowered Committee on November 28, 2007, and the States were also requested to communicate their observations on the report in writing. On the basis of these discussions in the Empowered Committee and the written observations, certain modifications were considered necessary and were discussed with the Co-convenors and the representatives of the Department

of Revenue of Union Finance Ministry. With the modifications duly made, a final version of the views of Empowered Committee on the model and road map for the GST was prepared (April 30, 2008). These views of Empowered Committee were then sent to the Government of India, and the comments of Government of India were received on December 12, 2008. These comments were duly considered by the Empowered Committee (December 16, 2008), and it was decided that a Committee of Principal Secretaries/Secretaries of Finance/Taxation and Commissioners of Trade Taxes of the States would be set up to consider these comments, and submit their views. These views were submitted and were accepted in principle by the Empowered Committee (January 21, 2009). As a follow-up of this in-principle acceptance, a Working Group consisting of the concerned officials of the State Governments was formed who, in association with senior representatives of Government of India, submitted their recommendations in detail on the structure of GST. An important interaction has also recently taken place between Shri Pranab Mukherjee, the Union Finance Minister and the Empowered Committee (October 19, 2009) on the related issue of compensation for loss of the States on account of phasing out of CST. The Empowered Committee has now taken a detailed view on the recommendations of the Working Group of officials and other related matters. This detailed view is now presented in terms of the First Discussion Paper, along with an Annexure on Frequently Asked Questions and Answers on GST, for discussion with industry, trade, agriculture and people at large. Since the GST at the Centre and States would be a further improvement over the VAT, a brief recalling of the process of introduction of VAT in India is worthwhile.

## **Value Added Tax at the Central and the State level**

1.4 Prior to the introduction of VAT in the Centre and in the States, there was a burden of multiple taxation

in the pre-existing Central excise duty and the State sales tax systems. Before any commodity was produced, inputs were first taxed, and then after the commodity got produced with input tax load, output was taxed again. This was causing a burden of multiple taxation (i.e. "tax on tax") with a cascading effect. Moreover, in the sales tax structure, when there was also a system of multi-point sales taxation at subsequent levels of distributive trade, then along with input tax load, burden of sales tax paid on purchase at each level was also added, thus aggravating the cascading effect further.

1.5 When VAT is introduced in place of Central excise duty, a set-off is given, i.e., a deduction is made from the overall tax burden for input tax. In the case of VAT in place of sales tax system, a set-off is given from tax burden not only for input tax paid but also for tax paid on previous purchases. With VAT, the problem of "tax on tax" and related burden of cascading effect is thus removed. Furthermore, since the benefit of set-off can be obtained only if tax is duly paid on inputs (in the case of Central VAT), and on both inputs and on previous purchases (in the case of State VAT), there is a built-in check in the VAT structure on tax compliance in the Centre as well as in the States, with expected results in terms of improvement in transparency and reduction in tax evasion. For these beneficial effects, VAT has now been introduced in more than 150 countries, including several federal countries. In Asia, it has now been introduced in almost all the countries.

1.6 In India, VAT was introduced at the Central level for a selected number of commodities in terms of MODVAT with effect from March 1, 1986, and in a step-by-step manner for all commodities in terms of CENVAT in 2002-03. Subsequently, after Constitutional Amendment empowering the Centre to levy taxes on services, these service taxes were also added to CENVAT in 2004-05. Although the growth of tax revenue from the Central excise has not always been specially high, the revenue growth of combined CENVAT and service taxes has been significant.

1.7 Introduction of VAT in the States has been a more challenging exercise in a federal country like India, where each State, in terms of Constitutional provision, is sovereign in levying and collecting State taxes. Before introduction of VAT, in the sales tax regime, apart from the problem of multiple taxation and burden of adverse cascading effect of taxes as already mentioned, there was also no harmony in the rates of sales tax on different commodities among the States. Not only were the rates of sales tax numerous (often more than ten in several States), and different from one another for the same commodity in different States, but there was also an unhealthy competition among the States in terms of sales tax rates – so-called "rate war" – often resulting in, revenue-wise, a counter-productive situation.

1.8 It is in this background that attempts were made by the States to introduce a harmonious VAT in the States, keeping at the same time in mind the issue of sovereignty of the States regarding the State tax matters. The first preliminary discussion on State-level VAT took place in a meeting of Chief Ministers convened by Dr. Manmohan Singh, the then Union Finance Minister in 1995. In this meeting, the basic issues on VAT were discussed in general terms and this was followed up by periodic interactions of State Finance Ministers. Thereafter, in a significant meeting of all the Chief Ministers, convened on November 16, 1999 by Shri Yashwant Sinha, the then Union Finance Minister, two important decisions, among others, were taken. First, before the introduction of State-level VAT, the unhealthy sales tax "rate war" among the States would have to end, and sales tax rates would need to be harmonised by implementing uniform floor rates of sales tax for different categories of commodities with effect from January 1, 2000. Secondly, on the basis of achievement of the first objective, steps would be taken by the States for introduction of State-level VAT after adequate preparation. For implementing these decisions, a Standing Committee of State Finance Ministers was formed which was then made an Empowered Committee of State Finance Ministers.

1.9 Thereafter, the Empowered Committee has met regularly. All the decisions were taken on the basis of consensus. On the strength of these repeated discussions and collective efforts, involving the Ministers and the concerned officials, it was possible within a period of about a year and a half to achieve nearly 98 per cent success in the first objective, namely, harmonisation of sales tax structure through implementation of uniform floor rates of sales tax.

1.10 After reaching this stage, steps were initiated for systematic preparation for introduction of State-level VAT. In order again to avoid any unhealthy competition among the States which may lead to distortions in manufacturing and trade, attempts have been made from the very beginning to harmonise the VAT design in the States, keeping also in view the distinctive features of each State and the need for federal flexibility. This has been done by the States collectively agreeing, through discussions in the Empowered Committee, to certain common points of convergence regarding VAT, and allowing at the same time certain flexibility to accommodate the local characteristics of the States. In the course of these discussions, references to the Tenth Five Year Plan Report of the Advisory Group on Tax Policies & Tax Administration (2001) and the report of Kelkar (Chairman) Task Force were helpful.

1.11 Along with these measures, steps were taken for necessary training, computerization and interaction with trade and industry. While these preparatory steps were taken, the Empowered Committee got a significant support from Shri P. Chidambaram, the then Union Finance Minister, when he responded positively in providing Central financial support to the States in the event of loss of revenue in transitional years of implementation of VAT.

1.12 As a consequence of all these steps, the States started implementing VAT beginning April 1, 2005. After overcoming the initial difficulties, all the States and Union Territories have now implemented VAT. The

Empowered Committee has been monitoring closely the process of implementation of State-level VAT, and deviations from the agreed VAT rates has been contained to less than 3 per cent of the total list of commodities. Responses of industry and also of trade have been indeed encouraging. The rate of growth of tax revenue has nearly doubled from the average annual rate of growth in the pre-VAT five year period after the introduction of VAT.

### **Justification of GST**

1.13 Despite this success with VAT, there are still certain shortcomings in the structure of VAT both at the Central and at the State level. The shortcoming in CENVAT of the Government of India lies in non-inclusion of several Central taxes in the overall framework of CENVAT, such as additional customs duty, surcharges, etc., and thus keeping the benefits of comprehensive input tax and service tax set-off out of reach for manufacturers/dealers. Moreover, no step has yet been taken to capture the value-added chain in the distribution trade below the manufacturing level in the existing scheme of CENVAT. The introduction of GST at the Central level will not only include comprehensively more indirect Central taxes and integrate goods and service taxes for the purpose of set-off relief, but may also lead to revenue gain for the Centre through widening of the dealer base by capturing value addition in the distributive trade and increased compliance.

1.14 In the existing State-level VAT structure there are also certain shortcomings as follows. There are, for instance, even now, several taxes which are in the nature of indirect tax on goods and services, such as luxury tax, entertainment tax, etc., and yet not subsumed in the VAT. Moreover, in the present State-level VAT scheme, CENVAT load on the goods remains included in the value of goods to be taxed under State VAT, and contributing to that extent a cascading effect on account of CENVAT element. This CENVAT load needs to be removed. Furthermore, any commodity, in general, is produced on the basis of physical inputs as well as services, and there should be integration of VAT on goods with tax on services at the State level as well, and at the same time there

should also be removal of cascading effect of service tax. In the GST, both the cascading effects of CENVAT and service tax are removed with set-off, and a continuous chain of set-off from the original producer's point and service provider's point upto the retailer's level is established which reduces the burden of all cascading effects. This is the essence of GST, and this is why GST is not simply VAT plus service tax but an improvement over the previous system of VAT and disjointed service tax. However, for this GST to be introduced at the State-level, it is essential that the States should be given the power of levy of taxation of all services. This power of levy of service taxes has so long been only with the Centre. A Constitutional Amendment will be made for giving this power also to the States. Moreover, with the introduction of GST, burden of Central Sales Tax (CST) will also be removed. The GST at the State-level is, therefore, justified for (a) additional power of levy of taxation of services for the States, (b) system of comprehensive set-off relief, including set-off for cascading burden of CENVAT and service taxes, (c) subsuming of several taxes in the GST and (d) removal of burden of CST. Because of the removal of cascading effect, the burden of tax under GST on goods will, in general, fall.

1.15 The GST at the Central and at the State level will thus give more relief to industry, trade, agriculture and consumers through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several taxes in the GST and phasing out of CST. With the GST being properly formulated by appropriate calibration of rates and adequate compensation where necessary, there may also be revenue/ resource gain for both the Centre and the States, primarily through widening of tax base and possibility of a significant improvement in tax-compliance. In other words, the GST may usher in the possibility of a collective gain for industry, trade, agriculture and common consumers as well as for the Central Government and the State Governments. The GST may, indeed, lead to the possibility of collectively positive-sum game.



## **2. Preparation for GST**

2.1 Keeping this significance of GST in view, an announcement was made by the then Union Finance Minister in the Union Budget, as mentioned before, to the effect that GST would be introduced from April 1, 2010, and that the Empowered Committee of State Finance Ministers would work with the Central Government to prepare a road map for introduction of the GST. After this announcement, the Empowered Committee, as stated earlier, had set up a Joint Working Group which submitted a report on a model and road map for GST. After accommodating the views of the States appropriately on this report, the views of the Empowered Committee on the model and road map were sent to the Government of India on 30<sup>th</sup> April, 2008. The comments of the Government of India were received on 12<sup>th</sup> December, 2008. These comments were duly considered by the Empowered Committee in its meeting held on 16<sup>th</sup> December, 2008 and it was decided that a Committee of Principal Secretaries/Secretaries (Finance/Taxation) and Commissioners of Trade Taxes should consider the comments received from the Government of India and submit its views and also work out the Central GST and State GST rates. The Committee held detailed deliberations on 5<sup>th</sup> and 6<sup>th</sup> January, 2009, and submitted its recommendations to the Empowered Committee. The Empowered Committee considered these recommendations in its meeting held on 21<sup>st</sup> January, 2009 and accepted them in principle. The Empowered Committee also decided to constitute a Working Group consisting of Principal Secretaries/Secretaries (Finance/Taxation) and Commissioners of Trade Taxes of all States/UTs to give their recommendations on (a) the commodities and services that should be kept in the exempted list, (b) the rules and principles of taxing the transactions of services including the transactions in inter-State services, and

(c) finalization of the model suggested for inter-state transaction/movement of goods including stock transfers in consultation with the State Bank of India and some other nationalized banks. It was also decided that the senior representatives from the Government of India may also be associated. The Working Group deliberated on the issues on 10<sup>th</sup> February, 2009 and decided to form three Sub Working Groups to deliberate each item in depth. The Reports of the Working Group on the three issues have already been received, and the Empowered Committee has taken a view on these recommendations for concluding the details of GST structure.

2.2 While making this preparation of GST, it was also necessary, as mentioned earlier, to phase out the CST, because it did not carry any set-off relief and there was a distortion in the VAT regime due to export of tax from one State to other State. The Empowered Committee accordingly took a decision to phase out CST on the understanding with the Centre that, since phasing out of CST would result in a loss of revenue to the States on a permanent basis, an appropriate mechanism to compensate the States for such loss would be worked out. The rate of CST has already been reduced to 2% and will be phased out with effect from the date of introduction of GST on the basis of such GST structure which, with necessary financial support to the States, should adequately compensate for the loss of the States on a permanent basis. With these steps at preparation in mind, it is important now to turn to the proposed model of GST.

### **3. Goods & Services Tax Model For India**

3.1 It is important to take note of the significant administrative issues involved in designing an effective GST model in a federal system with the objective of

having an overall harmonious structure of rates. Together with this, there is a need for upholding the powers of Central and State Governments in their taxation matters. Further, there is also the need to propose a model that would be easily implementable, while being generally acceptable to stakeholders.

