



Minutes of the 40th GST Council Meeting held on 12th June, 2020

The 40th meeting of the GST Council (hereinafter referred to as 'the Council') was held on 12th June 2020 through video conference under the Chairpersonship of Hon'ble Finance Minister, Smt. Nirmala Sitharaman (hereinafter referred to as the Chairperson). A list of the Hon'ble Members/Ministers of the Council who attended the meeting is at **Annexure 1**. A list of officers of the Centre, the States, the GST Council, the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for the discussion in the 40th Meeting of the Council:

1. Confirmation of the Minutes of 39th GST Council Meeting held on 14th March 2020
2. Review of Revenue Position
3. Issues recommended by the Law Committee for the consideration of the GST Council
 - i. Amendment in CGST Rules to prescribe the rates for Composition Scheme under Section 10(2A)
 - ii. Proposal to issue Removal of difficulty order for extending the time limit for revocation of cancellation of registration
 - iii. Notification of provisions of the Finance Act, 2020 amending various sections of the CGST Act and the IGST Act
 - iv. Reduction of late fees and rate of interest for small taxpayers (taxpayers with aggregate turnover up to Rs. 5 crore) for the tax period May, 2020, June, 2020 and July, 2020
 - v. Reduction in rate of interest for delay in payment of GST for remaining part of Financial Year 2020-21
 - vi. Reduction in late fees for FORM GSTR-3B for months from July, 2017 to January, 2020 - One time amnesty to clean up pendency in return filing in GST regime
4. Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government


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5. Decisions of the GST Implementation Committee (GIC) for information of the Council
6. Decisions/Recommendations of the IT Grievance Redressal Committee for information of the Council
7. Creation of State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh
8. Quarterly Report of the National Anti-Profiteering Authority (NAA) for the quarter January to March 2020 for the information of the GST Council
9. Constitution of Grievance Redressal Committee at CBIC Zonal / State level for redressal of grievance of taxpayers on GST related issues
- 9A. Inverted Rate Structure in GST- Correction of inverted rates on certain key sectors
10. Any other agenda item with the permission of the Chairperson
 - i. Sharing of GST data with Comptroller and Auditor General of India for the purposes of GST audit
 - ii. Discussion on Compensation to States.
11. Date of the next meeting of the GST Council

Preliminary discussion

3. The Hon'ble Chairperson invited the Union Revenue Secretary and ex-officio Secretary to the GST Council (hereinafter referred to as the Secretary) to begin the proceedings. The Secretary welcomed everyone to the 40th GST Council meeting. He, on behalf of the Council, welcomed Shri Narottam Mishra, Hon'ble Minister for Home and Public Health and Family Welfare, nominated from the State of Madhya Pradesh and Shri James K. Sangma, Hon'ble Minister for Taxation, nominated from the State of Meghalaya.

3.1 After the preliminary discussions, the Hon'ble Chairperson asked the Secretary to take up the individual Agenda Items for consideration of the Council.

Agenda Item I: Confirmation of the Minutes of the 39th GST Council Meeting held on 14th March 2020

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4. The Secretary informed that the first Agenda Item was the confirmation of the Minutes of the 39th GST Council Meeting (hereinafter referred to as Minutes) held on



14th March, 2020 at New Delhi. He stated that the Minutes was circulated to all the States in advance and comments have been received from the States of Gujarat and Puducherry suggesting the following changes.

- i. The State of Puducherry suggested that in paragraph 8.5 of the Minutes, in the second sentence, to replace the presently recorded version (That compensation is a solemn commitment by GST Council to the States and the State budget has been planned keeping in view the 14% cess money) with the following version: "That compensation is a solemn commitment by GST Council to the States and the State budget has been planned keeping in view the 14% growth".
 - ii. The State of Gujarat suggested that in paragraph 8.7, to replace the recorded version (The Hon'ble Deputy Chief Minister of Gujarat requested that the wrong use of C forms has resulted in a loss of about 13 to 14% which should not be allowed and this matter be take up as an Agenda Item in the next Council meeting) with the following version: "The Hon'ble Deputy Chief Minister of Gujarat requested that there is need for amendment in the Central Sales Tax Act, 1956. Letter containing detailed note for amendment in the relevant section of the CST Act is already sent to the Govt. of India. Wrong use of C-Forms is causing loss of CST revenue to many states. Other states have also agreed to prevent wrong use of C-FORM and therefore, the Central Government should bring amendment immediately. If need be, the matter may be discussed in the Council meeting."
 - iii. The State of Puducherry suggested that in paragraph 13.9, the statement (Commissioner, State tax, Puducherry mentioned that this was debated in the Officer's Meeting on 13.03.2020 and this debate is resulting in delaying the decision and cases are piling up) with the following version: "Chief Commissioner, State tax, Gujarat mentioned that this was debated in the Officer's Meeting on 13.03.2020 and this debate is resulting in delaying the decision and cases are piling up."
- 4.1 The Hon'ble Minister, Commercial Tax from Chhattisgarh requested that his name in paragraph 4.23 had been wrongly mentioned (Shri K.P. Singh Deo) and should be corrected as "Shri T.S. Singh Deo".


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4.2 The Hon'ble Minister from Odisha suggested that in paragraph 11.8, to replace the sentence (The Hon'ble Member from Odisha further stated that the 18% GST on job work will not impact the price of liquor because this depends upon the relationship between the brand owner and the contract bottling unit.) with the following version : “The Hon'ble Member from Odisha further stated that the 18% GST on service of job work will not impact the price of liquor because this depends upon the relationship between the brand owner and the contract bottling unit.” He also stated that this view had been recommended by the Fitment Committee and was accepted by all the States barring one or two States. He further stated that since the matter is not *pendente lite*, the issue could not be decided by the Hon'ble Court. The Secretary stated that presently the Minutes of the 39th GST Council were being discussed and that the final view was not being taken. The Joint Secretary (TRU-II) stated that there was a difference of opinion among the States. While some States felt alcoholic liquor for human consumption being outside GST, its job work too cannot be subjected to GST. Some other States felt that alcoholic liquor for human consumption could not be equated with food. The Hon'ble Member from Karnataka was of the view that instead of leaving the matter to the judiciary, it needed to be decided whether alcoholic liquor for human consumption was food or not. He further suggested that the Council may take it up as an agenda and discuss it threadbare so as to remove any confusion. The Hon'ble Chairperson stated that there was merit in what the Hon'ble Minister from Odisha had stated that the matter was not *sub judice* and that the Council should take an executive decision in the matter by taking it up as an Agenda Item in the next Council meeting.

4.3 The Hon'ble Member from Tamil Nadu suggested the following changes:

- i. In paragraph 13.3, their view/suggestion may be recorded after the sentence (This opinion was seconded by the Hon'ble member from Gujarat), “Tamil Nadu was of the view that levy of interest on delayed payment of taxes to be made on net cash tax liability should be given effect retrospectively from 01.07.2017.”
- ii. In paragraph 13.5, to add after the sentence (He informed that in fact, based on an analysis done, below Rs.5 crore limit, the additional tax recovered from each tax payer was Rs 13,000 per tax payer whereas the compliance cost was appx. Rs.50,000) “Tamil Nadu had supported and welcomed the ameliorative measures taken for ease of doing business by enhancing the turnover limit upto Rs.5 crore

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for filing annual returns in Form GSTR-9 and reconciliation statement in Form GSTR-9C.

- iii. In paragraph 13.9, to add after the sentence (There can also be a senior lawyer who can be designated as a judicial member) "Tamil Nadu expressed strong reservations against the proposed amendments to sections 109 and 110 of the CGST Act with reference to the appointment of technical members in the GST Tribunals. These amendments seek to replace two technical members by one, leaving the option to choose a Central Technical member or State Technical Member to the Government of India. Tamil Nadu was of the view that the National Bench of the Appellate Tribunal and its Regional Benches may consist of Judicial Member and a Technical Member (Central) and in State Bench of the Appellate Tribunal and its Area Benches must consist of Judicial member and a Technical member (State)."
- iv. In paragraph 10.9 of the Minutes to add after the last sentence (He pointed out that the Fitment Committee had already deliberated on issue and recommended uniform rate of 12%, he urged the council to take a decision on the same and not keep it pending.) "He further stated that in their State, they have been receiving numerous representations from the trade associations dealing with food grains complaining that the tax authorities are demanding tax for delayed filing of disclaimer affidavit before the jurisdictional Commissioner, voluntarily foregoing the actionable claim or the enforceable rights on their brand name. The intention of issuing such notification for filing disclaimer affidavit is to grant exemption on the supply of food grains having unregistered brand name. However, the delay in filing such affidavit should not be a ground for levy and collection of tax on the supply of food grains. He urged the Hon'ble Chairperson to kindly issue guidelines to condone the delay in filing the disclaimer affidavit and not to raise demands on that ground. He also suggested that the distinction between branded and unbranded food grains should be completely done away with as most taxpayers have switched to unbranded category by filing affidavits and consequently the loss to exchequer on account of removal of the distinction will not be much. He also urged the Hon'ble Chairperson to kindly consider the remaining representations forwarded to the Council on the grounds of rationalization of tax, items of essential use by common man, items for the benefit


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of farmers and fishermen, items made by small artisans and items relating to religious sentiments at the earliest.”

4.4 The Hon'ble Member from Tamil Nadu further stated that their proposal as mentioned in paragraph 25.6 of the draft Minutes of the 39th GST Council Meeting as approved by the Council had not yet been given effect to stating that the Law Ministry is yet to accept the proposal. He, therefore, brought this to the kind notice of Hon'ble Chairperson for necessary further action in the matter.