### **Salient features of the GST model**

3.2 Keeping in view the report of the Joint Working Group on Goods and Services Tax, the views received from the States and Government of India, a dual GST structure with defined functions and responsibilities of the Centre and the States is recommended. An appropriate mechanism that will be binding on both the Centre and the States would be worked out whereby the harmonious rate structure along with the need for further modification could be upheld, if necessary with a collectively agreed Constitutional Amendment. Salient features of the proposed model are as follows:

(i) The GST shall have two components: one levied by the Centre (hereinafter referred to as Central GST), and the other levied by the States (hereinafter referred to as State GST). Rates for Central GST and State GST would be prescribed appropriately, reflecting revenue considerations and acceptability. This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State). However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.

(ii) The Central GST and the State GST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed

threshold limits.

(iii) The Central GST and State GST are to be paid to the accounts of the Centre and the States separately. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to Central GST or State GST (with identification of the State to whom the tax is to be credited).

(iv) Since the Central GST and State GST are to be treated separately, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit. Further, the rules for taking and utilization of credit for the Central GST and the State GST would be aligned.

(v) Cross utilization of ITC between the Central GST and the State GST would not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained later.

(vi) Ideally, the problem related to credit accumulation on account of refund of GST should be avoided by both the Centre and the States except in the cases such as exports, purchase of capital goods, input tax at higher rate than output tax etc. where, again refund/adjustment should be completed in a time bound manner.

(vii) To the extent feasible, uniform procedure for collection of both Central GST and State GST would be prescribed in the respective legislation for Central GST and State GST.

(viii) The administration of the Central GST to the Centre and for State GST to the States would be given. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and

services prescribed for the States and the Centre.

(ix) The present threshold prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. A uniform State GST threshold across States is desirable and, therefore, it is considered that a threshold of gross annual turnover of Rs.10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States also considered that the threshold for Central GST for goods may be kept at Rs.1.5 crore and the threshold for Central GST for services may also be appropriately high. It may be mentioned that even now there is a separate threshold of services (Rs. 10 lakh) and goods (Rs. 1.5 crore) in the Service Tax and CENVAT.

(x) The States are also of the view that Composition/ Compounding Scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular, there would be a compounding cut-off at Rs. 50 lakh of gross annual turn over and a floor rate of 0.5% across the States. The scheme would also allow option for GST registration for dealers with turnover below the compounding cut-off.

(xi) The taxpayer would need to submit periodical returns, in common format as far as possible, to both the Central GST authority and to the concerned State GST authorities.

(xii) Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax, facilitating data exchange and taxpayer compliance.

(xiii) Keeping in mind the need of tax payer's convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States.

### **Central and State Taxes to be subsumed under GST**

3.3 The various Central, State and Local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

(i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.

(ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

(iii) The subsumation should result in free flow of tax credit in intra and inter-State levels.

(iv) The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.

(v) Revenue fairness for both the Union and the States individually would need to be attempted.

3.4 On application of the above principles, it is recommended that the following Central Taxes should be, to begin with, subsumed under the Goods and Services Tax:

(i) Central Excise Duty

- (ii) Additional Excise Duties
- (iii) The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- (iv) Service Tax
- (v) Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- (vi) Special Additional Duty of Customs - 4% (SAD)
- (vii) Surcharges, and
- (viii) Cesses.

Following State taxes and levies would be, to begin with, subsumed under GST:

- (i) VAT / Sales tax
- (ii) Entertainment tax (unless it is levied by the local bodies).
- (iii) Luxury tax
- (iv) Taxes on lottery, betting and gambling.
- (v) State Cesses and Surcharges in so far as they relate to supply of goods and services.
- (vi) Entry tax not in lieu of Octroi.

**Purchase tax:** Some of the States felt that they are getting substantial revenue from Purchase Tax and, therefore, it should not be subsumed under GST while majority of the States were of the view that no such exemptions should be given. The difficulties of the foodgrains producing States and certain other States were appreciated as substantial revenue is being earned by them from Purchase Tax and it was, therefore, felt that in case Purchase Tax has to be subsumed then adequate and continuing compensation has to be provided to such States. This issue is being discussed in consultation with the Government of India.

**Tax on items containing Alcohol:** Alcoholic beverages would be kept out of the purview of GST. Sales Tax/VAT can be continued to be levied on alcoholic

beverages as per the existing practice. In case it has been made Vatable by some States, there is no objection to that. Excise Duty, which is presently being levied by the States may not be also affected.

**Tax on Tobacco products:** Tobacco products would be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC.

**Tax on Petroleum Products:** As far as petroleum products are concerned, it was decided that the basket of petroleum products, i.e. crude, motor spirit (including ATF) and HSD would be kept outside GST as is the prevailing practice in India. Sales Tax could continue to be levied by the States on these products with prevailing floor rate. Similarly, Centre could also continue its levies. A final view whether Natural Gas should be kept outside the GST will be taken after further deliberations.

**Taxation of Services :** As indicated earlier, both the Centre and the States will have concurrent power to levy tax on all goods and services. In the case of States, the principle for taxation of intra-State and inter-State has already been formulated by the Working Group of Principal Secretaries/Secretaries of Finance/Taxation and Commissioners of Trade Taxes with senior representatives of Department of Revenue, Government of India. For inter-State transactions an innovative model of Integrated GST will be adopted by appropriately aligning and integrating CGST and SGST. The working of this model is elaborated below.

### **3.5 Inter-State Transactions of Goods and Services**



The Empowered Committee has accepted the recommendations of the Working Group of concerned officials of Central and State Governments for adoption of IGST model for taxation of inter-State transaction of Goods and Services. The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services. The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

The major advantages of IGST Model are:

- a) Maintenance of uninterrupted ITC chain on inter-State transactions.
- b) No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.
- c) No refund claim in exporting State, as ITC is used up while paying the tax.
- d) Self monitoring model.
- e) Level of computerization is limited to inter-State dealers and Central and State Governments should be able to computerize their processes expeditiously.
- f) As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
- g) Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

### 3.6 **GST Rate Structure**

The Empowered Committee has decided to adopt a two-rate structure -a lower rate for necessary items and goods of basic importance and a standard rate for goods in general. There will also be a special rate for precious metals and a list of exempted items. For upholding of special needs of each State as well as a balanced approach to federal flexibility, and also for facilitating the introduction of GST, it is being discussed whether the exempted list under VAT regime including Goods of Local Importance may be retained in the exempted list under State GST in the initial years. It is also being discussed whether the Government of India may adopt, to begin with, a similar approach towards exempted list under the CGST.

The States are of the view that for CGST relating to goods, the Government of India may also have a two-rate structure, with conformity in the levels of rate under the SGST. For taxation of services, there may be a single rate for both CGST and SGST.

The exact value of the SGST and CGST rates, including the rate for services, will be made known duly in course of appropriate legislative actions.

### 3.7 **Zero Rating of Exports**

Exports would be zero-rated. Similar benefits may be given to Special Economic Zones (SEZs). However, such benefits will only be allowed to the processing zones of the SEZs. No benefit to the sales from an SEZ to Domestic Tariff Area (DTA) will be allowed.

**3.8 GST on Imports:** The GST will be levied on imports with necessary Constitutional Amendments. Both CGST and SGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.

### **3.9 Special Industrial Area Scheme**

After the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives should be converted, if at all needed, into cash refund schemes after collection of tax, so that the GST scheme on the basis of a continuous chain of set-offs is not disturbed. Regarding Special Industrial Area Schemes, it is clarified that such exemptions, remissions etc. would continue up to legitimate expiry time both for the Centre and the States. Any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed. In such cases, the Central and the State Governments could provide reimbursement after collecting GST.

### **3.10 IT Infrastructure**

After acceptance of IGST Model for Inter-State transactions, the major responsibilities of IT infrastructural requirement will be shared by the Central Government through the use of its own IT infrastructure facility. The issues of tying up the State Infrastructure facilities with the Central facilities as well as further improvement of the States' own IT infrastructure, including TINXSYS, is now to be addressed expeditiously and in a time bound manner.

### **3.11 Constitutional Amendments, Legislations and Rules for administration of CGST and SGST**

It is essential to have Constitutional Amendments for empowering the States for levy of service tax, GST on imports and consequential issues as well as corresponding Central and State legislations with associated rules and procedures. With these specific tasks in view, a Joint Working Group has recently been constituted (September 30, 2009) comprising of the officials of the Central and State Governments to prepare, in a time bound manner a draft legislation for Constitutional Amendment, draft legislation for CGST, a suitable Model Legislation for SGST and rules and procedures for CGST and SGST. Simultaneous steps have also been initiated for drafting of a legislation for IGST and rules and procedures. As a

part of this exercise, the Working Group will also address the issues of dispute resolution and advance ruling.

### **3.12 Harmonious structure of GST and the States' autonomy in a Federal Framework**

As a part of the exercise on Constitutional Amendment, a special attention would be given, as mentioned earlier in para 3.2, to the formulation of a mechanism for upholding the need for a harmonious structure for GST along with the concern for the States' autonomy in a federal structure.

### **3.13 Dispute Resolution and Advance Ruling**

As a part of the exercise on drafting of legislation, rules and procedures for the administration of CGST and SGST, specific provisions would also be made to the issues of dispute resolution and advance ruling.

### **3.14 Need for compensation during implementation of GST**

Despite the sincere attempts being made by the Empowered Committee on the determination of GST rate structure, revenue neutral rates, it is difficult to estimate accurately as to how much the States will gain from service taxes and how much they will lose on account of removal of cascading effect, payment of input tax credit and phasing out of CST. In view of this, it would be essential to provide adequately for compensation for loss that might emerge during the process of implementation of GST for the next five years. This issue may be comprehensively taken care of in the recommendations of the Thirteenth Finance Commission. The payment of this compensation will need to be ensured in terms of special grants to be released to the States duly in every month on the basis of neutrally monitored mechanism.

3.15 With the release of this First Discussion Paper and the Annexure on Frequently Asked Questions and

Answers on GST, interaction with the representatives of industry, trade and agriculture would begin immediately at the national level, and then also simultaneously at the State levels. Similarly awareness campaign for common consumers would also be initiated at the same time. As a part of the discussion and campaign, the views of the industry, trade and agriculture as well as consumers are being sought in a structured and time bound manner.

## **Annexure**

### **Frequently Asked Questions and Answers on GST**

#### **Question 1 : What is the justification of GST ?**

**Answer :** There was a burden of "tax on tax" in the pre-existing Central excise duty of the Government of India and sales tax system of the State Governments. The introduction of Central VAT (CENVAT) has removed the cascading burden of "tax on tax" to a good extent by providing a mechanism of "set off" for tax paid on inputs and services upto the stage of production, and has been an improvement over the pre-existing Central excise duty. Similarly, the introduction of VAT in the States has removed the cascading effect by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has again been an improvement over the previous sales tax regime.

But both the CENVAT and the State VAT have certain incompleteness. The incompleteness in CENVAT is that it has yet not been extended to include chain of value addition in the distributive trade below the stage of production. It has also not included several Central taxes, such as Additional Excise Duties, Additional Customs Duty, Surcharges etc. in the overall framework of CENVAT, and thus kept the benefits of comprehensive input tax and service tax set-off out of the reach of manufacturers/dealers. The introduction of GST will not only include comprehensively more indirect Central taxes and integrate goods and services taxes for set-off relief, but also capture certain value addition in the distributive trade.

Similarly, in the present State-level VAT scheme, CENVAT load on the goods has not yet been

removed and the cascading effect of that part of tax burden has remained unrelieved. Moreover, there are several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which have still not been subsumed in the VAT. Further, there has also not been any integration of VAT on goods with tax on services at the State level with removal of cascading effect of service tax. In addition, although the burden of Central Sales Tax (CST) on inter-State movement of goods has been lessened with reduction of CST rate from 4% to 2%, this burden has also not been fully phased out. With the introduction of GST at the State level, the additional burden of CENVAT and services tax would be comprehensively removed, and a continuous chain of set-off from the original producer's point and service provider's point upto the retailer's level would be established which would eliminate the burden of all cascading effects, including the burden of CENVAT and service tax. This is the essence of GST. Also, major Central and State taxes will get subsumed into GST which will reduce the multiplicity of taxes, and thus bring down the compliance cost. With GST, the burden of CST will also be phased out.

Thus GST is not simply VAT plus service tax, but a major improvement over the previous system of VAT and disjointed services tax – a justified step forward.