4.5 The Hon'ble Minister from Goa reminded the Hon'ble Chairperson that the Minutes of the 39th GST Council meeting did not reflect that it was agreed to instruct the GST Intelligence Unit, Hyderabad not to initiate action against the casinos in the State of Goa till it was decided whether GST was required to be levied on the full amount or on the gross gaming revenue as has always been done in the pre GST era. This was for the reason that casinos in Goa were on the verge of closure. That they were a very important source of revenue for the State and that Law and Fitment Committees had decided the issue and that the issue could be brought directly to the GST Council. On being informed by the Joint Secretary, GST Council Secretariat that this issue was minuted in the 38th GST Council meeting, the Hon'ble Chairperson instructed that an addendum to this effect in respect of the same may be issued.

4.6 The Hon'ble Member from Madhya Pradesh stated that they were grateful that the State had been given Rs.1,386 crore as compensation and the borrowing limit had also been raised from 3% to 5% of Gross State Domestic Product (GSDP). He, however, requested that conditionalities attached to the raising of the borrowing limit may be relaxed. He further stated that he was looking after the departments of Home and Health and during his meeting with industrialists he had learnt that medical equipment used in the fight against COVID attracted GST and had not been given any benefits/exemption. He further stated that builders have to pay GST of 12% while refund is granted only after the buildings are sold. He requested to reduce the GST on infrastructure projects to 9%.

4.7 The Hon'ble Member from Uttar Pradesh stated that he wished to state that there was an amendment in the approval granted by the Council in paragraph 16 of the Minutes of the 39th GST Council meeting for setting up of State and Area benches of GSTAT in the State of Uttar Pradesh. The Secretary informed him that this could be discussed subsequently as a separate Agenda Item No.7. The Hon'ble Member from Uttar Pradesh

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stated that he was grateful to FM for having released a compensation amount of Rs.2200 crore to the State. He further brought to the notice of the Hon'ble Chairperson that in the earlier GST Council meetings he had made certain requests concerning pan masala, brick kilns and mentha-oil on which no decision had yet been taken. He felt that the issues concerning the above three items needed to be addressed in order to garner more revenue. He felt that as a policy matter any issue which is discussed in any GST Council meeting, its action taken should be placed before the subsequent Council meetings.

4.8 The Hon'ble Member from West Bengal stated that the present Agenda included several routine matters which are reporting matters. These may be assumed to have been passed. There are only two-three vital issues which need to be discussed, viz., compensation to States and correction of inverted duty structure. The Hon'ble Chief Minister of Puducherry stated that there are several procedural matters in the present Agenda, put up only for the information of the Council. However, the major items are the revenue loss and compensation to be given to States, increase in tax on certain items. Both Centre and States are facing a difficult situation on account of Corona crisis. The earlier regime of Sales tax, which was a major source of revenue for the States has now been replaced with GST and accordingly States are dependent on GST for revenue and also on compensation given by the GST Council. Smaller States are more dependent on compensation. Most States have lost revenue during the period March to May 2020. Therefore, more time should be given for discussing the revenue loss arising from the lock-down consequent to the Corona crisis. The Hon'ble Deputy Chief Minister of Bihar requested to take up the issues Agenda wise as procedural issues do not take much time to discuss. The Hon'ble member from Jharkhand expressed his gratitude to Hon'ble Chairperson for having released compensation for the period till February 2020. However, they were in dire need for compensation for the subsequent months of March – May 2020. He further stated that he supported the Hon'ble Member from West Bengal and Puducherry and that compensation and revenue should be discussed.

4.9. The Secretary requested that before the Council take up Agenda Item 2, the minutes may be confirmed.

5. For **Agenda item 1**, the Council approved the Minutes of the 39th GST Council meeting with the following changes:

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5.1. To correct the name of the Hon'ble Minister in paragraph 4.23 of the Minutes from 'Shri K.P. Singh Deo' to 'Shri T.S. Singh Deo'.

5.2. To add the following paragraph after paragraph 6 of the Minutes, "6A. The Hon'ble Minister from Goa reminded the Hon'ble Chairperson that the draft Minutes of the 39th GST Council meeting did not reflect that it was agreed to instruct the GST Intelligence Unit, Hyderabad not to initiate action against the casinos in the State of Goa till it was decided whether GST was required to be levied on the full amount or on the gross gaming revenue as has always been done in the pre GST era. This was for the reason that casinos in Goa were on the verge of closure. That they were a very important source of revenue for the State and that Law and Fitment Committees had decided the issue and that the issue could be brought directly to the GST Council."

5.3. To replace the sentence 'That compensation is a solemn commitment by GST Council to the States and the State budget has been planned keeping in view the 14% cess money' in paragraph 8.5 of the Minutes with 'That compensation is a solemn commitment by GST Council to the States and the State budget has been planned keeping in view the 14% growth'.

5.4. To replace the sentence 'The Hon'ble Deputy Chief Minister of Gujarat requested that the wrong use of C forms has resulted in a loss of about 13 to 14% which should not be allowed and this matter be take up as an Agenda Item in the next Council meeting' in paragraph 8.7 of the Minutes with 'The Hon'ble Deputy Chief Minister of Gujarat requested that there is need for amendment in the Central Sales Tax Act, 1956. Letter containing detailed note for amendment in the relevant section of the CST Act is already sent to the Govt. of India. Wrong use of C-Forms is causing loss of CST revenue to many states. Other states have also agreed to prevent wrong use of C-FORM and therefore, the Central Government should bring amendment immediately. If need be, the matter may be discussed in the Council meeting'.

5.5. To add after the last sentence in paragraph 10.9 of the Minutes, "He further stated that in their State, they have been receiving numerous representations from the trade associations dealing with food grains complaining that the tax authorities are demanding tax for delayed filing of disclaimer affidavit before the jurisdictional Commissioner, voluntarily foregoing the actionable claim or the enforceable rights on their brand name.

The intention of issuing such notification for filing disclaimer affidavit is to grant


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exemption on the supply of food grains having unregistered brand name. However, the delay in filing such affidavit should not be a ground for levy and collection of tax on the supply of food grains. He urged the Hon'ble Chairperson to kindly issue guidelines to condone the delay in filing the disclaimer affidavit and not to raise demands on that ground. He also suggested that the distinction between branded and unbranded food grains should be completely done away with as most taxpayers have switched to unbranded category by filing affidavits and consequently the loss to exchequer on account of removal of the distinction will not be much. He also urged the Hon'ble Chairperson to kindly consider the remaining representations forwarded to the Council on the grounds of rationalization of tax, items of essential use by common man, items for the benefit of farmers and fishermen, items made by small artisans and items relating to religious sentiments at the earliest."

5.6. To replace the sentence 'The Hon'ble Member from Odisha further stated that the 18% GST on job work will not impact the price of liquor because this depends upon the relationship between the brand owner and the contract bottling unit' in paragraph 11.8 of the Minutes with "The Hon'ble Member from Odisha further stated that the 18% GST on service of job work will not impact the price of liquor because this depends upon the relationship between the brand owner and the contract bottling unit."

5.7. To add in paragraph 13.3 of the Minutes, after the sentence "This opinion was seconded by the Hon'ble member from Gujarat", "Tamil Nadu was of the view that levy of interest on delayed payment of taxes to be made on net cash tax liability should be given effect retrospectively from 01.07.2017."

5.8. To add after the sentence 'He informed that in fact, based on an analysis done, below Rs.5 crore limit, the additional tax recovered from each tax payer was Rs 13,000 per tax payer whereas the compliance cost was appx. Rs.50,000' in paragraph 13.5 of the Minutes, "Tamil Nadu had supported and welcomed the ameliorative measures taken for ease of doing business by enhancing the turnover limit upto Rs.5 crore for filing annual returns in Form GSTR-9 and reconciliation statement in Form GSTR-9C."

5.9. To add after the sentence 'There can also be a senior lawyer who can be designated as a judicial member' in paragraph 13.9, of the Minutes, "Tamil Nadu expressed strong reservations against the proposed amendments to sections 109 and 110 of the CGST Act with reference to the appointment of technical members in the GST

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Tribunals. These amendments seek to replace two technical members by one, leaving the option to choose a Central Technical member or State Technical Member to the Government of India. Tamil Nadu was of the view that the National Bench of the Appellate Tribunal and its Regional Benches may consist of Judicial Member and a Technical Member (Central) and in State Bench of the Appellate Tribunal and its Area Benches must consist of Judicial member and a Technical member (State)."

5.10. To replace the sentence 'Commissioner, State tax, Puducherry mentioned that this was debated in the Officer's Meeting on 13.03.2020 and this debate is resulting in delaying the decision and cases are piling up' in paragraph 13.9 of the Minutes with 'Chief Commissioner, State tax, Gujarat mentioned that this was debated in the Officer's Meeting on 13.03.2020 and this debate is resulting in delaying the decision and cases are piling up'.

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Agenda Item-2: Review of Revenue Position

6. The Secretary invited Shri Ritvik Pandey, Joint Secretary, Revenue to brief the Council on the subject. He initiated the discussion by inviting the attention of the Council to the broad numbers. He firstly drew attention to Table 1 of the Agenda Note where the various components of GST have been shown for the years 2017-18, 2018-19, 2019-20 and for the two months of April and May 2020-21. He highlighted that in the last financial year the total GST collections were Rs.12,22,116 crore as against which Rs.94,323 crore gross revenue have been collected in the first two months of the current fiscal. Then, he explained the collections under IGST and its apportionment/settlement as shown in Table 2 of the Agenda Note. It was explained that the amount collected under IGST in the first two months of the current fiscal was about Rs.52,732 crore of which Rs.11,334 was refunded. Of the remaining, Rs.22,766 crore was apportioned/settled between the Centre and all the States/UTs through the normal settlement route due to return filing. It was witnessed in the past few months there was no need to do any ad hoc settlement because of change in the rules of cross utilization of IGST credit. But in the months of April'20-May'20 a net balance of Rs 18,632 crore was present mainly because the returns were deferred especially for smaller tax payers who are at the end of the value add chain. Therefore some IGST would have been paid but the credit would not have been taken since the tax payers are yet to file their returns. As and when they file their returns, this credit will also get utilized. With respect to compensation, Joint Secretary, Revenue drew the attention of the Hon'ble Members to Table 3 of the Agenda Note where the details of compensation cess collected and compensation released have been shown since implementation of GST till April 2020. In 2017-18, compensation cess collected was Rs.62,612 crore while compensation released was Rs 41,146 crore. In 2018-19 the total compensation cess collected was Rs.95,081 crore against which compensation released was Rs.69,275 crore. However, in 2019-20 the compensation collected (Rs.95,444 crore) was less than the compensation released (Rs.1,20,498 crore). In the year 2020-21 till April, Rs.1,135 crore has been collected under compensation cess while the amount released in April was Rs.15,340 crore. Thus, so far, a total of Rs. 2,46,259 crore has been released under compensation to all the States while the total compensation cess collection till April 2020 was Rs 2,54,272 crore. Further, there is a balance of Rs. 8,013 crore in the compensation head till April end 2020

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6.1 Joint Secretary, Revenue then explained that there is the issue of IGST balance of 2017-18, which has been under discussion in GST Council for quite some time. While from 2018-19, balance IGST is regularly being apportioned on *ad-hoc* basis, during 2017-18, an amount of Rs.1.76 lakh crore had remained un-apportioned and was devolved as Central revenue as per Finance Commission formula. CAG, in his audit report has also pointed out that it should have been first apportioned on *ad-hoc* basis and State share from the central portion of IGST should have been given to States.

6.2 He then explained that the reversal of this transaction entailed four legs as follows:

- a. reversal of IGST devolution
- b. ad-hoc apportionment of the entire amount of Rs.1.76 lakh into SGST and CGST and release of SGST amount to States
- c. release of States' share from CGST; and
- d. reversal of compensation amount due to (b) above

First leg pertains to reversal of IGST amount devolved during 2017-18 to the entire extent of Rs 1.76 lakh crore. Once it is reversed, the total IGST of Rs 1.76 lakh crore will have to be divided into two halves of Rs 88,000 crore each between the Centre and States/UTs. Since the CGST portion is central revenue, 42% of this will be devolved to the States. Remaining Rs 88,000 crore shall be apportioned to the States and consequently the compensation which was released in 2017-18 would become excess and a part of it, depending on recalculations, has to be reversed. Because there are four legs to these transactions, some of them are releases to States and some of them are reversal of releases to States done previously and it has to and fro releases of funds, this transaction was broken into two parts. One having no net cash outgo and other will have cash outgo. It needs to be appreciated that while the amount pertaining to a, b and c above are settlements between both Consolidated Funds of Centre and States the reversal compensation at d above will be credited to the Compensation Fund. It will not go to the Consolidated Fund of India because it was released from Compensation Fund. As a result, the transaction has been split up into two parts. The first leg of the transaction having no cash implication has been carried out in the month of May 2020 and the net implication has been effected to by transferring Rs.33,412 crore from CFI to Compensation Fund in the month of May 2020. This amount was used to release compensation due from December 2019 to February 2020 of Rs.36,400 crore in May

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2020. For the remaining leg of transaction, for some States there will be a net release from Centre to States and for some States, there will be a reversal of compensation which is on cash basis which will be done in due course. Joint Secretary, Revenue further explained that the remaining legs of this transaction can be carried out after detailed deliberations in the Group of Ministers constituted on this subject matter. The compensation for March 2020 will also be released in due course. It may be noted that while the compensation required for the months of December 2019 to March 2020 was about Rs.12,500 crore per month, the compensation requirement in current year will be comparatively much higher due to lower GST collections during the current year.

6.3 Joint Secretary, Revenue then highlighted the trends in monthly revenue since the inception of GST till the first two months of the current financial year as shown in figures 2 and 3 of the Agenda Note 2. He stated that the revenue trend in the previous financial year has been a roller- coaster ride. The year opened with a good growth rate of 10% but the growth rates came down during the later part of the year. The revenue in the months of September - October 2019 and March 2020 have been negative vis-à-vis the corresponding months in 2018-19. This growth again recovered to 8 to 9% during months of December, January and February. But mainly because of COVID issue, in the month of March it fell down to minus 8%. In the current year, the collections were Rs 32,172 crore in April and Rs 62,151 in May. Since certain return filing was deferred during the current year, we can expect more deferred revenues. The State-wise details of gap between the protected revenue and the post settlement gross SGST revenue (including *ad hoc* settlement) for the period April to March in 2019-20 as compared to the corresponding period in the previous year has been shown in Table 4 and graphically in figure 4. The trends in return filing are shown in Table 5 while the State-wise details have been shown in Table 6. He highlighted that the return filing (GSTR-3B) till due date for the months of March 2020 and April 2020 were only 6% and 8% respectively mainly because of the deferral and COVID benefits given.

6.4 Thereafter, the Hon'ble Chairperson invited comments from the Hon'ble Members of the Council. The Hon'ble Deputy Chief Minister of Delhi stated that he was glad that the issue which concerned the Union Territories of Delhi and Puducherry the most i.e. apportionment of balance IGST lying in 2017-18 had finally been discussed in paragraph 6 of the Agenda Note. He stated that, on behalf of Delhi & Puducherry, this

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issue has been raised repeatedly, even in personal meetings with the Hon'ble Union Finance Minister and in the GST Council as well. Both the UTs with legislatures were the prime losers in the devolution because they were not covered by the Finance Commission grant and, therefore, did not get any money as a result of adoption of this mode of settlement. He stated that the Agenda laid down the process involved in the reversal of IGST balance of Rs.1.76 lakh crore during 2017-18. While the Government of India had released Rs.33,412 crore from the Consolidated Fund of India to the Compensation Fund, the remaining part of the reversal had been left to be decided by deliberations in the Group of Ministers (GoM) constituted for this subject matter. The Hon'ble Member said that he had been raising this issue in the various GST Council meetings and was now requesting GST Council to provide due share of Delhi of Rs.3200 crore. According to their calculation Delhi would have got about Rs.3700 crore out of the IGST lying in balance at the end of 2017-18. As Delhi would be required to return about Rs.326 crore which it got from Compensation Fund, the balance amount of Rs.3200 crore ought to be released to Delhi. In view of the Covid-19 pandemic, the revenue resources of Delhi have been adversely impacted and the Government is facing difficulty in meeting its statutory obligations including salary of its own staff. While an appropriate decision, in this regard, will be taken by the GST Council based on the recommendations of the GoM, the Hon'ble Member requested that the Council may approve to release this amount on *ad hoc* basis which can be subsequently settled along with revenue of the remaining States. The process laid down in the Agenda Item No.2 needs to be carried out; however, this would involve deliberations in the GoM and also calculations of excess/deficit pertaining to the different States. Since the Government of India had already carried out the first leg of transaction by transferring Rs.33,412 crore from the Consolidated Fund of India to the Compensation Fund, it was requested that the settlement of amount pertaining to Delhi and Puducherry may be delinked from the overall reconciliation exercise. He requested that the decision to release this money of Rs 3,200 crores may be taken at the earliest so that they can get some timely relief on immediate basis. Moreover, this amount is due to Delhi. He again urged the Council to approve release of the due share of Delhi and Puducherry towards the IGST settlement pertaining to the year 2017-18, subject to final adjustment as will be decided by the Hon'ble Council on the recommendation of the GoM constituted for this purpose.

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6.5 The Hon'ble Chief Minister of Puducherry supported what had been expressed by the Hon'ble Deputy Chief Minister of Delhi that as both the UTs are not covered by the devolution of the Finance Commission they did not get what was due to them on account of settlement from IGST since the fund was transferred into the Consolidated Fund of India. Several rounds of meetings were held in this regard. One such meeting was held in the presence of Hon'ble Union Finance Minister and it was agreed that this issue will be resolved. Puducherry and Delhi are considered to be States under the GST Act. Therefore, both are entitled to compensation like other States. Sometimes, the apportionment will also be done. Looking into the situation, after considering the compensation that has been made, if any moneys are due to Puducherry and Delhi, it may be given. In case, the payments were excess, definitely they would have to reverse. Therefore, a final call has to be taken on this.

6.6 The Hon'ble Minister from Tamil Nadu stated that he wished to bring the long pending issue of IGST settlement for the year 2017-18 to kind attention of the Council. The Group of Ministers constituted for the purpose of examining the issue of IGST settlement had convened a meeting on 18.01.2020. No decision had yet been taken to release the pending accumulated IGST for the year 2017-2018 amounting to Rs.4,073 crore to the State of Tamil Nadu. He also requested the GoM to work out a regular system of apportioning the surplus in the IGST account among the States and Union Territories in accordance with the principles laid in section 17(2) of the IGST Act. He also urged the Hon'ble chairperson to make early release of pending compensation amount of Rs.553.01 crore for the year 2018-19 and Rs.1,101.61 crore for the year 2019-20.