**Question 2. What is GST ? How does it work ?**

**Answer :** As already mentioned in answer to

Question 1, GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits from the producer's point and service provider's point upto the retailer's level. It is essentially a tax only on value addition at each stage, and a supplier at each stage is permitted to set-off, through a tax credit mechanism, the GST paid on the purchase of goods and services as available for set-off on the GST to be paid on the supply of goods and services. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

The illustration shown below indicates, in terms of a hypothetical example with a manufacturer, one wholeseller and one retailer, how GST will work. Let us suppose that GST rate is 10%, with the manufacturer making value addition of Rs.30 on his purchases worth Rs.100 of input of goods and services used in the manufacturing process. The manufacturer will then pay net GST of Rs. 3 after setting-off Rs. 10 as GST paid on his inputs (i.e. Input Tax Credit) from gross GST of Rs. 13. The manufacturer sells the goods to the wholeseller. When the wholeseller sells the same goods after making value addition of (say), Rs.20, he pays net GST of only Rs. 2, after setting-off of Input Tax Credit of Rs. 13 from the gross GST of Rs. 15 to the manufacturer. Similarly, when a retailer sells the same goods after a value addition of (say) Rs. 10, he pays net GST of only Re.1, after setting-off Rs.15 from his gross GST of Rs. 16 paid to wholeseller. Thus, the manufacturer, wholeseller and retailer have to pay only Rs. 6 (= Rs. 3+Rs. 2+Re. 1) as GST on the value addition along the entire value chain from the producer to the retailer, after setting-off GST paid at the earlier stages. The overall burden of GST on the goods is thus much less. This is shown in the table below. The same illustration will hold in the case of final service provider as well.



**Table**

| Stage of supply chain | Purchase value of Input | Value addition | Value at which supply of goods and services made to next stage | Rate of GST | GST on output | Input Tax credit | Net GST= GST on output - Input tax credit |
|-----------------------|-------------------------|----------------|----------------------------------------------------------------|-------------|---------------|------------------|-------------------------------------------|
| Manufacturer          | 100                     | 30             | 130                                                            | 10%         | 13            | 10               | 13-10 = 3                                 |
| Whole seller          | 130                     | 20             | 150                                                            | 10%         | 15            | 13               | 15-13 = 2                                 |
| Retailer              | 150                     | 10             | 160                                                            | 10%         | 16            | 15               | 16-15 = 1                                 |

**Question 3 : How can the burden of tax, ingeneral, fall under GST ?**

**Answer :** As already mentioned in Answer to Question 1, the present forms of CENVAT and State VAT have remained incomplete in removing fully the cascading burden of taxes already paid at earlier stages. Besides, there are several other taxes, which both the Central Government and the State Government levy on production, manufacture and distributive trade, where no set-off is available in the form of input tax credit. These taxes add to the cost of goods and services through "tax on tax" which the final consumer has to bear. Since, with the introduction of GST, all the cascading effects of CENVAT and service tax would be removed with a continuous chain of set-off from the producer's point to the retailer's point, other major Central and State taxes would be subsumed in GST and CST will also be phased out, the final net burden of tax on goods, under GST would, in general, fall. Since there would be a transparent and complete chain of set-offs, this will help widening the coverage of tax base and improve tax compliance. his may lead to higher

generation of revenues which may in turn lead to the possibility of lowering of average tax burden.

**Question 4 : How will GST benefit industry, trade and agriculture ?**

**Answer :** As mentioned in Answer to Question 3, the GST will give more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which will result in widening of tax base and better tax compliance may also lead to lowering of tax burden on an average dealer in industry, trade and agriculture.

**Question 5 : How will GST benefit the exporters?**

**Answer :** The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

**Question 6 : How will GST benefit the small entrepreneurs and small traders?**

**Answer :** The present threshold prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. The existing threshold of goods under State VAT is Rs. 5 lakhs

for a majority of bigger States and a lower threshold for North Eastern States and Special Category States. A uniform State GST threshold across States is desirable and, therefore, the Empowered Committee has recommended that a threshold of gross annual turnover of Rs. 10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States considered that the threshold for Central GST for goods may be kept at Rs.1.5 crore and the threshold for services should also be appropriately high. This raising of threshold will protect the interest of small traders. A Composition scheme for small traders and businesses has also been envisaged under GST as will be detailed in Answer to Question 14. Both these features of GST will adequately protect the interests of small traders and small scale industries.

**Question 7 : How will GST benefit the common consumers?**

**Answer :** As already mentioned in Answer to Question 3, with the introduction of GST, all the cascading effects of CENVAT and service tax will be more comprehensively removed with a continuous chain of set-off from the producer's point to the retailer's point than what was possible under the prevailing CENVAT and VAT regime. Certain major Central and State taxes will also be subsumed in GST and CST will be phased out. Other things remaining the same, the burden of tax on goods would, in general, fall under GST and that would benefit the consumers.

**Question 8 : What are the salient features of the proposed GST model?**

**Answer :** The salient features of the proposed model are as follows:

- (i) Consistent with the federal structure of the country, the GST will have two components: one levied by the Centre (hereinafter referred to as Central GST), and the other levied by the States (hereinafter referred to as State GST). This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State). However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.
- (ii) The Central GST and the State GST would be applicable to all transactions of goods and services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits.
- (iii) The Central GST and State GST are to be paid to the accounts of the Centre and the States separately.
- (iv) Since the Central GST and State GST are to be treated separately, in general, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST.
- (v) Cross utilisation of ITC between the Central

GST and the State GST would, in general, not be allowed.

- (vi) To the extent feasible, uniform procedure for collection of both Central GST and State GST would be prescribed in the respective legislation for Central GST and State GST.
- (vii) The administration of the Central GST would be with the Centre and for State GST with the States.
- (viii) The taxpayer would need to submit periodical returns to both the Central GST authority and to the concerned State GST authorities.
- (ix) Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax facilitating data exchange and taxpayer compliance. The exact design would be worked out in consultation with the Income-Tax Department.
- (x) Keeping in mind the need of tax payers convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States.

**Question 9 : Why is Dual GST required ?**

**Answer :** India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

**Question 10 : How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?**

**Answer :** The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of CENVAT. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, SGST would be chargeable only when the supplier and the recipient are both located within the State.

**Illustration I :** Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for , say Rs. 100, the dealer would charge CGST of Rs. 10 and SGST of Rs. 10 in addition to the basic price of the goods. He would be required to deposit the CGST component into a Central Government account while

the SGST portion into the account of the concerned State Government. Of course, he need not actually pay Rs. 20 (Rs. 10 + Rs. 10 ) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his purchases (say, inputs). But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

**Illustration II:** Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say Rs. 100, the ad company would charge CGST of Rs. 10 as well as SGST of Rs. 10 to the basic value of the service. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government. Of course, he need not again actually pay Rs. 20 (Rs. 10+Rs. 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilise the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

**Question 11 : Which Central and State taxes are proposed to be subsumed under GST ?**

**Answer :** The various Central, State and Local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsumation should result in free flow of tax credit in intra and inter-State levels.
- (iv) The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- (v) Revenue fairness for both the Union and the States individually would need to be attempted.

On application of the above principles, the Empowered Committee has recommended that the following Central Taxes should be, to begin with, subsumed under the Goods and Services Tax:

- (i) Central Excise Duty
- (ii) Additional Excise Duties
- (iii) The Excise Duty levied under the Medicinal and Toiletries Preparation Act



- (iv) Service Tax
- (v) Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- (vi) Special Additional Duty of Customs - 4% (SAD)
- (vii) Surcharges, and
- (viii) Cesses.

The following State taxes and levies would be, to begin with, subsumed under GST:

- (i) VAT / Sales tax
- (ii) Entertainment tax (unless it is levied by the local bodies).
- (iii) Luxury tax
- (iv) Taxes on lottery, betting and gambling.
- (v) State Cesses and Surcharges in so far as they relate to supply of goods and services.
- (vi) Entry tax not in lieu of Octroi.

**Purchase tax:** Some of the States felt that they are getting substantial revenue from Purchase Tax and, therefore, it should not be subsumed under GST while majority of the States were of the view that no such exemptions should be given. The difficulties of the foodgrain producing States was appreciated as substantial revenue is being earned by them from Purchase Tax and it was, therefore, felt that in case Purchase Tax has to be subsumed then adequate and continuing compensation has to be provided to such States. This issue is being discussed in consultation with the Government of India.

**Tax on items containing Alcohol:** Alcoholic beverages would be kept out of the purview of GST. Sales Tax /VAT could be continued to be levied on alcoholic beverages as per the existing practice. In case it has been made Vatable by some States, there is no objection to that. Excise Duty, which is presently levied by the States may not also be affected.

**Tax on Tobacco products:** Tobacco products would be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST with ITC.

**Tax on Petroleum Products:** As far as petroleum products are concerned, it was decided that the basket of petroleum products, i.e. crude, motor spirit (including ATF) and HSD would be kept outside GST as is the prevailing practice in India. Sales Tax could continue to be levied by the States on these products with prevailing floor rate. Similarly, Centre could also continue its levies. A final view whether Natural Gas should be kept outside the GST will be taken after further deliberations.

**Taxation of Services :** As indicated earlier, both the Centre and the States will have concurrent power to levy tax on goods and services. In the case of States, the principle for taxation of intra-State and inter-State has already been formulated by the Working Group of Principal Secretaries/Secretaries of Finance /Taxation and Commissioners of Trade Taxes with senior representatives of Department of Revenue, Government of India. For inter-State transactions an innovative model of Integrated GST will be adopted by appropriately aligning and integrating CGST and IGST.

**Question 12 : What is the rate structure proposed under GST ?**

**Answer :** The Empowered Committee has decided to adopt a two-rate structure -a lower rate for necessary items and items of basic importance and a standard rate for goods in general. There will also be a special rate for precious metals and a list of exempted items. For upholding of special needs of each State as well as a balanced approach to federal flexibility, it is being discussed whether the exempted list under VAT regime including Goods of Local Importance may be retained in the exempted list under State GST in the initial years. It is also being discussed whether the Government of India may adopt, to begin with, a similar approach towards exempted list under the CGST.

For CGST relating to goods, the States considered that the Government of India might also have a two-rate structure, with conformity in the levels of rate with the SGST. For taxation of services, there may be a single rate for both CGST and SGST.

The exact value of the SGST and CGST rates, including the rate for services, will be made known duly in course of appropriate legislative actions.

**Question 13: What is the concept of providing threshold exemption for GST?**

**Answer :** Threshold exemption is built into a tax regime to keep small traders out of tax net. This has three-fold objectives:

- a) It is difficult to administer small traders and cost of administering of such traders is very high in comparison to the tax paid by them.
- b) The compliance cost and compliance effort

would be saved for such small traders.

- c) Small traders get relative advantage over large enterprises on account of lower tax incidence.

The present thresholds prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. A uniform State GST threshold across States is desirable and, therefore, as already mentioned in Answer to Question 6, it has been considered that a threshold of gross annual turnover of Rs. 10 lakh both for goods and services for all the States and Union Territories might be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States also considered that the threshold for Central GST for goods may be kept Rs.1.5 Crore and the threshold for services should also be appropriately high.

**Question 14 : What is the scope of composition and compounding scheme under GST?**

**Answer :** As already mentioned in Answer to Question 6, a Composition/Compounding Scheme will be an important feature of GST to protect the interests of small traders and small scale industries. The Composition /Compounding scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular there will be a compounding cut-off at Rs. 50 lakhs of the gross annual turnover and the floor rate of 0.5% across the States. The scheme would allow option for GST registration for dealers with turnover below the compounding cut-off.

**Question 15 : How will imports be taxed under GST ?**

**Answer :** With Constitutional Amendments, both CGST and SGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.

**Question 16 : Will cross utilization of credits between goods and services be allowed under GST regime?**

**Answer :** Cross utilization of credit of CGST between goods and services would be allowed. Similarly, the facility of cross utilization of credit will be available in case of SGST. However, the cross utilization of CGST and SGST would generally not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained in answer to the next question.

**Question 17: How will be Inter-State Transactions of Goods and Services be taxed under GST in terms of IGST method ?**

**Answer :** The Empowered Committee has accepted the recommendation for adoption of IGST model for taxation of inter-State transaction of Goods and Services. The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services. The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging is

output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information is also submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

The major advantages of IGST Model are:

- a) Maintenance of uninterrupted ITC chain on inter-State transactions.
- b) No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.
- c) No refund claim in exporting State, as ITC is used up while paying the tax.
- d) Self monitoring model.
- e) Level of computerisation is limited to inter-State dealers and Central and State Governments should be able to computerise their processes expeditiously.
- f) As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
- g) Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

**Question 18 : Why does introduction of GST require a Constitutional Amendment?**

**Answer :** The Constitution provides for delineation of power to tax between the Centre and States. While the Centre is empowered to tax services and goods upto the production stage, the States have the power to tax sale of goods. The States do not have the powers to levy a tax on supply of services while the Centre does not have power to levy tax on the sale of goods. Thus, the Constitution does not vest express power either in the Central or State Government to levy a tax on the 'supply of goods and services'. Moreover, the Constitution also does not empower the States to impose tax on imports. Therefore, it is essential to have Constitutional Amendments for empowering the Centre to levy tax on sale of goods and States for levy of service tax and tax on imports and other consequential issues.