6.7 The Hon'ble Minister from West Bengal referred to the presentation made. He was glad that a discussion arising out of the CAG report relating to non-settlement of the balance amount lying in IGST account of Rs.1.76 lakh crore was included in the Agenda Note 2. Out of Rs 1.76 lakh crore, Rs 88,000 crore is for the SGST. He drew attention to the CAG report which also stated that State share of central portion of IGST should have been given to the States. That amounts to Rs 88,000 crore. He was also very happy to note that an amount of Rs.33,412 crore had been reversed and the States compensated. He made an appeal that the balance amount of about Rs.54,588 odd crore which is due to the States should also be released early. His appeal was that, Rs 54,588 crore which is

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due to the States may be immediately returned to the States as per the formula, It is lying in the Consolidated Fund of India and it should be drawn as per the recommendation of CAG as well as the Finance Commission. Since compensation was also referred to in the presentation, he submitted that the regarding compensation as far as West Bengal was concerned, they were required to be compensated by an amount of about Rs.5,630 crore till the month of May 2020. He enquired whether all States across the country along with the Hon'ble Union Finance Minister could decide that what had been admitted already (CAG had already spoken on this subject), can it be reversed. Already Rs 33,412 crores had been paid. But Rs 54,588 crore remains to be paid. He enquired whether a decision on this matter can be taken on the same day. This amount of Rs 54,588 crore can be reversed and be paid to the States. He stated that he will speak on compensation later.

6.8. The Hon'ble Deputy Chief Minister of Bihar stated that the balance lying in Compensation Fund was Rs 8,013 crore. Now, there is a balance of Rs 5,000 crore at the end of April 2020. During the month of May 2020, another Rs 7,000 to 8,000 crore would have been collected in the compensation fund. So the total balance would be around Rs 12,000 crore Since every State needs revenue during the epidemic, he requested that Rs 12,000 crore can be given to the States immediately as compensation for month of March 2020. Referring to the statement of Hon'ble Minister from West Bengal, he stated that out of Rs 88,000 crore of CGST revenue, the States would get 42% out of which is around Rs 36,000 crore. Already Rs 33,000 crore was disbursed which means that only Rs 3,000 crore remain. The Hon'ble Deputy Chief Minister then underscored the fact that out of the 92 lakh odd dealers during 2017-18 about 46 lakh odd dealers had filed their annual returns. Regarding the reconciliation statement out of 12,42,000, already 10,00,00 have filed their reconciliation statements. He urged for detailed scrutiny of the big tax payers among the 46 lakh dealers who filed their returns. He requested that instead of ad hoc settlement, even for 2017-18 it will be better if the Council goes for final settlement for year 2017-18 He is chairing a GoM on IGST settlement but due to Corona pandemic, he could not hold the meetings but he assured that he will hold a meeting soon regarding the 2017-18 IGST settlement. He urged the officials that the entire data of 2017-18 should be scrutinized thoroughly, analyze the entire data and examine from every angle to be placed before the GoM . It is a complicated process since there is reversal adjustment and some States get money while others are supposed to reverse. The officials should prepare a note and circulate it to the

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States and comments from States are to be invited which would be taken up by the GoM in its next meeting.

6.9 The Hon'ble Member from Kerala appreciated the initiative taken to resolve this long standing issue regarding outstanding IGST money which went into Consolidated Fund of India. But he thought some additional intervention is required. Just like Hon'ble Minister from West Bengal said there is a need for additional transfer of money to States. Rs 1.76 lakh crore was apportioned as per the Finance Commission formula where only 42% was apportioned to State. As per rules, States should have got 50% SGST and 42% out of the remaining 50% which turns out to be 21%. Hence, 71% should have come to the States. As of now, only Rs 33,412 crores have been transferred from the CFI to Compensation Fund. Remaining Rs 17,000 crores have to be released immediately.

6.10. The Hon'ble Minister from Telangana underscored that his State had been the top revenue performer in GST and they had not required any compensation in 2017-18 and 2018-19. In the current financial year also apart from the North-Eastern States, the State of Telangana had the least revenue gap as can be seen in Table 4 of the Agenda Note, of 11.5%. He requested that IGST settlement out of the balance at the end of 2017-18 in respect of Telangana should be done immediately as no compensation had been claimed by Telangana in 2017-18 and 2018-19. Further, the compensation requirement in the current fiscal should be released immediately because money was desperately required to fight Corona pandemic.

6.11 The Hon'ble Member from Karnataka stated that lot of calculations & clarifications are necessary on the issue of unapportioned IGST during 2017-18. Some States will gain by this exercise and some States have to do the reversal. Therefore, which State stands to get IGST apportioned and which have to do the reversal has to be calculated properly and opinion of States have to be taken on these calculations. These details can be worked out by the department and may be submitted to the GoM. The exact position of each State should be made known. States which have got more devolution would get less compensation while some States have got more compensation. This will have a direct effect on the finances of the States. He requested that this matter may be referred to a GoM which can have the detailed calculations. The reversal of money should not be conducted in one go or in a harsh manner. The GoM should also discuss how the reversal should take place keeping in view the COVID situation and State

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finances. Ultimately, the capacity of the State to reverse is important and whatever is due to the States, the formula of 50:50 for State and Centre and devolution of 42% from Central pool to States should be strictly followed. Once all the figures are clear, the States will be in a better position to look into the matter and therefore should not be rushed through.

6.12. The Hon'ble Minister from Punjab stated that this issue which had been raised by Hon'ble Finance Minister of West Bengal was initially flagged off in the 37th GST Council Meeting at Goa by State of Punjab. The Hon'ble Union Finance Minister kindly consented to look into this entire matter and subsequently the GoM was constituted chaired by Hon'ble Dy. CM of Bihar but it is yet to be resolved. He saw this in State of Punjab as well that because of the COVID epidemic, apart from the Health department, every other department in the State seems to go into hibernation. This is a time where he thought every department of the Government, whether State or Union, needs to actually work over time, these are the times which brings out the character of the nation and its leaders. He felt that if this can be resolved quickly, then we can seize opportunities. Our competition is with countries like China & Korea. This matter has been pending since six to seven months. These are unusual times for the nation and he emphasized that there is a lot of pain. People lost lives and livelihoods. He felt that this epidemic has set the nation back by a number of years and he hoped that it can be recovered quickly. He urged the Hon'ble Union Finance Minister to set a time line and let us move at the speed of lightening.

6.13. The Hon'ble Minister from Haryana stated that he needed a clarification regarding Table 3 in the Agenda. The compensation cess collected for 2018-19 was Rs 95,081 crores and for 2019-20 was Rs 95,444 crores. However, in Table 1, there is a difference regarding the compensation cess figures. He thought that the figures add up to Rs 97,369 crores for 2018-19 and Rs 98,746 for 2019-20. He further added that as emphasized by all other State Ministers, every State is in dire need of funds to run their business and the Rs 55,600 crore which need to be given, if expedited, States will be in a better shape to function. In case, the States have to reverse some money that can be adjusted in the compensation that needs to be given to the State.

6.14. The Hon'ble Minister from Goa stated that everyone is aware that the country is going through troubled times. He is an optimist and looks at it as an opportunity to come

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out and come out well. Out of box solutions and more money are required to work but now it is a case of insufficient money. His humble suggestion is that while all States desire compensation, the compensation was supposed to be given only for five years, there was debate whether this time period should be further extended. He knew that ultimately, the States would have to stand on their own feet and compensation would become something of the past. He urged that what is due to the States should be given quickly. He made an important point that Goa depended on mining and tourism. Mining has been closed down and also tourism has totally collapsed. There are no sources of money. Goa have not received any compensation since March (it is about Rs 743 crore, had they received that amount, they would have been in a better position), Goa now is landing into a debt trap. To prevent this he requested that smaller States are to be looked at differently; ultimately, funds are going to be devolved. The Hon'ble Union Finance Minister was kind enough to give it as per the requisite formula, irrespective of whether they are big, medium or small. If there was a formula wherein it involves only a few hundred crores, if devolved earlier, the smaller States will not land into debt traps which will be difficult to get out because of the very reason that they are small. For example, for Goa, mining and tourism are closed, they have no source of funds and therefore they have to look towards the Centre only, At least what is due to them being smaller States, the smaller amounts can be given to them earlier than the bigger States where the amounts are big which are rightly due to them which they also require. Cry of smaller States is like the cry of a small baby and therefore they should be heard first. His humble plea was that if they had given amounts earlier, they will not land into debt trap.

6.15 The Hon'ble Member from Uttarakhand expressed his gratitude to the Hon'ble Prime Minister and Hon'ble Chairperson for the fiscal package announced to help tackle the Covid pandemic. He was grateful that compensation of Rs.850 crore had been released to his State for the period December 2019-February 2020. He highlighted that Uttarakhand was also a small State and was dependent on tourism for revenue, both religious and general. However, as both were shut for the moment there was shortfall. He requested that for the month of March 2020, the compensation of Uttarakhand of Rs.302 crore should be given.

6.16 The Hon'ble Member from Odisha expressed his gratitude to the Chairperson for release of GST compensation for the period of December 2019 to February 2020. He

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further requested that as per the certified audit report of Principal Accountant General Bhubaneswar, Rs.456 crore was due to Odisha as compensation for 2018-19 and therefore the Hon'ble Union Finance Minister may be kind enough to release the amount.

6.17 The Hon'ble Deputy Chief Minister of Gujarat stated that he was grateful that for the fact that at a time when the income of the Central Government was low and all the States were in need of financial aid, the Central Government had released compensation. He further drew the attention of the Council to his plea made during the 39th GST Council meeting on 14th March 2020, which was also made by some other States, about the wrong use of C Forms causing loss of CST revenue to many States. He requested that there was an urgent need for amendment in the CST Act, 1956 to prevent the wrong use of C Form. He, therefore, suggested that the Parliament should introduce a bill immediately to amend the CST Law in its next session. The Hon'ble Member from Odisha supported the view of the Hon'ble Member from Gujarat for amendment of the CST Act to prevent the wrong use of C Forms.

6.18. The Hon'ble Member from Himachal Pradesh expressed his gratitude to Hon'ble Chairperson for release of Rs. 612 crore for the period December 2019 to February 2020. As the revenue of Himachal Pradesh is basically dependent on tourism and mining, both of which were suffering due to the pandemic, he requested that the amount of Rs.216 crore compensation for the month of March may be released.