As part of the exercise on Constitutional Amendment, there would be a special attention to the formulation of a mechanism for upholding the need for a harmonious structure for GST along with the concern for the powers of the Centre and the States in a federal structure.

**Question 19: How are the legislative steps being taken for CGST and SGST ?**

**Answer :** A Joint Working Group has recently been constituted (September 30, 2009) comprising of the officials of the Central and State Governments to prepare, in a time-bound manner a draft legislation for Constitutional Amendment.

**Question 20: How will the rules for administration of CGST and SGST be framed?**

**Answer :** The Joint Working Group, as mentioned above, has also been entrusted the task of preparing draft legislation for CGST, a suitable Model Legislation for SGST and rules and procedures for CGST and SGST. Simultaneous steps have also been initiated for drafting of legislation for IGST and rules and procedures. As a part of this exercise, the Working Group will also address to the issues of dispute resolution and advance ruling.



## 8. Articles on GST

### 8.1 What is the draft GST law all about – CA Pritam Mahure [The Hindu Business Line 11 December 2015]

A sneak preview into the new tax regime for businesses as well as consumers

#### **December 11, 2015:**

Some private tax portals have posted a copy of a 'draft GST law'. While its authenticity is yet to be verified, this article tries to look into what it may have in store for businesses and consumers. Here are some of the aspects it touches upon.

#### **What does GST being applicable on 'supply' mean?**

In GST regime, all 'supply', such as sale, transfer, barter, lease, import of services etc of goods and/or services made for a consideration will attract Central GST (to be levied by the Centre) and State GST (to be levied by the State). As GST will be applicable on 'supply', erstwhile taxable events such as 'manufacture', 'sale', 'provision of services' will lose their relevance.

Certain supplies, even if made without consideration, such as permanent transfer of business assets, self-supply of goods or services, assets retained after deregistration, will attract GST. Even 'barter' of goods transaction which were hitherto un-taxed in the VAT regime, will attract GST.

#### **When is GST payable?**

The liability to pay CGST and SGST will arise at the time of supply as determined for goods and services. The provisions contemplate payment of GST at the earliest for:

**Goods:** Removal of goods or receipt of payment or issuance of invoice or date on which buyer shows receipt of goods

**Services:** Issuance of invoice or receipt of payment or date on which recipient shows receipt of services Given that there could be many parameters in determining 'time' of supply, maintaining reconciliation between revenue as per financials and as per GST could be a major challenge for businesses.

#### **How is place of supply determined?**

It would be crucial to determine whether a transaction is 'intra-State' or 'inter-State' as GST (i.e. CGST plus SGST or IGST, as the case may be) will be applicable accordingly.

For 'goods', the place of supply would be location where the goods are delivered. For 'services' the place of supply would be location of the recipient.

However, there are multiple scenarios such as for supply of services in relation to immovable property, wherein this principle will not apply and specific rules will come into play. Thus, the business will have to scroll through all the place of supply provisions before determining the place of supply.

#### **On what value will GST be levied?**

GST would be payable on the 'transaction value' — the price actually paid or payable. The transaction value is also said to include all expenses in relation to sale such as packing and

commission. Even subsidies linked to supply will be included. The law also provides for Valuation Rules to help determine value in certain cases.

### **How will the input tax credit mechanism work?**

The current CENVAT credit regime disallows CENVAT credit on various services such as motor vehicle related services, catering services, employee insurance, construction of civil structures.

Similarly, State VAT laws restrict input tax credit in respect of construction, motor vehicles etc. This denial of credits leads to unnecessary cost burden on the assessee.

It was expected that in the GST regime, seamless credit will be allowed to business houses without any denial or any restrictions except, say, goods/ services which are used for personal rather than official use (similar to the UK VAT law).

However, credit pertaining to specified procurements such as catering services, employee insurance would not be available.

This denial of credit will lead to substantial tax cascading.

### **What is this additional tax on inter-State supply of goods?**

The draft GST law provides that an additional tax up to 1 per cent will be levied by the Centre on inter-State supply of goods (and not on services) made for consideration.

Thus, effectively inter-State stock or branch transfers will not attract this 1 per cent additional tax.

This additional tax will be applicable for a period of two years and could be extended further by the GST Council.

The credit of this additional levy will not be available as thus it will be a cost in the supply chain.

Thus, the current practice of inter-State sale masquerading as stock transfers may continue to save this 1 per cent extra tax.

### **What are the threshold limits under consideration?**

Currently, the threshold limit under excise is ₹1.50 crore, in service tax it is ₹10 lakh whereas in State VAT it varies from State to State. The model GST law is silent on the threshold limit for GST registration.

Also, the model law does not provide the list of goods/services which will be exempt from GST.

### **What is the expected rate of GST?**

The rate of GST is not specified in the draft GST law.

However, the panel headed by Chief Economic Advisor Arvind Subramanian recommends a standard rate, applicable to most goods and services, of 17-18 per cent. Further, there could be lower rate (of 12-14 per cent) for concessional goods and a higher rate (up to 40 per cent) for luxury goods.

However, given the large unaccounted economy, it would be preferable to start with a minimum possible rate to ensure that people start complying.

### **Will the old provisions return?**

Most of the current provisions such as reverse charge, tax deduction, pre-deposit, prosecution, arrest have been retained in the proposed draft GST law.

So, the model GST law seems to be new wine in old bottle.

## **8.2 India Inc grapples with new regime**

Business Standard December 6, 2015

### **Existing inefficiencies to continue: Pritam Mahure**

([http://www.business-standard.com/article/opinion/india-inc-grapples-with-new-regime-115120600837\\_1.html](http://www.business-standard.com/article/opinion/india-inc-grapples-with-new-regime-115120600837_1.html)) :

The broad contours of the new goods and services tax (GST) regime are falling in place. The draft [GST](#) Bill shows the key differences and similarities between the current indirect tax regime and the proposed one. At present, 'goods' primarily suffer two levies (excise duty and state value added tax or VAT), whereas 'services' attract only one levy - service tax. In the new regime, all supply will attract GST (Central GST plus state GST or integrated GST). Currently, indirect taxes are payable on events such as 'manufacture', 'sale', 'provision of services', etc. In the GST regime, these events will lose their relevance, as GST will be applicable on 'supply' made for a consideration.

The state [VAT](#) is payable only on sale made against a consideration. However, in the GST regime, even if supply is made without consideration, GST will be applicable in specified scenarios, such as, self-supply of goods or services. Even, 'barter' of goods, which were hitherto un-taxed in state VAT regime, is expected to attract GST.

As regards stock transfer from one state to another state, currently, state VAT is not payable (subject to conditions). However, according to the draft, inter-state branch transfers will attract IGST.

At present, a service provider in a domestic transaction does not identify place of provision of the service (as service tax is payable to the Central government). However, in GST regime, it would be crucial to determine place of supply of services even in case of domestic transactions as state will also be entitled to their GST share.

Currently, [Cenvat credit](#) regime disallows Cenvat credit on various services such as motor vehicle-related services, catering services, employee insurance, etc. Similarly, state VAT laws restrict input tax credit in respect of motor vehicles, construction, etc. This denial of

credits leads to unnecessary cost burden. It was expected that in the GST regime, seamless credit will be allowed to business without any denial, except, say, in case of goods or services that are availed of for personal use.

However, according to the draft, the aforesaid credit would continue to be not available. Further, most of the current provisions such as reverse charge, tax deduction, pre-deposit, prosecution, arrest, self-assessment, etc., will continue. So, prima-facie it appears, while everything will get taxed in the near future, most of the current inefficiencies of the system may continue.

*(The author is a Pune-based chartered accountant)*

### 8.3 Reports on business processes bring clarity<sup>12</sup>

The government has put in the public domain the reports on three key business processes - registration, tax payments and refunds - under the goods and services tax (GST) regime last week. Business Standard reached out to tax experts to understand how life will hang for businesses under the new tax regime.

Currently, a service provider having operations in multiple states can opt for a centralised indirect tax registration. But, under GST, the service provider would have to obtain the GST registration from all the states wherever it has its presence. "This will lead to tremendous increase in volume of tax compliances for such organisations," says **Pritam Mahure**, a Pune-based GST expert and trainer.

Although the industry is looking for simplification in the ease of doing business, for service companies compliance requirement would go up manifold under the new regime. "This would also require changes in income tax and books of accounts to factor in tax incidence in each state," says Nitish Sharma, executive director, Nangia & Co.

Tax experts point out that the focus of the new regime is on compliance to capture the revenue, bringing more output into the formal system. Any delay in applying for GST registration could cost a taxpayer dearly, as GST credits on procurements prior to registration will not be available.

Currently, following judicial precedence, one is allowed input tax credits pertaining to the period prior to date of obtaining registration. Under the new tax regime, registration is

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<sup>12</sup> Sudipto Dey, Business Standard, 11 October 2015

expected to be granted in just three working days, provided the central or state authorities neither reject the application, nor raise a query.

Exporters currently have the option to avail of duty-free inputs. In the GST regime, this option may not be available. "This may lead to serious blockage of funds for exporters unless refunds are processed in a time-bound manner," said Mahure. Taxpayers are expected to earn interest in case of delay in processing of refunds.

The GST drafting committee is yet to come out with appropriate provisions for place of supply rules that establish where a service or good has been consumed. "Absence of place of supply rules creates a lot of ambiguity for business," says Suresh Rohira, partner-indirect tax, BDO India. Tax experts say businesses are likely to get a clearer picture of changes in their business processes as government comes out with a detailed framework, along with rules and regulations governing the new tax regime.

## SHAPE OF THINGS TO COME

### Registration

- There will be state-specific single registration for [Central GST](#) (CGST), [Integrated GST](#) (IGST) and [State GST](#) (SGST). Multiple registrations in a state for business verticals would also be permitted
- Registration number would be a PAN-based 15-digit alpha-numeric registration number
- Registration would be granted through common GST portal
- Registration deemed to be approved if not rejected

### Payments

- Taxpayer will be required to make payment of CGST, SGST, [IGST](#) and additional tax through internet banking
- Over-the-counter payment could be permissible only for payments up to Rs 10,000 per challan
- For making e-payment, GST taxpayer will be required to access Goods and Services Tax Network (GSTN) for generation of the challan where basic details of the tax payer will be auto populated

### Refunds

- Under certain situations, such as exports, excess payment by mistake, refund of pre-deposit, and refund to international tourists, the taxpayer can claim refund of GST paid
- For export of goods, an exporter should procure goods on payment of appropriate GST, and then claim refund from respective governments

- Duty-free inputs for exported goods may not be available

## 8.4 Getting corporate India GST-ready

(Sudipto Dey, Business Standard, 20 September 2015)

At the beginning of his address at a conference on the goods and services tax (GST), held in the capital last week, a senior official from the Central Board of Excise and Customs (CBEC) told the audience of 100-odd senior business executives that his presentation would last for around 45 minutes. Someone from the audience quipped, "Please take your time. We are in no hurry." The detailed presentation that followed - on how goods and services would be taxed under the GST regime - lasted a little over an hour. Hardly anyone in the audience had moved from the seat during the programme.

Clearly, corporate India - the hall in an upscale five-star hotel in central Delhi had representatives from the automobile and ancillary industries, FMCG, telecom, real estate, financial services, heavy machineries, exporters and importers, garment manufacturers, among others - is out to whet its appetite for the biggest tax reform the country has seen.

It seems to be slowly sinking in among top executives that this tax-led change would have a wide-ranging impact on their business decisions and structures in the near future. The time the companies have to get ready for the GST is six to 12 months.

Even if the government misses the April 1, 2016, deadline, businesses realise that the new tax regime is likely to be rolled out in the next financial year. For tax experts and consultants, steering thousands of companies through this tax transformation process - and getting them GST-ready - means a business opportunity worth crores of rupees in the next three years.

### Bringing companies up-to-speed

"The current delay in introduction of GST is a blessing in disguise, as it will give some more time to corporates to prepare," says **Pritam Mahure**, a Pune-based chartered accountant who has been organising GST-sensitising sessions, largely in the Tier-I and Tier-II cities.

Tax experts and consultants say that most companies are at the initial stage of transition, if GST's impact on their business is considered.

"Businesses realise that after the political will falls into place (of getting the GST Act enacted), they may not get adequate time to prepare themselves," says Anurag Mathur, partner & leader, consumer & retail, PwC India. Tax experts say they are often called to make impact-assessment presentations to members of a company's board. Some companies have introduced training sessions to sensitise their key staff in departments like finance, procurement, logistics, information systems, and marketing, with the help of external experts. "Many companies have put in place cross-functional teams to work on the different situations and consider how GST will impact their business," says Saloni Roy, senior director, Deloitte in India.