6.19 The Hon'ble Member from West Bengal stated that he would like to correct his earlier figures since he was looking through the tables once again. Out of Rs 1.76 lakh crore, 42% devolution translates to Rs 73,920 crores which the States have got. He requested that for better understanding it was necessary that the officials concerned presented a matrix to the Council showing all the details of this transaction. States did get 42% because of the devolution which was Rs 73,920, now the question is by what matrix this devolution happened since there may be some corrections that may be required and requested that some light may be thrown on the remaining quantum which needs to be given to the States. Some States will gain more and some States will gain less because of Finance Commission's formula and some corrections may have to be made. He requested Joint Secretary, Department of Revenue for the matrix used and details of the amount still remaining. He also pointed out that Table 3 of the Agenda needed a bit of correction since balance quanta carried over are not present. He agreed with Dy. CM of Bihar that

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the balance as of now is Rs 8,013 crores and some more balance maybe accumulated. His understanding that it would be close to Rs 30,000 crores but he would like to wait and understand better what has been devolved, what is remaining and what would be correction of devolution formula vis a vis the scenario where the amounts would not have been sent to Consolidated Fund of India in that manner and the ad hoc settlement the States would have got.

6.20 The Hon'ble CM of Puducherry stated that States have not been getting GST compensation because GST collection has been less and sometimes there were delays in distribution of compensation. This period is critical to both Govt. of India and the States because of the Corona pandemic. The Hon'ble Chairperson heard the views expressed by the Hon'ble Members from States that States are mainly depending upon the revenue share for purpose of various expenditures including welfare schemes. This is the time when every State is fully concentrating on containing COVID-19. The Government of India and Governments of States are collectively working to ensure people are not affected by COVID. India is one of the few countries, thanks to its leadership at Centre & State level; the loss of life is very minimal. Entire energy and funds of the State Governments is mainly concentrated on containing COVID-19 in their respective States. As mentioned by Hon'ble Minister from Punjab, some of the departments are not able to concentrate and the focus is on containing COVID in their respective States. This being the situation, smaller states are more affected. He requested that timely payment of compensation amount was critical though the limit of borrowings by the States has been increased from 3% to 5%. There are several conditionalities attached to the enhanced borrowing. GST Council can decide on market borrowing at the Central Government level for the purpose of compensation to States. Otherwise, ways and means have to be found out. All States are dependent on revenue collection for purpose of augmenting revenue and expenditure. Smaller States are more dependent on the same. Further, UTs with legislature like Puducherry and Delhi do not get 41% of revenue share and only 26% and therefore they have been more affected. As mentioned by Hon'ble Minister from Goa that tourism was a focal area which is lost and inflow of people has been contained for the purpose of avoiding the spread of COVID-19. The businesses are going down, the two and half months of lockdown paralyzed the economy of the State. He once again requested that ways and means have to be found out to distribute compensation to the States timely He further highlighted that as the return filing has been deferred, the

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apportionment of IGST could not be done and that is also one reason why they are unable to claim compensation. Therefore, GST Council needs to think and come up with a solution for this.

6.21 The Hon'ble Chairperson then asked Joint Secretary, Department of Revenue to respond to the queries/observations of the Hon'ble Members. Joint Secretary, Department of Revenue, stated that he would explain the broad number to the Council and table the detailed numbers before the GoM. As Hon'ble Minister from West Bengal had pointed out, States had actually received around Rs 68,000 crores of devolution in 2017-18 which has to be reversed, and Rs 88,000 crores should be settled to States as SGST portion. They will also get an additional Rs 37,000 crores of Rs 88,000 crores which the Centre gets from Rs 1.76 lakh crore. Since the States get Rs 88,000 crores of SGST, Rs 46,000 crores worth compensation has to be reversed. The net impact of all this is around Rs 11,000 crores. Instead of carrying out all these transactions which will entail reversal of additional compensation from some States, and release of funds to other States, only the zero cash component on the transaction was done so that money could go to compensation fund. This has been broken such that Rs 67,000 crores of devolution done in 2017-18 has been reversed. The Rs 37,000 crores devolution of Rs 88,000 crores is done but the SGST portion given is not Rs 88,000 crores but Rs 64,000 crores. The reversal of compensation is not Rs 46,000 crores but only Rs 33,000 crores. The net component of this Rs 33,000 crores had been transferred to the fund. The Rs 33,000 crores figure is a result of various debit and credit calculations. As Hon'ble Minister had requested, the entire matrix will be tabled before the GoM and explain how the calculations work so that it can be taken to its logical conclusion. He further stated that difference between Table 3 and Table 1 was on account of the fact that Table 1 showed the gross collections, Table 3 showed the net of refunds collections which accrues to the compensation fund and for comparison of trends in revenue the gross figures are utilized. He explained when coal or automobile are exported then compensation cess levied on the same are required to be refunded from the compensation kitty. He clarified that the balance in the fund is not Rs 30,000 odd crores. He further clarified that as on April 2020 the balance of compensation fund was Rs.8,013 crore, as explained in paragraph 7 of the agenda Rs 33,000 crores were transferred and Rs 36,000 crores were released. Because of this transaction, only Rs 5,000 crore would remain as balance. For month of May 2020, the net collection would be around Rs 5,000 crores. So, as per his information after

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taking into account the collection under this head in the month of May 2020 there would be a balance amount of Rs.10,000 in this kitty. Hon'ble Dy. CM of Delhi enquired as to what was the position regarding Delhi since Delhi and Puducherry were outside the Finance Commission devolution and the adjustments did not happen. Joint Secretary, Department of Revenue replied that as Hon'ble Dy.CM of Delhi stated that they got a compensation of Rs 326 crores, the adjustment on behalf of Delhi resulted in transfer of fund to compensation fund and Rs 3,400 crores that Delhi was supposed to get will be transferred in the next leg of the transaction since it is a cash transaction. Hon'ble Dy. CM of Delhi requested that since they are short of funds, this process may be expedited. The Secretary to the Council stated GoM under the Chairmanship of Dy.CM of Bihar would be requested to expedite this and as few Hon'ble Ministers requested, the full matrix of devolution to States, the formulae utilized, the amount of credit and debit transactions that should happen as per the four legs mentioned earlier will be placed before the GoM and full settlement will be done. He further stated that the detailed exercise would have to be carried out to work out the reversal by the States and the additionalities that are required to be given to them. Hon'ble Dy. CM of Delhi submitted that detailed calculations based on the matrix and tabling the figures before the GoM might take time. Meanwhile, since the case of Delhi is clear cut, after adjusting Rs 326 crore compensation, Rs 3,400 may be transferred to Delhi for which GoM is not required

6.22 The Hon'ble Member from Karnataka stated that once the matrix has been prepared by the officials and placed before the GoM then the States should be given these details in advance and they should be given an opportunity to present their views before the Hon'ble GoM. The Hon'ble Chairperson said that, on this matter, as suggested by various Hon'ble Ministers, she would go by the calibrated way which Shri. Sushil Modi, Dy.CM of Bihar explained that a complete detailed matrix, payments done, what will be the give and take which has to happen and so on should be sent to every State and its team of officials. The States may raise all their respective queries and the replies from the Department of Revenue may be sent to the respective States. These will be compiled and submitted to the GoM. The GoM can take a look at it and then the Council can have a complete picture of it in the next sitting or whenever the GoM is ready. The Hon'ble Deputy Chief Minister of Delhi once again requested that the case of Delhi and Puducherry should be delinked because they did not get any amount on account of

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devolution of IGST by the Finance Commission formula and that they were willing to reverse the compensation given to them.

6.23 The Hon'ble Member from Kerala stated when he spoke earlier; he had limited himself entirely to 2018-19 GST reversal alone. But in the last GST Council Meeting, it was decided that there will be a elaborate and whole session devoted to compensation issue. He stated that there was a requirement to have a much larger debate on compensation and the Council should not restrict itself to only the reversal of the IGST amount. He highlighted that the GST collections in the months of April – May 2020 have fallen to about 50% of the normal collections. This could improve slightly but it will be much lower than the 14% increase that was envisaged at the time of inception of GST and the Council needs to discuss how to finance compensation. He highlighted that the compensation system worked like a contra-cyclical economic grant, i.e., when revenue collections sink, the expenditure need not be cut since there is the guaranteed level of revenue. If the stand is that the States have to be compensated only from what is collected in the compensation cess then current financial year will end with only about 10% - 15% of the compensation due being paid and therefore Council has to decide how this has to be financed. The proposal before the GST Council months before the passage of GST law was that the Council should borrow and pay. He, therefore, urged that GST Council should borrow to pay compensation to the States and recoup the money by extending the period of compensation cess.

He requested that this may be discussed and a decision taken since this is very important. Every Finance Minister has stressed the dire situation of State finances. The condition is going to accentuate in the coming months and therefore, this issue must be placed on the table and be discussed.

7. **For the Agenda item 2**, the Council took note of the same and the suggestions made by the Hon'ble Members.

Agenda Item 3: Issues recommended by the Law Committee for the consideration of the GST Council

8.1 The Finance Secretary invited Shri Manish Kumar Sinha, Joint Secretary, TRU-II to take up the Agenda Item No. 3

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8.2 The Joint Secretary, TRU-II (JS, TRU-II) initiated the discussion with a presentation (**Annexure 3**) by stating that some of the Agenda Items are technical in nature, and that he will mention the same and seek approval of the Council. Introducing Agenda Item 3(i) relating to amendment in CGST Rules to prescribe the rates for Composition Scheme under Section 10(2A), JS, TRU-II stated that Rule 7 of CGST Rules needs to be amended because 6% GST Rate for Composition scheme for services (turnover up to Rs. 50 lakhs) was implemented through exemption notification route w.e.f. 01.04.2019 as at that point of time provision was missing in the GST laws.

8.3 He further stated that Section 10(2A) was enacted as part of Finance Act 2019 and notified. Now as the law had been amended, rule was also required to be amended as the rate was earlier specified through exemption notification. He proposed that Rule 7 of CGST Rules, 2017 be amended w.e.f. 01.04.2020 to prescribe 3% rate for such supplies by registered person opting to pay tax under section 10(2A) which was a change of technical nature.

8.4 The Hon'ble Minister from Tamil Nadu in his written speech circulated in the meeting submitted that they generally agreed to the proposals to amend rules for Composition taxpayers for small service providers under a separate entry in the rules.

8.5 The JS, TRU-II then took up Agenda Item 3(ii) relating to proposal for issuance of Removal of Difficulty order for extending the time limit for revocation of cancellation of registration. He stated that the Council in its 39th Meeting held on 14.03.2020 decided that for the registration cancellation orders passed up to 14.3.2020, the aggrieved was allowed to file application for revocation of cancellation till 30.6.2020 but the decision could not be implemented because Ministry of Law had raised some issues regarding Removal of Difficulty order and its scope. The same has now been sorted out with the Law Ministry and therefore date of implementation needed extension by three months. He proposed to allow filing of application for revocation of cancellation till 30.09.2020 for all the cancellation orders that were passed up to 12.06.2020.

8.6 The Hon'ble Minister from Tamil Nadu stated that he welcomed the proposal for extension for revocation of cancellation till 30th September 2020.

8.7 Taking up the next Agenda Item 3(iii) relating to notification of provisions of the Finance Act, 2020 amending various sections of the CGST Act and the IGST Act, JS,

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TRU-II stated that for the amendments made in CGST Act, *pari materia* amendments needed to be made in SGST Acts too. Most important of them is in relation to power to issue Removal of Difficulties order which is valid for 3 years from the appointed day i.e. till 30.06.2020 and after 30.06.2020, these powers will come to an end. He stated that therefore, the proposal was to notify Sections 130 and 134 of Finance Act 2020 to come into force on 30.06.2020 so that powers will be available for 5 years i.e. till 30.06.2022. Power was needed for five years as it was also co-terminus with the period for which Centre had to pay compensation. He further stated that Sections 118, 125, 129 of the Finance Act, 2020 may also be given effect on 30.06.2020. As this was having no *pari materia* impact on SGST Acts, he stated that this portion of the agenda was of technical nature and be taken note of and approved, to which the Council agreed.

8.8. The Hon'ble Minister from Tamil Nadu submitted that with regard to amendment of State GST Act with reference to Finance Act No.12 of 2020, they wished to state that as the State legislature was not in session, they would issue the same by promulgating an Ordinance early.

8.9. On the second part of this Agenda he stated that there was a need to prescribe a process so that the recommendations of the Council requiring law amendment were implemented from a given date or within certain time frame as CGST Amendments and SGST amendments take time. Those States or Centre who do the amendment later than the given date may do it with retrospective effect so that the date of implementation of decisions of Council gets frozen.

8.10. To this the Finance Secretary added that this had caused certain litigation in the Court as the decisions of the Council could not be simultaneously implemented through notifications or amendments by Centre and all States, taxpayers try and take advantage of the same. He further emphasised that once the Council recommends certain amendments to be made in Central Act as well as State Acts, the amendments should be carried out as early as possible and particularly now, as due to COVID-19, there will be problems in holding sessions of the Parliament and the Legislature, therefore if the Council had taken decision then even an Ordinance could be considered so that our tax revenue gets protected as many of the amendments made, actually protect our tax revenue. If the amendments were not carried out expeditiously then many of these matters would end up


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in litigation and Court may take an adverse view because of the differences among various Acts.

8.11. The JS, TRU-II stated that for now the Council may only consider the same and need not take any decision as this may require detailed discussion which may be taken up later. Considering the paucity of time, the Council agreed to take up the matter in subsequent meeting(s).

8.12. Proceeding with Agenda Item 3(iv) consisting of two parts the JS, TRU-II taking up the first part on the issue of interest and late fee where the specified date for filing return (staggered up to 6th July) is breached stated that in light of the situation emerging out of Covid-19 compliance relief as detailed below had been given to all taxpayers for the returns of February, March and April 2020 tax periods

- Late fee waiver and 15 days interest waiver with lower rate of interest @9% beyond that for taxpayers having turnover > Rs. 5 Cr, if returns filed up to 24th June 2020.
- Late fee waiver and NIL interest for taxpayers having turnover < Rs. 5 Cr., if returns filed by the specified dates (staggered up to 6th July 2020).

He highlighted the issue as per the relief granted as above that, where the return is not filed by specified date(s), for the entire compliance delay, interest at 18% will be charged with late fee and the waiver of 15-day interest and late fee shall not be available. He requested that view may please be taken as to whether to allow some soft landing to these taxpayers who are not able to avail the relief granted as per the conditions of the package. He put forth the following options pertaining to the issue:

- A. Allow the scheme to continue the way it was decided, without allowing any further soft landing.
- B. Extend the reduced rate of interest at 9% till the date of filing of return with full late fee.
- C. Extend the reduced rate of interest at 9% till the date of filing of return with no late fee.

He further stated that this is one decision point; the second decision point is whether this soft landing should be given to all the taxpayers or to the small taxpayers only.


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8.13. The Hon'ble Deputy CM, Delhi said that he was of opinion that it was good to be as soft/ lenient with the taxpayers as possible but two important factors needed consideration. First, revenue position of the States where salaries had to be paid and medical expenses to be met. Second, was to understand GST was not direct tax as income tax, where one is earning Rs. 100 and had to give some share out of that. It is like one has sold an item worth Rs. 100 collected Rs. 112. Rs. 12 being the GST collected in March from the buyer on behalf of the Government and is already lying with the dealer; moreover, State revenue was also down. Now to pay this tax, time of April and May was given because of lockdown. After duly considering these two factors we can be soft with small taxpayers.

8.14. Hon'ble Deputy CM of Bihar, stated that proposal was good and we should provide to taxpayers. Till the time previous returns were not filed, taxpayers would not be able to file their subsequent returns. Earlier also such kind of incentive was provided and if such relaxation is given again then we will get revenue which is otherwise blocked. He further stated that relief pertaining to ceiling of Rs. 500 for every delayed return statement should be given to both small and large taxpayers. It will give us additional revenue and pending returns will also be streamlined.

8.15. Finance Secretary stated clarifying that what the Hon'ble Deputy CM of Bihar had said, was a separate Agenda Item regarding the returns which could not be filed as previous returns had not been filed so far. This item is related to, when lockdown was started in March month, that time it was said that the taxpayers are not able to contact their consultants and were not able to get their returns filed. Therefore, the relaxations were given. Now, lockdown has been lifted and taxpayers can get their returns filed. Taxpayers were even generating 10-12 lakh e-way bills per day. Taxpayers who had not been able to file their return by 6th July for Feb, Mar and April month are required to pay interest at 18% as per the announcement made that time.

Current proposal is:

- First, whether to stick by decision as taken in March (as mentioned in option A above)
- Second, to give relaxation by changing interest @9% instead of 18% till the taxpayers file their return (as in option B)

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- Third, charge interest @9% + no late fees (option C)
- Fourth, whether to do this only for small taxpayers or for big taxpayers too

He further said that as stated by Hon'ble Deputy CM, Delhi their revenue was under strain. We have only got Rs. 94,000 crores as GST revenue for the months of April & May. Usually we used to get more than Rs. 1 Lakh crore in each month. Therefore, we need to take a balanced view considering all the factors.

8.16. Hon'ble Finance Minister, West Bengal stated that return filing proposal is a good one as now internet is working though not perfectly but working. Some offices have also opened. So the first question is, should they be asked to file returns for past months, he thought it was quite reasonable as it will kick start the process. Second was the interest rate they should pay? Proposal was to reduce it from 18% to 9% or no interest at all? He thought as this was a *force majeure* that the taxpayers couldn't file the returns as entire nation went into lockdown so they could discuss whether to charge interest or not. At this time, the important thing was to promote the return filing so that taxes can come. Finally, on the penalty, he was of the opinion that penalty shouldn't be there because it was a *force majeure* with no fault of the taxpayer. He added that they should be as liberal as possible so that the tax starts coming which was the point made by Delhi as also Bihar. Further he added that he was not in favour of punishing the taxpayers by charging penal interest for not being able to file the returns when entire nation went into lockdown. He submitted that if small people could not file returns, some help should be given to them.

8.17. Hon'ble Minister from Uttar Pradesh stated that he agreed with the views of Delhi, Bihar and West Bengal and requested to give effect to it as soon as possible.

8.18. Finance Secretary clarifying on the point raised by Hon'ble Finance Minister of West Bengal stated that issue is not about the interest of lock-down period, but they were saying that if someone had to file return by June 30 but couldn't do so and filed the return in December and made payment that time then whether the interest for the period from June to December should be charged or not? He said that as now lockdown period was over and if someone still doesn't pay tax till next year or till October, November or December then whether interest should be charged or not? He further added that in his view, interest should be charged as if this interest provision was not there then, there remained no incentive to pay taxes in time. So the proposal here was that their normal


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Rate of Interest is 18%, should they charge interest at reduced rate of 9% till the date of filing return from due relaxed date of filing return. The second part of the proposal was that big taxpayers were already given 15 days' time and that time was already over. Lot of big taxpayers had already paid taxes during that time and that is how Rs. 94,000 crores had come in the months of April and May. There should be no relaxation for big taxpayers. Relaxation should be there for only small taxpayers and up to 9% interest rate and we may not charge late fees from them. This 9% interest rate will serve as disincentive for deliberately delaying filing of return beyond July.