Subsequently, companies would have to re-evaluate the impact on their value chain, which includes re-negotiating contracts with vendors and suppliers. Another piece that is likely to take time to fix is the IT-system.

According to SAP, a leading provider of ERP systems, a company will take at least three months to test and release its GST-compatible software, after all the parameters of the new tax law are in place. "Customers will need their own time after that, to be able to implement the change," says Rajamani Srinivasan, vice-president & head of platform, SAP Indian Sub-Continent.

Getting vendors and suppliers to be ready for GST is something that companies would have to drive to get the full upside of the new tax regime, say experts. "We have been advising our customers to get their vendors ready and to have their systems geared up to manage GST, as business tax credits will be based on their vendors' invoice submissions, online," says Srinivasan.

Interestingly, the government and the bureaucracy appears to be better prepared to roll out the new tax regime than industry in general. CBEC has, till date, trained 2,000-odd officers. State-level tax officials are also going through several specially-organised training sessions by the Centre. This will be followed by sessions on 'training the trainer'. "Training is an on-going process," says Upender Gupta, commissioner (GST), CBEC.

### **Rising demand for specialists**

Many tax firms, including big-ticket accounting and consultancy majors, both international and Indian, are looking at making the most of the opportunity that the process of switching to a new tax regime throws up. "Demand for GST specialists is going to outstrip supply. All the major accounting and tax advisory firms, combined, may not be able to serve the market," says Uday Pimprikar, tax partner, EY. Most consultancy firms are looking at ramping up the headcount of indirect tax experts and re-deploying existing talent into GST practice after an in-house training. For instance, EY, at present, has 150-200 tax and functional experts work on GST-related assignments. Pimprikar expects this number to magnify three-four times over the next 12 to 18 months.

KPMG in India is giving training to its 400-strong indirect tax team to deal with all aspects of GST, says Sachin Menon, the firm's national head of indirect tax. Earlier this year, it had set up a project management office, comprising sector experts and practice leaders, to coordinate any GST transformation project for a customer.

Another tax firm, BDO India, is looking at doubling the headcount in its indirect tax practice to 100-odd in the coming months. It plans to bring in a slew of international experts to the country to engage with clients and sensitise them of the issues faced by companies in other countries that have introduced GST, says Prashant Raizada, partner (indirect tax) BDO India.

According to **Mahure**, the next few years will provide enormous opportunities for GST



professionals. "Unlearning the past indirect tax concepts holds the key to learning new GST concepts," is his advice to professionals who want to make a mark in this space.

### **Stepping up**

Many industry bodies and chambers are looking at stepping up their outreach programme to sensitise industry on issues around GST. "We plan to expand our online platform to reach out to more industry professionals," says V Gopalakrishnan, counsellor with CII Institute of Logistics, which has organised around 35 training sessions across the country in the past year.

The All India Federation of Tax Practitioners will hold a special session on GST for its members in October at Varanasi. "It is important for us to sensitise our members, especially in small towns and cities, about the opportunity that GST will offer," says Mukul Gupta, chairman of the committee on GST, at the federation.

Clearly, for GST practitioners, acche din are around the corner.

## 8.5 GST jitters for corporate India

(Sudipto Dey, Business Standard, 26 July 2015)

Recently, an Israel-based company approached a consultancy firm to come out with a tax-efficient rollout plan for a proposed manufacturing plant in India with an estimated investment of around Rs 100 crore. The company was advised by its tax planners to hold on to its investment till the time the country rolls out the Goods and Service Tax (GST) regime. "The company would have saved Rs 10-15 crore through input tax credits under the [GST](#) regime," said a tax consultant, who advised the firm, on condition of anonymity. The Israeli company decided to go by the advice of its tax experts, and go slow on its investment plans.

Similarly, many companies in [corporate India](#) are getting jittery about increased working capital requirement, as they go about their initial assessment of the impact of GST regime on their businesses and finding it difficult to get a hang on their price and supply chain issues without complete visibility on tax rates and its coverage across the basket of goods. The [political logjam](#) in Parliament around the [Constitution Amendment Bill](#) is adding to their apprehension. Many feel that the government should give industry six months to be GST-ready from the time that the law is in place with clear visibility over rates and coverage.

Under the dual-GST structure, there will be two GST rates - one by the Centre (central GST), and the other by the state (state GST). GST experts going by the recent global trends point out that the government is likely to keep a few goods and services outside the purview of GST - especially those that impact economically weaker sections of the society. So for all practical purpose, there could also be another category of goods and services that enjoy tax exemption by the Centre, but are taxed by the states. Similarly, states could also give tax concession to specific goods and services. GST experts expect the government to come out with a band of GST rates, prescribing a floor rate and an upper rate. "The multiplicity of rates, with different baskets of goods and services that will be taxed or are exempt, adds to the complexity of arriving at an impact on price and the supply chain," says Pritam Mahure, a Pune-based chartered accountant, who has been training many companies to be GST-ready. The lack of visibility on GST rates, including the floor rates, adds to the complexity.

Most multinational companies working out of India have some added issues to tackle. A senior executive from a global telecom equipment manufacturer said: "We finalise our departmental budgets for 2017 by October this year. If we do not have visibility on the GST law by then the challenge would be to factor in changes in budgets that need

approval from headquarters." Another executive from an MNC, who heads the supply chain division, feel that they would need six months to implement the changes across their country-wide network once all the variables around GST have fallen in place.

Tax credit is something that is bugging many companies. A senior executive from an auto company, which has been in the assembly of components, and is now setting up a manufacturing unit, says there is a question mark over Rs 30 crore of existing tax credit that is due to them. "If we don't get our dues this will affect our investment decision," says the executive. Tax credit is fundamental to the success of any GST regime, and early clarity over the issue will assuage the fears of many corporates in their preparation for GST, point out consultants.

"Our biggest concern is that working capital requirement will go up substantially," says an official from an automobile manufacturing company with a pan-India presence. Similar is the case for service providers, traders and importers. An executive from a logistics company feels that logistics costs will grow substantially. "We expect some backward and forward integration to take place in our industry," adds the executive from the logistics firm. Logistics experts feel most companies would need to revisit warehousing strategy following GST rollout. "A central warehouse with a hub-and-spoke model would make more sense, instead of having a warehouse facility in each market state," says a logistics expert. Already some logistics companies have picked up land parcels in Nagpur and parts of Madhya Pradesh to set up large-scale warehousing infrastructure to support the emerging demand.

Some companies wonder whether state governments could curtail rights to claim some tax credits at a later date. "This point needs to be clarified" says a tax head of a manufacturing company.

Though there is no mention of any anti-profiteering laws to curb price hikes following rollout of GST, many tax experts feel going by the recent experience in Malaysia - which introduced GST in April this year - the government should be ready with such an eventuality.

Tax experts point out that GST should ideally be introduced at the start of the financial year, that is April 1, such as Singapore (April 1, 1994) and Malaysia. There are instances of other countries which have rolled out the tax in the middle of the financial year - such as Australia (July 1, 2000), New Zealand (October 1, 1986) or Switzerland (January 1, 1995).

If India's law makers and businesses get their act in place even by October 1, 2016, that may not look too bad.

#### GIVING HEEBIE-JEEBIES TO INDIA INC

- Political logjam in Parliament
- The long road ahead to getting state assemblies to ratify a Constitution Amendment Bill, tabling and enactment of the GST law once drafting is complete
- Lack of clarity on which goods and services are subject to, or exempt from GST
- No visibility of the GST rates, including the floor rates
- No agreement among states on the threshold limit of GST
- How companies will carry forward available tax credit to GST tax regime during transition
- Apprehension around increased working capital requirements
- Difficulty in assessing impact on price and the supply chain

#### 8.6 Links of key articles on GST

| Article                                               | Link                                                                                                                                                                                                |
|-------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mann ki baat on GST                                   | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=22800">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=22800</a> |
| Economic Survey 2014-15 - GST in spotlight            | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=22915">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=22915</a> |
| 5 key indirect tax opportunities for new govt         | <a href="http://www.deccanherald.com/content/410999/5-key-indirect-tax-opportunities.html">http://www.deccanherald.com/content/410999/5-key-indirect-tax-opportunities.html</a>                     |
| Economic Survey 2013-14 indicates novel GST approach  | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=20885">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=20885</a> |
| GST - A Solution in Indian Context?                   | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=17466">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=17466</a> |
| 'GST Groups' - Is it good to join hands?              | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=11125">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=11125</a> |
| First Discussion Paper brings clarity on many issues! | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=9917">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=9917</a>   |
| An open letter to Finance Minister                    | <a href="http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=20812">http://www.taxindiaonline.com/RC2/inside2.php3?filename=bnews_detail.php3&amp;newsid=20812</a> |

## 9. Videos on GST

| Episode | Particulars                                  | Links                                                                                                                                           |
|---------|----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| 12      | GST Law (Part II) and Report on Rate         | <a href="https://www.youtube.com/watch?v=5DzP8unNEI8">https://www.youtube.com/watch?v=5DzP8unNEI8</a>                                           |
| 11      | Draft or Model GST Law Overview              | <a href="https://www.youtube.com/watch?v=jhxoHVN-f-Y">https://www.youtube.com/watch?v=jhxoHVN-f-Y</a>                                           |
| 10      | Report on Returns                            | <a href="https://www.youtube.com/watch?v=8btLJNJlorM&amp;feature=youtu.be">https://www.youtube.com/watch?v=8btLJNJlorM&amp;feature=youtu.be</a> |
| 9       | Reports on Registration, payment and Refunds | <a href="https://www.youtube.com/watch?v=QnsRoRTrkYM">https://www.youtube.com/watch?v=QnsRoRTrkYM</a>                                           |
| 8       | Select Committee report                      | <a href="https://www.youtube.com/watch?v=ic1RnmnoEfq&amp;feature=youtu.be">https://www.youtube.com/watch?v=ic1RnmnoEfq&amp;feature=youtu.be</a> |
| 7       | Passage of GST Bill in Lok Sabha             | <a href="https://www.youtube.com/watch?v=gwjKARbC848">https://www.youtube.com/watch?v=gwjKARbC848</a>                                           |
| 6       | IGST vs CST                                  | <a href="https://www.youtube.com/watch?v=z98RSc9Yols">https://www.youtube.com/watch?v=z98RSc9Yols</a>                                           |
| 5       | Rate of GST                                  | <a href="https://www.youtube.com/watch?v=4soSvY3CB00">https://www.youtube.com/watch?v=4soSvY3CB00</a>                                           |
| 4       | Constitutional Amendment Bill                | <a href="https://www.youtube.com/watch?v=hjUCwJWKASg">https://www.youtube.com/watch?v=hjUCwJWKASg</a>                                           |
| 3       | Dual Structure                               | <a href="https://www.youtube.com/watch?v=aNv5HmJbHFU">https://www.youtube.com/watch?v=aNv5HmJbHFU</a>                                           |
| 2       | Rational for GST                             | <a href="https://www.youtube.com/watch?v=kRmAc6fdwtY">https://www.youtube.com/watch?v=kRmAc6fdwtY</a>                                           |
| 1       | Introduction                                 | <a href="https://www.youtube.com/watch?v=cGeS8oP0BOI">https://www.youtube.com/watch?v=cGeS8oP0BOI</a>                                           |

## 10. Basics - Indirect Taxes

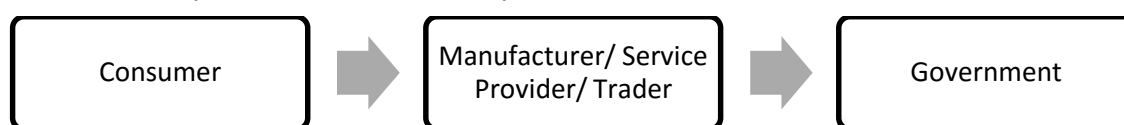
Taxes are the main source of Government revenues. Taxes can be 'direct' taxes or 'indirect' taxes. **Direct taxes** are the taxes which are levied and collected directly from the person, Company etc. When the Government collects money directly from the ultimate person/ consumer, who bears it, then it is called as 'Direct Tax'. Taxes such as Income Tax, Wealth tax are examples of direct taxes.

**Indirect taxes** are levied and collected from consumers **through** manufacturers, traders or service providers. Thus, in case, of the Government collects tax through a third person (such as manufacturers in excise, service providers in Service tax, traders in VAT) than the person who bears it ultimately, then it is called as 'Indirect Tax'.

In legal sense, the responsibility to pay an indirect tax rests with the manufacture/ seller/ service providers though finally the tax is collected from the consumer.