8.19. Hon'ble Minister from Karnataka, stated that the proposal to reduce interest rate from 18% to 9% was most welcome and as per options available, Option B seemed to be most appropriate because this deals with the post-lockdown period and for the taxpayers having turnover of Rs. 5 crore and below. Big taxpayers had already been given sufficient time as stated by Finance Secretary. Therefore, the Option B was most appropriate.

8.20. Hon'ble Deputy CM, Haryana said that they had three points to make. First, giving more time during lock-down was fine but giving more time now was not appropriate as banks were giving loan at same interest rate. Second, relaxation should be given only to the small taxpayers not to the big taxpayers as, if we start giving relaxation to big taxpayers also then there will be a major revenue loss. Third, on penalty he was of the opinion that it should be reduced because such epidemic was unforeseen and it was the right time for the Council to take call on reduction of penalties for late filers.

8.21. Hon'ble Minister from Goa, said that during this COVID time everybody was looking to the Central Government for relief but at the same time the States should also be looking towards revenue i.e. how the revenue will come? There can't be a complete soft landing for everyone. Small taxpayers should be given relief and Rate of interest should be reduced from 18% to 9% for them. As far as the penalty is concerned, the question of charging penalty shouldn't be raised as it was unforeseen circumstance but nevertheless let us take a balanced view, so that revenue should also keep coming.

8.22. Hon'ble Deputy CM, Gujarat stated that for paying tax which had already been collected from the customer, Rate of Interest should be NIL till June, from June to September, it should be 9% and after September it should be 18% as this was not required to be paid from taxpayer's own pocket. It had already been collected from the customer on behalf of Government If they don't increase the interest rate to 18% and keep the same



at 9% only, the taxpayers will use this money, interest being lesser than bank rate. Therefore, it should be increased to 18%.

8.23. Hon'ble Minister from Tripura stated that he would like to go with the Karnataka's Finance Minister suggestions as Option B seemed to be good and balanced one. It will look after revenue collection as also give some relief to small taxpayers.

8.24. Summing up the discussion Finance Secretary stated that there appeared to be a general consensus for Option B but as Gujarat had suggested, reduced rate of 9% should only be applicable till September so that taxpayers should file their return by September and they should start getting revenue.

The modified version of Option B as laid before the Council by the Finance Secretary was:

- Reduced rate of interest at 9% (excluding the lock-down period for which interest would be NIL)
- This reduced rate of 9% will be applicable upto September, 2020.
- Beyond September, 2020, interest will be charged at earlier rate i.e. 18%
- Same be applicable only for small taxpayers

Finance Secretary sought consent of the Hon'ble Members on the same before proceeding with the next Agenda Item.

8.25. Hon'ble Finance Minister West Bengal interjected that he had a different view than that of Hon'ble Deputy CM of Gujarat. He said that as per epidemiologists' COVID cases will spike from July onwards. They didn't know, they might get lock-down in June end. Exponential curve was taking place as had been the case in other countries. As they didn't know what will be the situation from July to September, it was too pre-mature to take decision for that period. Rate of Interest at 9% for small taxpayers from July onwards also appeared very stringent to him but he was willing to go along with the decision subject to a review, that they should take a review of the decision sometime in July before applicable rates after September are decided. He accepted proposal from July onwards and suggested withholding of any final decision on applicable rates post September subject to a review of the economic situation prevailing at that time.

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8.26. Finance Secretary suggested that we could record it as a decision but we will review the matter in June end or July and if we find that the situation has changed then we will modify it accordingly to which the Council agreed. Summarising the decision, he stated that till September rate of interest be charged at 9% and beyond that 18%, however this will be reviewed in July and if the situation worsens further, then they could further extend benefit of 9%.

8.27. The Hon'ble Finance Minister, West Bengal agreed to the decision conditional to review.

8.28. Proceeding with the second part of the Agenda Item 3(iv) JS, TRU-II stated that this entire discussion was thus far related to the first part of the said agenda with regard to the returns for the period of February, March and April 2020. The second part dealt with the returns for the period of May, June and July 2020. Briefly recapitulating the compliance relief that had been given to all taxpayers for February, March and April 2020 tax periods as under:

- Late fee waiver and 15 days interest waiver with lower rate of interest @9% beyond that for taxpayers having turnover > Rs. 5 Cr, if returns filed upto 24th June 2020.
- Late fee waiver and NIL interest for taxpayers < Rs. 5 Cr. Turnover, if returns filed by the specified dates (staggered upto 6th July 2020).

He requested the Council to take decision on the compliance relief, if any, to be provided to taxpayers for subsequent three months and brought forth following options for the consideration of the Council:

- A. Extend relief package only for small taxpayers (aggregate turnover < Rs.5cr), unlike last time when the relief was provided to all taxpayers
- B. Extend scheme for all taxpayers like past scheme for Feb, Mar and Apr, 2020.
- C. No such scheme for subsequent months

8.29. Hon'ble Minister Chhattisgarh said that he would like to give consent of Chhattisgarh for Option A. He elaborated stating that they had estimated that around 80,000 small taxpayers would be benefitted (aggregate turnover < Rs.5cr) and the revenue loss was likely to be Rs 12-13 Crore, so at this juncture, we will be putting that

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much money in their hands for purchasing and contributing to economic activities. He also requested that decision regarding C-Form should be taken as soon as possible. Further he thanked Hon'ble Chairperson for bringing up the issue pertaining to the amount which had gone into the Consolidated Fund of India for FY 2017-18 in GOMs meeting. Lastly, he sought Hon'ble Chairperson's permission to disengage himself from meeting as the Hon'ble Chief Minister of Chattisgarh had called for a meeting in context of COVID-19 activities. He said that the Principal Secretary and other Officers will continue to attend the meeting.

8.30. The Hon'ble Deputy CM of Bihar said that they were in favour of Option A i.e. to extend relief package only for small taxpayers. He also said that for the months of June and July, 2020 proposed GSTR-3B return filing dates are very close for small taxpayers. For the month of June the proposed dates are 23rd September and 25th September and for the month of July the proposed dates are 27th September and 29th September respectively. He suggested that there should be a gap of at least 7 days between the proposed return filing dates for the month of June and July.

8.31. Hon'ble Minister from Goa said that they would also like to go with Option A. As everybody is expecting COVID-19 to be at its peak in June and July so it was the only feasible option.

8.32. Finance Secretary stated that as everyone consented we will go with Option A for the months of May, June and July and as suggested by Hon'ble Deputy CM of Bihar, the due dates will be sufficiently staggered.

8.33. The Agenda Item 3(v) relating to the reduction in rate of interest on delayed filing of return to 9% for the entire Fiscal year 2020-21 was not taken up as decision on reduced rates had already been taken covering period up to September 2020 and subject to review thereafter, hence the said Agenda Item was dropped.

8.34. The Hon'ble Minister from Tamil Nadu in his written speech submitted that the proposal in the Agenda Item 3(v) was to defer GST payment for taxpayers with turnover up to Rs.5 crore beyond 30.6.2020 till 31.3.2021, with interest of 9 percent. This rate of interest was lower than marginal cost of working capital. Therefore, it was likely that this category of taxpayers would be tempted to opt for deferral, even if they didn't need assistance. Further, repeated deferrals would only result in indebtedness of the small tax

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payers. There was also doubt if they would be able to pay deferred taxes with interest in one lumpsum after 31.3.2021. They therefore believe that tax deferral may not be the most appropriate way of supporting the small tax payers at this time of need. Moreover, State Governments had already come under heavy financial burden due to steeply falling revenues and need for financial resources to fight COVID 19. They therefore suggested that Government of India must adopt other kinds of measures to help small businesses.

8.35. Proceeding with the last Agenda Item in Agenda 3 (vi) relating to reduction in late fees for **FORM GSTR-3B** for months from July, 2017 to January, 2020, a one-time reduction to clean up pendency in return filing in GST regime JS, TRU-II stated that this item was in relation to the small taxpayers. In the initial part of the GST launch, many of them were not able to file their returns. As the return filing cycle in GST is such that the returns have to be filed sequentially, many of the taxpayers had landed with the situation that there was a string of return which they had not been able to file. Large number of them will fall in the category where the amount of tax involved has become much lesser than the amount of late fees to be paid as the late fees per month is Rs. 10,000, and if not filed for 6-8 months, the amount reaches to Rs one lakh whereas, the tax liability for the small taxpayers for that month may be in the range of Rs. 2000-5000.

He laid before the Council following proposal:

One-time reduction in late fee on GSTR-3B returns of tax periods July, 2017 to January, 2020:

- Zero late fee for taxpayers, who did not have any tax liability for the said tax periods and were thus required to file NIL return;
- For others, reduce maximum late fee from Rs. 10000 (Rs. 5000 each for CGST & SGST) at present to Rs 500/- (Rs. 250 each for CGST & SGST) per return.
- Such reduction would apply only if the returns are filled between 01.07.2020 to 30.09.2020.

Hon'ble Chairperson asked for the views of the Council on the said proposal.

8.36. Hon'ble Minister from Goa stated that we should go ahead with the proposal. He added that it was not an amnesty but what he would rather call 'deserved relief'. He stated that it would help us get revenue and increased compliances.


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8.37. Hon'ble Minister from Uttarakhand enquired whether the people who have deposited their tax in time, will get the refund of the late fees paid.

8.38. Finance Secretary clarified that this proposal is about relaxations which is brought in tax administration sometimes as a one-time measure. Only when the taxpayer files all return from July 2017 to January 2020, he will be allowed to file subsequent returns. It's a kind of temporary relief given to the taxpayers to help them clear their backlog.