Indirect taxes are levied on activities such as manufacture, sale, trading of goods and provision of services by Central, State and Local Governments. Each time goods/ services exchange hands, typically, they are subjected to indirect tax levies and prescribed compliances<sup>13</sup>.

From recent trends, it can be observed that there is a trend that the indirect tax rates are increasing<sup>14</sup> and the tax base also is being widened<sup>15</sup>. The following picture depicts how money is collected by Government indirectly:



In the years to come, India proposes to revolutionise the present indirect tax system/ structure by introducing Goods and Service Tax ('GST') in India.

Given this, it is indispensable to understand the various current indirect taxes (being excise duty, VAT/sales tax, service tax, entry tax etc) and the future Indirect taxes (being Goods

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<sup>13</sup> Compliances will include , accounting of transaction, deposit of indirect taxes, filing of returns/ challan, exchange of declaration forms (such as C form, F form etc), claiming input tax credits, claiming available refund/ rebate, providing requested information to tax authorities etc

<sup>14</sup> W.e.f. 1 June 2014 rate of service tax increased from 12.36% to 14%.

<sup>15</sup> To broaden the tax base, w.e.f. 1 July 2012 the Central Government adopted 'Negative List approach' to tax services

and Service Tax) if one wishes to take this opportunity to understand what the future indirect tax landscape offers and how to make most of it.

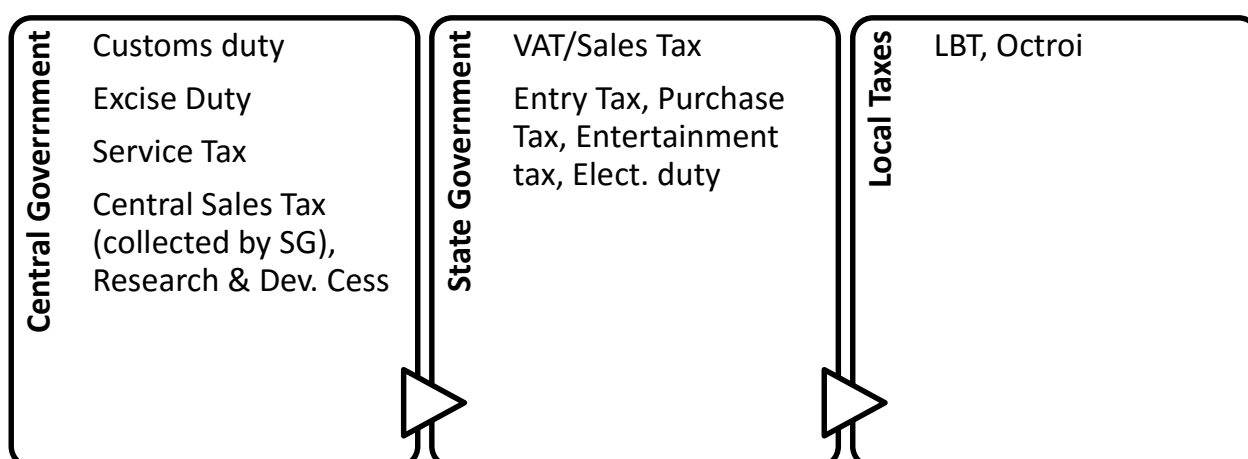
## 11. Existing Indirect Tax System in India

As per Article 265 of Constitution of India ***“No Taxes shall be levied or collected except by authority of law”***.

On a high level basis, indirect taxes in the country can be categorised in three baskets

- **Central Government**(‘CG’): CG’s power includes taxes on income (except agricultural income), excise duty on goods manufactured in India (other than alcohol for human consumption), customs duty, inter-state sale of goods etc.
- **State Governments**(‘SG’): SG’s power includes the power to tax agricultural income, excise duty on alcohol for human consumption, sales tax on intra-State sale of goods etc.
- **Local bodies** (such as municipal corporation, Panchayat etc): Local Bodies power include power to tax goods consumed in their respective area of consumption (such as Local Body Tax, Octroi etc)

The following diagram captures the aforesaid discussion:



We have discussed below key features of the aforesaid indirect taxes

| SR | Indirect Tax | Key features                                                                                                                                                                                                                                                                                    |
|----|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1  | Service Tax  | <ul style="list-style-type: none"><li>- Derives power from under Entry 97<sup>16</sup> of List I (Union List)</li><li>- Service tax is levied and governed under the Finance Act, 1994 and the Rules made thereunder</li><li>- Service tax is applicable on provision of all services</li></ul> |

<sup>16</sup> Entry 97 reads as ‘All other matters not enumerated in List II or List III including any tax not mentioned in either of those Lists’



|          |                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          |                                     | <ul style="list-style-type: none"> <li>- Service tax is not applicable on 'Negative list<sup>17</sup>' services and certain exempt services<sup>18</sup></li> <li>- Service tax is payable by Service provider. However, in certain case service recipient is also liable to pay service tax<sup>19</sup>.</li> <li>- Rate of Service Tax is 14%. Further, for certain services abatement is provided<sup>20</sup>. Further, 0.50% Swachh Bharat Cess is also applicable.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>2</b> | Excise duty                         | <ul style="list-style-type: none"> <li>- Union List - Entry 84<br/><i>'Duties of excise on tobacco and other goods <b>manufactured or produced</b> in India <b>except</b></i><br/><br/><i>(a) alcoholic liquors for human consumption;</i><br/><i>(b) opium, Indian hemp and other narcotic drugs and narcotics,</i><br/><br/><i><b>but including</b> medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry'</i></li> <li>- Excise duty is applicable on 'manufacture' of goods in India</li> <li>- 'Manufacture' typically implies a process at end the end of which a new and different article, having a distinctive name, character or use, emerges.</li> <li>- Excise duty is payable by the manufacturer</li> <li>- Rate of Excise duty is specified in the Excise Tariff</li> <li>- Generic rate of Excise duty is 12.5%. Further, certain goods are liable to concessional rate of Excise duty</li> <li>- Excise duty is levied and governed under the Excise Act, 1944 and the Rules made thereunder</li> </ul> |
| <b>3</b> | Value Added Tax (VAT)/<br>Sales Tax | <ul style="list-style-type: none"> <li>- VAT / Sales tax is applicable on sale of goods within a State</li> <li>- VAT is payable by the seller</li> <li>- Rate of VAT is State specific and the same is specified in VAT schedule of the State</li> <li>- Typically, the rate of VAT varies from 0% to 15%</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

<sup>17</sup> Negative List of services comprises of 17 services and is specified under Section 66D of FA, 1994

<sup>18</sup> Exemption is provided to 39 services vide Not. No. 25/2012-ST

<sup>19</sup> Situations where service recipient is liable to pay service tax as a recipient of service is specified in Not. No. 30/2012-ST

<sup>20</sup> Abatement to various services is specified under Not. No. 26/2012-ST and Service Tax (Determination of Value of Services) Rules, 2006

|          |                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|----------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          |                               | <ul style="list-style-type: none"> <li>- VAT is levied and governed under the State specific VAT Act and the Rules made thereunder</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>4</b> | Purchase Tax                  | <ul style="list-style-type: none"> <li>- Purchase tax is applicable on purchase of specified goods</li> <li>- It is a major source of revenue for Punjab and Haryana</li> <li>- In Punjab, Purchase Tax is levied under Punjab Value Added Tax Act, 2005</li> <li>- Maharashtra also introduced Purchase Tax on cotton and oil seeds</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>5</b> | CST                           | <ul style="list-style-type: none"> <li>- CST is applicable on inter –State sale of goods</li> <li>- CST is payable by the seller</li> <li>- Rate of CST is 2% provided the buyer issues C form. If the buyer doesn't issue C form then CST is applicable at the rate equal to rate of VAT in the State from which goods are sold</li> <li>- CST is levied and governed under The Central Sales Tax Act, 1956 and the Rules made thereunder</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>6</b> | Customs duty                  | <ul style="list-style-type: none"> <li>- Derives power from under Entry 83<sup>21</sup> of List I (Union List)</li> <li>- Customs duty is levied and governed under the Customs Act, 1962 and the Rules made thereunder</li> <li>- Customs duty is applicable on import of goods into India</li> <li>- Customs duty is payable by the importer on record</li> <li>- Rate of Customs duty is specified in the Customs Tariff</li> <li>- Generic rate of Customs duty is 28.85% which comprises the following: <ul style="list-style-type: none"> <li>a. Basic Customs Duty (generic rate is 10%)</li> <li>b. Additional Duty of Customs in lieu of excise<sup>22</sup> (generic rate is 12.5%)</li> <li>c. Additional Duty of Customs in lieu of VAT<sup>23</sup> (generic rate is 4%)</li> <li>d. Customs Education cess @ 2% and Secondary and Higher Education cess @ 1%</li> </ul> </li> </ul> |
| <b>7</b> | Research and Development Cess | <ul style="list-style-type: none"> <li>- Research and Development (R&amp;D) cess is applicable on <b>import</b> of technology through foreign collaborator</li> <li>- The rate of R&amp;D cess is 5%</li> <li>- R&amp;D cess is levied and governed under Research and Development Cess Act, 1986 and the Rules made thereunder</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

<sup>21</sup> Entry 83 reads as '*Duties of customs including export duties*

<sup>22</sup> Also known as Counter-Veiling Duty/ CVD

<sup>23</sup> Also known as Special Additional Duty of Customs / SACD

|           |                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>8</b>  | Entry Tax            | <ul style="list-style-type: none"> <li>- Entry tax is applicable on entry of specified goods in the State for sale, use or consumption</li> <li>- Entry tax is levied by various States in India</li> <li>- Entry tax is levied and governed under State specific Entry Tax Act and the Rules made thereunder</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>9</b>  | LBT (earlier Octroi) | <ul style="list-style-type: none"> <li>- LBT is levied by the Municipal Corporation on entry of specified goods in their jurisdiction for sale, use or consumption</li> <li>- LBT is levied by various Municipal Corporations in the State of Maharashtra (such as Mumbai, Thane, Pune etc)</li> <li>- LBT is levied and governed under Rules made by the Municipal Corporations</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>10</b> | Entertainment tax    | <ul style="list-style-type: none"> <li>- Entertainment tax is applicable on movie tickets, commercial shows etc</li> <li>- Entertainment tax is levied by the State Govt.</li> <li>- The rate of entertainment tax varies from 0% to 110%<sup>24</sup></li> <li>- This source of revenue has grown with the advent of Pay Television Services in India. Since, entertainment is being provided through the services such as Broadcasting Services, DTH Services, Pay TV Services, Cable Services, etc.</li> <li>- The component of entertainment is intrinsically intertwined in the transaction of service, that it cannot be separated from the whole transaction.</li> <li>- Given the nature of transaction of service, it is being subjected to tax by the SG and the CG both<sup>25</sup></li> </ul> |

<sup>24</sup> Source [www.filmtvguildindia.org](http://www.filmtvguildindia.org)

<sup>25</sup> Source [www.en.wikipedia.org](http://www.en.wikipedia.org)

## 12. Indirect Tax Implications On Various Transactions

Transactions in an economy are subject to various types of indirect taxes.

The generic indirect tax implications on the various transactions that take place in an economy are provided below:

| SR | Activity                                                                    | Tax applicable                                                                                                     |
|----|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| 1  | Trading – Sale to a customer located in same State (Intra-State sale)       | Value Added Tax <sup>26</sup> (VAT) would be applicable                                                            |
| 2  | Trading – Sale to a customer located in different State (inter-State sale)  | Central Sales Tax (CST) would be applicable where the said transaction occasions the inter-State movement of goods |
| 3  | Manufacturing and subsequently intra-State sale of goods                    | - Excise duty on manufacture of goods<br>- VAT on sale of goods                                                    |
| 4  | Manufacturing and subsequently inter-State sale of goods                    | - Excise duty on manufacture of goods<br>- CST on sale of goods                                                    |
| 5  | Provision of services                                                       | Service Tax <sup>27</sup>                                                                                          |
| 6  | Works contracts (i.e. transaction involving both goods and services)        | - VAT on 'goods' portion in works contract<br>- Service Tax on 'service' portion in the works contract             |
| 7  | Transaction of sale of an <b>completed</b> <sup>28</sup> immovable property | Stamp duty                                                                                                         |
| 8  | Other transactions (such as employment, donation etc)                       | Income from salary, donation etc is subject matter of Income Tax                                                   |

Apart from the aforesaid taxes, certain States and Municipal Corporations also levy Entry Tax, LBT (earlier Octroi) for entry of goods for consumption/ sale in their respective jurisdiction.

From the aforesaid discussion, it can be observed from the above that currently the indirect tax system in the India is governed by the '**taxable events**' (such as manufacture, sale, provision of service etc).

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<sup>26</sup> Also known as Sales tax

<sup>27</sup> However, certain specified services such as entertainment, advertisement etc, may be liable to State VAT

<sup>28</sup> Service Tax and VAT has been made applicable on sale of property before completion certificate is received for the same.

However, the above approach to levy and collect indirect tax has its own limitations and it results in inefficiency in certain cases due to non-availability of input tax credit.

Now, GST is proposed as a solution to the above problems.

### 13. Indirect tax inefficiencies in the current indirect tax regime

Under the GST regime, both Central Government and State Governments would levy GST on all transaction in goods and services made for a consideration. Introduction of GST will revamp the present indirect taxes (ie excise duty, VAT/sales tax, service tax, entry tax etc).

GST is different, in many ways, from the present indirect tax system. Introduction of GST is may also remove cascading effect of taxes, provide certainty in taxation and also go on to make India a preferable destination for investment.

Introduction of GST will present a window to an opportunity for the Companies which will strategically re-structure the supply chain (keeping the future changes in mind) to reduce the impact of indirect taxes.

A product or service passes through many stages till it reaches the consumer.

Governments at Central and State level have, as and when the need arose, introduced many indirect taxes on various taxable events in this value chain (such as Excise duty on 'manufacture', VAT on 'sale' etc).

As these taxes are levied on different **taxable events** they have their limitations. To illustrate further, let's take example of Excise Duty. Excise duty is levied on 'manufacture' and thus it fails to tax the value addition at trader/retail sale level.

Additionally, at present, '**goods**' primarily suffer **two levies** (Excise duty and VAT) whereas '**services**' suffer only **one levy** i.e. Service tax. This leads to distortion: distortion arises because the relative prices of services would be lower as compared to goods.

Even though current indirect tax system treats goods and services **differently**, in certain cases there is double taxation. Software being one of such case where the industry has taken conservative stand and both VAT and Service Tax is being currently levied.

Also, there are restrictions on **availment of credit** such as a service provider cannot avail credit of VAT and a trader cannot avail credit of Service tax. Also, CST paid in case of inter-State purchase of goods is not available as set-off against output VAT liability.

Further there are multiple indirect tax compliances to be met by the client. For e.g. A manufacturer and service provider (say as a recipient of Goods Transport Agency service) will have typically following number of indirect tax deadlines to meet:

| <b>Compliance</b>                                                    | <b>No.</b> |
|----------------------------------------------------------------------|------------|
| Monthly payment of excise duty                                       | 12         |
| Monthly return of excise                                             | 12         |
| Monthly payment of Service tax                                       | 12         |
| Half-yearly return of service tax                                    | 2          |
| Monthly payment of VAT (State-wise)                                  | 12         |
| Monthly return of VAT (State-wise)                                   | 12         |
| Monthly payment of CST (State-wise)                                  | 12         |
| Monthly return of CST (State-wise)                                   | 12         |
| Monthly Works Contract Tax (WCT) payment                             | 12         |
| Annual WCT return                                                    | 1          |
| Annual Assessment (say 1 each under Excise, VAT/CST and Service tax) | 4          |
| Departmental Audits, CERA audit etc (say 1 in a year)                | 1          |
| Show cause Notice (say 1 each under Excise, VAT/CST and Service tax) | 3          |
| <b>Total</b>                                                         | <b>107</b> |

From aforesaid it can be observed that currently multiple levies makes the assessee answerable to multiple Government Departments and meet multiple compliances/ deadlines. Surely, this adds to the cost of carrying out the business for assessee.

Check-posts<sup>29</sup>

*17. Most States have put in place a system of checkpoints on its road borders. Apart from other verifications which may take place, these checkpoints verify and document inter-state sales of goods carried by the vehicles which cross these borders. These details are then cross verified with the VAT returns of the importing dealers. The need for such an arrangement to continue in the GST regime has been emphasized,*

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<sup>29</sup> Relevant Extracts from the speech dated 29 June 2009 by Dr. Vijay Kelkar (Chairman, Finance Commission)

*especially in view of the abolition of CST and the possibility of tax arbitrage. However, the fact remains that such checkpoints by the very nature of their operations, generate enormous delays in road traffic, sometimes upto three hours per checkpoint. A freight truck travelling by road between Delhi and Chennai will need to cross five State borders and ten checkpoints. Delivery times for goods may be extended significantly because of delays at checkpoints. The arrangement also encourages rent seeking behavior.*

*18. It may be difficult to eliminate checkpoints given the valid concerns of State governments which may extend beyond collection of taxes and movement of goods to vehicle fitness examination, prevention of trafficking, collection of local cesses, etc. But what appears to be egregious is that the same vehicle has to pass through two checkpoints while crossing one border –the exporting States checkpoint and the importing States checkpoint. Both these checkpoints are often located within a couple of kilometers of each other and a vehicle driver has to spend considerable time in both. Perhaps, it may be possible for both the States to put up a combined checkpoint. Officials of both States could sit together and conduct their verifications in one checkpoint. Or one State could handle traffic on one direction and the other State in the other direction. But essentially there would be only one check per border for a goods vehicle. Such an arrangement will significantly reduce travel time. The Finance Commission is prepared to support creation of such checkpoints if the respective State governments are willing to operate jointly.*

The above lacunas and multiple compliances affect free flow of goods and services. Additionally, it brings uncertainty in the trade which is not good for the economy as a whole.

GST is now being projected as a solution to all these problems.

It may be relevant here to note that as per Prof. Charles McLure, a well designed GST in the federal system, should have following six characteristics:

- Uniform rate of GST
- Minimum exemptions thereby ensuring maximum tax base
- Sales should be taxed in the jurisdiction of consumption/ destination
- Centre and State Government should set their own tax rate subject to agreed ceilings rate
- Minimum compliance cost and administration



- Co-operation between all levels of government

## 14. Committees on GST

### **Empowered Committee**

Empowered Committee of 29 State Finance Minister. EC, on 10.11.2009, issued 'First Discussion Paper on GST'. This paper outlines why GST is being introduced and the basic structure of GST. Interestingly, this Discussion Paper has no statutory force.

### **The 13<sup>th</sup> Finance Commission (TFC) and its report**

The Finance Commission is a Constitutional body set up every five years under Article 280 (1) of the Constitution of India. The 13<sup>th</sup> Finance Commission is headed by the former finance secretary Vijay Kelkar. In its report, released on 15<sup>th</sup> November 2009, TFC has made following important recommendations:

- CGST rate of 5% and SGST 7% on all goods and services
- Inclusion of all of the current indirect taxes, such as purchase tax, taxes on natural gas, electricity duty, stamp duty
- Emission fuels, tobacco products and alcohol should be subject to a dual levy of GST and excise with no input credit for excise
- Exemption to:
  - Public services of Union, state and local governments,
  - Service transaction between an employer and employee,
  - Unprocessed food articles sold under the public distribution system,
  - Educational and health services provided by non-government schools, college and agencies

This report now will be submitted to the President of India on 31<sup>st</sup> December 2009. Thereafter, the President will cause every recommendation made by the TFC with explanatory memorandum on the action taken thereon before each House of Parliament (Article 281 of Constitution). Further, as TFC is a statutory body, the views of the TFC will also need to be considered by the Finance Ministry before it finalises the structure of GST.

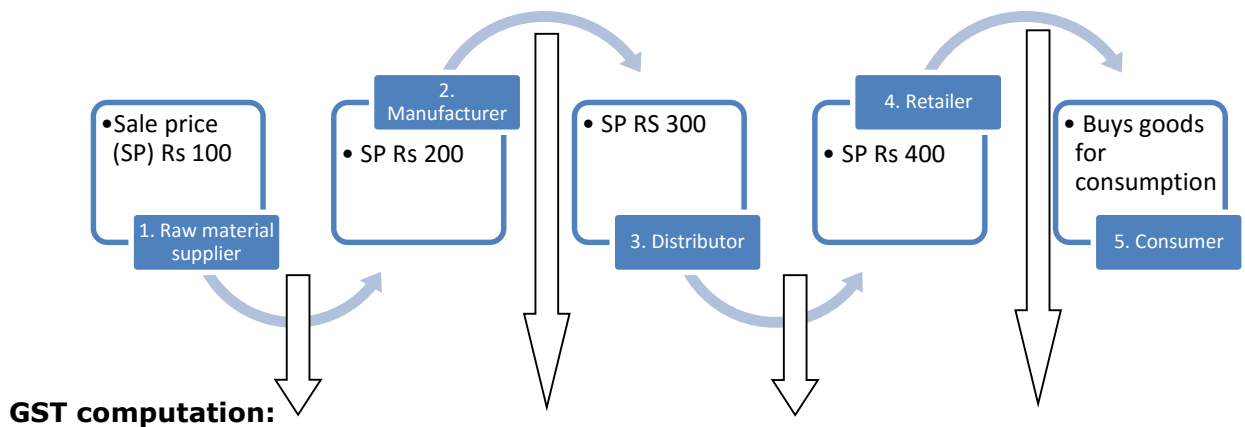
## 15. Illustrations

### Illustration A

The following example will illustrate how GST would work: Say, Mr A rents out his office to Allways Logistics Ltd. The taxable revenues and expenses are as follows:

| Particulars                                                                  | Rs              |
|------------------------------------------------------------------------------|-----------------|
| <b><u>Income of Mr A</u></b>                                                 |                 |
| <b>Rent from commercial premises</b>                                         | 1,00,000        |
| CGST @ 8%                                                                    | 8,000           |
| SGST @ 8%                                                                    | 8,000           |
| <b>Total</b>                                                                 | <b>1,16,000</b> |
| <b><u>Expenses of Mr A</u></b>                                               |                 |
| Telephone expense (including CGST Rs 40 and SGST Rs 40 )                     | 580             |
| Property maintenance charges (including CGST Rs 800 and SGST Rs 800)         | 11,600          |
| <b><u>GST payable by Mr A = GST payable less GST paid on procurement</u></b> |                 |
| Output CGST Rs 8,000 – CGST Rs 840 (Rs 40 + Rs 800) paid on procurements     | <b>7,160</b>    |
| Output SGST Rs 8,000 – SGST Rs 840 (Rs 40 + Rs 800) paid on procurements     | <b>7,160</b>    |

### Illustration B



| Particulars                                           | Sale by Raw material supplier to Manufacturer | Sale by Manufacturer to Distributor | Sale by Distributor to Retailer | Sale by Retailer to Consumer |
|-------------------------------------------------------|-----------------------------------------------|-------------------------------------|---------------------------------|------------------------------|
| Selling price                                         | 100                                           | 200                                 | 300                             | 400                          |
| GST payable on sale<br>(CGST 10% + SGST 10%)          | 20                                            | 40                                  | 60                              | 80                           |
| Input tax credit available (ie GST paid on purchases) | -                                             | 20                                  | 40                              | 60                           |
| Net tax payable to Government                         | <b>20</b>                                     | <b>20</b>                           | <b>20</b>                       | <b>20</b>                    |

16.Constitutional Amendment Bill

AS INTRODUCED IN LOK SABHA

Bill No. 192 of 2014

THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND  
AMENDMENT) BILL, 2014

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Twenty-second Amendment) Act, 2014.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

2. After article 246 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 246A.

"246A. (1) Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Special provision with respect to goods and services tax.

(2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

*Explanation.*—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.”. 5

Amendment of article 248. 3. In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "Subject to article 246A, Parliament" shall be substituted.

Amendment of article 249. 4. In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted. 10

Amendment of article 250. 5. In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

Amendment of article 268. 6. In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Omission of article 268A. 7. Article 268A of the Constitution, as inserted by section 2 of the Constitution (Eighty-eighth Amendment) Act, 2003 shall be omitted. 15

Amendment of article 269. 8. In article 269 of the Constitution, in clause (1), after the words "consignment of goods", the words, figures and letter "except as provided in article 269A" shall be inserted.

Insertion of new article 269A. 9. After article 269 of the Constitution, the following article shall be inserted, namely:— 20

Levy and collection of goods and services tax in course of inter-State trade or commerce. “269A. (1) Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council. 25

*Explanation.*—For the purposes of this clause, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

(2) Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.”. 30

Amendment of article 270. 10. In article 270 of the Constitution,—

(i) in clause (1), for the words, figures and letter "articles 268, 268A and article 269", the words, figures and letter "articles 268, 269 and article 269A" shall be substituted; 35

(ii) after clause (1), the following clause shall be inserted, namely:—

“(1A) The goods and services tax levied and collected by the Government of India, except the tax apportioned with the States under clause (1) of article 269A, shall also be distributed between the Union and the States in the manner provided in clause (2).” 40

Amendment of article 271. 11. In article 271 of the Constitution, after the words “in those articles”, the words, figures and letter “except the goods and services tax under article 246A,” shall be inserted.

12. After article 279 of the Constitution, the following article shall be inserted, namely:—

Insertion of  
new article  
279A.

“279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council.

Goods and  
Services Tax  
Council.

(2) The Goods and Services Tax Council shall consist of the following members, namely:—

(a) the Union Finance Minister..... Chairperson;

(b) the Union Minister of State in charge of Revenue or Finance..... Member;

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.....Members.

(3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

(4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

(a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;

(b) the goods and services that may be subjected to, or exempted from the goods and services tax;

(c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;

(d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

(e) the rates including floor rates with bands of goods and services tax;

(f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

(g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and

(h) any other matter relating to the goods and services tax, as the Council may decide.

(5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

(6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

(7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

(8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

(9) Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

5

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast,

in that meeting.

(10) No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of—

10

(a) any vacancy in, or any defect in, the constitution of the Council; or

(b) any defect in the appointment of a person as a member of the Council; or

(c) any procedural irregularity of the Council not affecting the merits of the case.

(11) The Goods and Services Tax Council may decide about the modalities to resolve disputes arising out of its recommendation.”.

15

Amendment of  
article 286.

13. In article 286 of the Constitution,—

(i) in clause (1),—

(A) for the words "the sale or purchase of goods where such sale or purchase takes place", the words "the supply of goods or of services or both, where such supply takes place" shall be substituted;

20

(B) in sub-clause (b), for the word “goods”, at both the places where it occurs the words “goods or services or both” shall be substituted;

(ii) in clause (2), for the words "sale or purchase of goods takes place", the words "supply of goods or of services or both" shall be substituted;

25

(iii) clause (3) shall be omitted.

Amendment of  
article 366.

14. In article 366 of the Constitution,—

(i) after clause (12), the following clause shall be inserted, namely:—

“(12A) “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;”;

30

(ii) after clause (26), the following clauses shall be inserted, namely:—

“(26A) “Services” means anything other than goods;

(26B) “State” with reference to articles 246A, 268, 269, 269A and article 279A includes a Union territory with Legislature;”.

35

Amendment of  
article 368.

15. In article 368 of the Constitution, in clause (2), in the proviso, in clause (a), for the words and figures “article 162 or article 241”, the words, figures and letter “article 162, article 241 or article 279A” shall be substituted.

Amendment  
of Sixth  
Schedule.

16. In the Sixth Schedule to the Constitution, in paragraph 8, in sub-paragraph (3),—

(i) in clause (c), the word "and" occurring at the end shall be omitted;

40

(ii) in clause (d), the word "and" shall be inserted at the end;

(iii) after clause (d), the following clause shall be inserted, namely:—

“(e) taxes on entertainment and amusements.”.



17. In the Seventh Schedule to the Constitution,—

Amendment of  
Seventh  
Schedule.

(a) in List I — Union List,—

(i) for entry 84, the following entry shall be substituted, namely:—

"84. Duties of excise on the following goods manufactured or produced in India, namely:—

(a) petroleum crude;

(b) high speed diesel;

(c) motor spirit (commonly known as petrol);

(d) natural gas;

(e) aviation turbine fuel; and

(f) tobacco and tobacco products.";

(ii) entries 92 and 92C shall be omitted;

(b) in List II — State List,—

(i) entry 52 shall be omitted;

(ii) for entry 54, the following entry shall be substituted, namely:—

"54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.";

(iii) entry 55 shall be omitted;

(iv) for entry 62, the following entry shall be substituted, namely:—

"62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.".

18. (1) An additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (1) of article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend, and such tax shall be assigned to the States in the manner provided in clause (2).

Arrangement  
for assignment  
of additional  
tax on supply  
of goods to  
States for two  
years or such  
other period  
recommended  
by the  
Council.

(2) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates.

(3) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under clause (1).

(4) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce.

19. Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years.

Compensation  
to States for  
loss of  
revenue on  
account of  
introduction  
of goods and  
services tax.

Transitional provisions.

**20.** Notwithstanding anything in this Act, any provision of any law relating to tax on goods or services or on both in force in any State immediately before the commencement of this Act, which is inconsistent with the provisions of the Constitution as amended by this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until expiration of one year from such commencement, whichever is earlier. 5

Power of President to remove difficulties.

**21. (1)** If any difficulty arises in giving effect to the provisions of the Constitution as amended by this Act (including any difficulty in relation to the transition from the provisions of the Constitution as they stood immediately before the date of assent of the President to this Act to the provisions of the Constitution as amended by this Act), the President may, by order, make such provisions, including any adaptation or modification of any provision of the Constitution as amended by this Act or law, as appear to the President to be necessary or expedient for the purpose of removing the difficulty: 10

Provided that no such order shall be made after the expiry of three years from the date of such assent. 15

(2) Every order made under sub-section (1) shall, as soon as may be after it is made, be laid before each House of Parliament.

## STATEMENT OF OBJECTS AND REASONS

The Constitution is proposed to be amended to introduce the goods and services tax for conferring concurrent taxing powers on the Union as well as the States including Union territory with Legislature to make laws for levying goods and services tax on every transaction of supply of goods or services or both. The goods and services tax shall replace a number of indirect taxes being levied by the Union and the State Governments and is intended to remove cascading effect of taxes and provide for a common national market for goods and services. The proposed Central and State goods and services tax will be levied on all transactions involving supply of goods and services, except those which are kept out of the purview of the goods and services tax.

2. The proposed Bill, which seeks further to amend the Constitution, *inter alia*, provides for—

(a) subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, Special Additional Duty of Customs, and Central Surcharges and Cesses so far as they relate to the supply of goods and services;

(b) subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling; and State cesses and surcharges in so far as they relate to supply of goods and services;

(c) dispensing with the concept of ‘declared goods of special importance’ under the Constitution;

(d) levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;

(e) levy of an additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce to be collected by the Government of India for a period of two years, and assigned to the States from where the supply originates;

(f) conferring concurrent power upon Parliament and the State Legislatures to make laws governing goods and services tax;

(g) coverage of all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till a date notified on the recommendation of the Goods and Services Tax Council.

(h) compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period which may extend to five years;

(i) creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken by a majority of

not less than three-fourths of the weighted votes of the members present and voting in accordance with the following principles:—

(A) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(B) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.

*Illustration:*

In terms of clause (9) of the proposed article 279A, the "weighted votes of the members present and voting" in favour of a proposal in the Goods and Services Tax Council shall be determined as under:—

$$WT = WC + WS$$

Where,

$$WT = WC + WS = \left( \frac{WST}{SP} \right) \times SF$$

Wherein—

WT = Total weighted votes of all members in favour of a proposal.

WC = Weighted vote of the Union =  $\frac{1}{3}$  i.e., 33.33% if the Union is in favour of the

proposal and be taken as "0" if, Union is not in favour of a proposal.

WS = Weighted votes of the States in favour of a proposal.

SP = Number of States present and voting.

WST = Weighted votes of all States present and voting i.e.,  $\frac{2}{3}$  i.e., 66.67%

SF = Number of States voting in favour of a proposal.

(j) Clause 20 of the proposed Bill makes transitional provisions to take care of any inconsistency which may arise with respect to any law relating to tax on goods or services or on both in force in any State on the commencement of the provisions of the Constitution as amended by this Act within a period of one year.

3. the Bill seeks to achieve the above objects.

NEW DELHI;

ARUN

JAITLEY

*The 18th December, 2014*

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PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE  
CONSTITUTION OF INDIA

[Copy of letter No. S-31011/07/2014-SO(ST), dated the 18th December, 2014 from Shri Arun Jaitley, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clauses (1) and (3) of article 117, read with clause (1) of article 274, of the Constitution of India, the introduction of the Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 in Lok Sabha and also the consideration of the Bill.

## FINANCIAL MEMORANDUM

Clause 12 of the Bill seeks to insert a new article 279A in the Constitution relating to Constitution of Goods and Services Tax Council. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State incharge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government.

2. The creation of Goods and Services Tax Council will involve expenditure on office expenses, salaries and allowances of the officers and staff. The objective that the introduction of goods and services tax will make the Indian trade and industry more competitive, domestically as well as internationally and contribute significantly to the growth of the economy, such additional expenditure on the Council will not be significant.

3. At this stage, it will be difficult to make an estimate of the expenditure, both recurring and non-recurring on account of the Constitution of the Council.

4. Further, it is provided for compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for such period which may extend to five years. The exact compensation can be worked out only when the provisions of the Bill are implemented.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill seeks to insert a new article 279A relating to the constitution of a Council to be called the Goods and Services Tax Council. Clause (1) of the proposed new article 279A provides that the President, shall within sixty days from the date of the commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council. Clause (8) of the said article provides that the Council shall determine the procedure in the performance of its functions.

2. The procedures, as may be laid down by the Goods and Services Tax Council in the performance of its functions, are matters of procedure and details. The delegation of legislative power is, therefore, of a normal character.

## ANNEXURE

### EXTRACTS FROM THE CONSTITUTION OF INDIA

\* \* \* \* \*

**248.** (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

Residuary powers of legislation.

\* \* \* \* \*

**249.** (1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force.

Power of Parliament to legislate with respect to a matter in the State List in the national interest.

\* \* \* \* \*

**250.** (1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation of Emergency is in operation, have power to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in the State List.

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

\* \* \* \* \*

### *Distribution of Revenues between the Union and the States*

**268.** (1) Such stamp duties and such duties of excise on medicinal and toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected—

Duties levied by the Union but collected and appropriated by the States.

(a) in the case where such duties are leviable within any Union territory, by the Government of India, and

(b) in other cases, by the States within which such duties are respectively leviable.

\* \* \* \* \*

**268A.** (1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States, in the manner provided in clause (2).

Service tax levied by Union and collected and appropriated by the Union and the States.

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be—

(a) collected by the Government of India and the States;

(b) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law.

**269.** (1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Taxes levied and collected by the Union but assigned to the States.

*Explanation.*—For the purposes of this clause,—

(a) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(b) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

\* \* \* \* \*

Taxes levied and distributed between the Union and the States.

**270.** (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268, 268A and 269, respectively, surcharge on taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

\* \* \* \* \*

Surcharge on certain duties and taxes for purposes of the Union.

**271.** Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

\* \* \* \* \*

Restrictions as to imposition of tax on the sale or purchase of goods.

**286.** (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

(a) outside the State; or

(b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

(2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1).

(3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,—

(a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-State trade or commerce; or

(b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub-clause (b), sub-clause (c) or sub-clause (d) of clause (29A) of article 366,

be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify.

\* \* \* \* \*

## PART XX

### AMENDMENT OF THE CONSTITUTION

Power of Parliament to amend the Constitution and procedure therefore.

**368.** (1) \* \* \* \* \*

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

(a) article 54, article 55, article 73, article 162 or article 241, or



- (b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or
- (c) any of the Lists in the Seventh Schedule, or
- (d) the representation of States in Parliament, or
- (e) the provisions of this article,

the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

\* \* \* \* \*

#### SIXTH SCHEDULE

[Articles 244(2) and 275(1)]

#### Provisions as to the Administration of Tribal Areas in the States of Assam, Meghalaya, Tripura and Mizoram

\* \* \* \* \*

8. (1) \* \* \* \* \*

Powers to assess and collect land revenue and to impose taxes.

(3) The District Council for an autonomous district shall have the power to levy and collect all or any of the following taxes within such district, that is to say—

\* \* \* \* \*

(c) taxes on the entry of goods into a market for sale therein, and tolls on passengers and goods carried in ferries; and

(d) taxes for the maintenance of schools, dispensaries or roads.

\* \* \* \* \*

#### SEVENTH SCHEDULE

(Article 246) List

#### I- Union List

\* \* \* \* \*

84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

\* \* \* \* \*

92. Taxes on the sale or purchase of newspapers and on advertisements published therein.

\* \* \* \* \*

92C. Taxes on services.

\* \* \* \* \*

#### List II-State List

\* \* \* \* \*

52. Taxes on the entry of goods into a local area for consumption, use or sale therein.

\* \* \* \* \*

54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.

55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

\* \* \* \*

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

\* \* \*

LOK SABHA

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A

BILL

*further to amend the Constitution of India.*

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*(Shri Arun Jaitley, Minister of Finance)*

**LOK  
SABHA**

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**CORRIGEN**

**DA to**

**THE CONSTITUTION (ONE HUNDRED AND TWENTY-SECOND  
AMENDMENT) BILL, 2014**

**[To be/As introduced in Lok  
Sabha]**

1. Page 2, line 32, -  
for "Contitution,—  
" read  
"Constitution,—"
2. Page 4, line 16, -  
for "of its  
recommendation."." read "of  
its recommendations."."
3. Page 5, in the marginal citation against clause  
18, - for "by the Council."  
read "by Council."
4. Page 8, *omit* line 11.