He emphasised that the scheme has following 3 benefits:

1. All taxpayers will come into the system.
2. Return filing will pick-up and the system will be streamlined/ cleared.
3. We will get tax revenue.

He further clarified that if we start giving refund of late fees paid earlier, then we will end up paying a huge amount as refund. Neither Centre nor States could afford that. Such relaxation schemes had always applied prospectively.

8.39. The Hon'ble Deputy CM of Bihar stated that he did not think that there should be any issue with this proposal. It was a very good proposal and we should have general consensus on the same.

8.40. The Hon'ble Finance Minister of Kerala said that they were in total agreement with the proposal.

9. For **Agenda Item 3**, the Council:

- i. Approved following amendment in rule 7 of the CGST Rules, 2017, w.e.f. 01.04.2020 to prescribe the rates for Composition Scheme under Section 10(2A)

7. Rate of tax of the composition levy.-The category of registered persons, eligible for composition levy under section 10 and the provisions of this Chapter, specified in column (2) of the Table below shall pay tax under section 10 at the rate specified in column (3) of the said Table:-

Sl. No.	Category of registered persons	Rate of tax
(1)	(2)	(3)

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1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory
2.	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory
3.	Registered persons not eligible under the composition levy under sub-section (1) and sub-section (2) but eligible to opt to pay tax under sub-section (2A) of section 10	three per cent. of the turnover of taxable supplies of goods and services in the State or Union territory
4.	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter	half per cent. of the turnover of taxable supplies of [goods and services] in the State or Union territory

- ii. Approved issuance of Removal of Difficulty order to allow filing of application for revocation of cancellation till 30.09.2020 for cancellation orders that were passed up to 12.06.2020.

iii.

- A) Approved the following provisions of the Finance Act, 2020 pertaining to amendments in the CGST Act and the IGST Act, to be brought into force with effect from **30.06.2020**:

S.No.	Finance Act 2020 section	CGST/ IGST Act 2017 section	Purpose of Amendment and reason for carrying out the amendment
1.	118	2(114) of CGST	To provide for merger of UTs of Daman and Diu and Dadra and Nagar Haveli – Already operational
2.	125	109 of CGST	To provide for conversion of the State of Jammu and Kashmir into Union territories of Ladakh

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			and Jammu and Kashmir— Already operational
3.	129	168 of CGST	To provide for allowing jurisdictional Commissioners to allow job work movement beyond time limit in desired instances— Already operational but held up due to this provision not in force
4.	130 & 134	172 of CGST & 25 of IGST respectively	To extend the time period for issuance of Removal of Difficulty order from three to five years

- B) To take up the issue of devising a manner by which decisions of the Council relating to amendment of GST Laws can be implemented expeditiously and simultaneously by Centre and states, in subsequent meeting(s) of the Council.

iv.

A) Taxpayers having aggregate turnover exceeding Rs. 5 Crore, who were required to file returns of Feb, March and April, 2020 by 24th June to avail the benefit Covid relief package, NIL interest to be charged for 15 days from due date and interest @ 9% to be charged thereafter till 24th June and at normal rate of 18% after 24th June 2020. .

B) Provided relief to small taxpayers (aggregate turnover up to Rs 5 crore) for filing of returns for the months of February, March and April 2020 through reduced rate of Interest of 9% for the period of relaxed due filing date till September 2020. Beyond September 2020 interest of 18% shall apply subject to review of the economic situation.

C) Provided relief to small taxpayers (aggregate turnover up to Rs 5 crore) by waiver of late fees and interest if the returns in **FORM GSTR-3B** for the supplies

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effected in the months of May, June and July, 2020 are furnished by September, 2020 (staggered dates to be notified).

v. This agenda was dropped..

vi. Approved the proposals for reduction in late fees for not furnishing **FORM GSTR-3B** for tax periods during 1st July, 2017 to 31st January, 2020, if the returns are filed between 01.07.2020 to 30.09.2020

a. zero late fee for taxpayers, who did not have any tax liability for the said tax periods and are thus required to file NIL return;

b. late fee of fifty rupees per day (Rs. 25/- under CGST Act plus Rs 25/- under SGST Act) for non-filing of returns as currently applicable subject to a maximum of Rs 500/- (Rs. 250/- each for CGST & SGST) per return as against ceiling of Rs. 10000/- (Rs. 5000/- each for CGST & SGST) at present by taxpayers other than those having NIL liability.

Agenda Item 4: Deemed ratification by the GST Council of Notifications, Circulars and Orders issued by the Central Government

10.1 The Secretary asked JS, TRU-II to place the agenda before the Council. JS, TRU-II introducing the Agenda briefed the Council that the Agenda is regarding deemed ratification of Notifications, Circulars and Orders in relation to decisions already taken by GST Council and if deemed fit may be ratified and approved by Council. He stated that in the 39th GST Council meeting held on 14-3-2020, the Council had ratified all the notifications, circulars and orders issued before 8-3-2020. He thereafter made a presentation (**Annexure 3**) listing out all the notifications, rate and non-rate of CGST, UTGST, IGST and Compensation Cess circulars and Removal of Difficulty orders issued since 8-3-2020 till 10-06-2020, under the GST Laws by the Central Government as available on www.cbic.gov.in

10.2 Hon'ble Minister from Odisha sought permission of the Hon'ble Chairperson to make a submission that this agenda item was placed as a Table Agenda in the last GST Council meeting held on 14-3-2020. He requested that such critical matters be discussed threadbare and not taken up as Table Agenda.

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10.3 The Finance Secretary sought clarity on the Agenda that the Hon'ble Minister was pointing to as the Agenda Item 4 being discussed then was not a Table Agenda.

10.4 The Hon'ble Minister from Odisha clarified that it was not a Table Agenda for today's meeting but in the last meeting held on 14-3-2020, there was a Table Agenda wherein there were significant legal ramifications involved.

10.5. The Hon'ble Chairperson taking note of the submissions of Hon'ble Minister from Odisha stated that since the Hon'ble Minister was highlighting this issue which according to him had serious legal implications, the same be taken up as an Agenda Item in the next Council Meeting. The Hon'ble Minister from Odisha thanked the Hon'ble Chairperson for the same.

11 For **Agenda Item 4** the Council:

- i. Granted deemed ratification to the following Notifications, Circulars and Orders as in Agenda Item and the presentation (**Annexure 3**) made during the Council Meeting, which are available on www.cbic.gov.in

Act/Rules	Type	Notification/Circular/Order Nos.
CGST Act/CGST Rules	Central Tax	09 to 43 of 2020
	Central Tax (Rate)	02 to 03 of 2020
IGST Act	Integrated Tax	03 of 2020
	Integrated Tax (Rate)	02 to 03 of 2020
UTGST Act	Union Territory Tax	01 of 2020
	Union Territory Tax (Rate)	02 to 03 of 2020
Circulars	Under the CGST Act	132 to 138 of 2020

- ii. The Notifications, Circulars and Orders issued by the States which are *pari materia* with above Notifications, Circulars and Orders were also deemed to have been ratified.

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- iii. Table Agenda Item 11 (v) be moved as a regular agenda in the 41st GST Council meeting.

Agenda Item 5: Decisions of the GST Implementation Committee (GIC) for information of the Council

12. The Secretary asked JS, TRU-II to present Agenda No. 5. Thereafter, JS. TRU II stated that the GIC Implementation Committee (GIC) took decisions between 15.03.2020 and 26.05.2020. Further, due to the urgency involved, certain decisions were taken by GIC after obtaining approval amongst GST Members by circulation or by virtual meeting. Thereafter, he made a presentation (**Annexure 3**) on the decisions taken by Members of the GIC post 39th GST Council Meeting.

13. For **Agenda Item 5**, the Council took note of the decisions of the GST Implementation Committee between 15.03.2020 and 26.05.2020

Agenda Item 6: Decisions/recommendations of the 11th and 12th IT Grievance Redressal Committee for information of the Council

14. After the 39th GST Council meeting, two meetings of the ITGRC were held viz. the 11th ITGRC on 18th March 2020 and the 12th ITGRC on 26th May 2020 to resolve grievance of the taxpayers arising out of technical and non-technical issues. Minutes of the 11th ITGRC Meeting were attached as Annexure 1 (page no 150 to 311) to the Volume-1 of Detailed Agenda and Minutes of the 12th ITGRC Meeting were attached as Annexure A (page no 18 to 48) to the Volume-2 of Detailed Agenda. The gist of the proceedings of the 11th and 12th ITGRC, as per Agenda Item was as follows:

11th ITGRC Meeting – 18th March 2020

14.1. The 11th meeting of the IT grievance Redressal Committee (IT-GRC) was held in Kalpvriksha, North Block, New Delhi on 18th March 2020 to resolve grievance of the taxpayers arising out of technical and non-technical problems. There were a total of 04 Agenda Items placed before the 11th ITGRC, as follows:

- a. In Agenda 1, total 257 cases of TRAN-1/TRAN-2 received from Nodal Officers had been examined by GSTN and presented before the ITGRC.


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- b. In Agenda 2, another 18 cases of TRAN-1/TRAN-2 received as Court Cases had been examined by GSTN and presented before the ITGRC.
- c. In Agenda 3, in pursuance of decision in 32nd GST Council Meeting, regarding extended scope of ITGRC, GST Council Secretariat had received another 05 cases in response to extended scope of ITGRC and analysis of these cases was presented before the ITGRC.
- d. In Agenda 4, cases covered under the M/s. Adfert Technologies Pvt. Ltd judgement in view of dismissal of SLP by Hon^{ble} Supreme Court filed by the UOI were discussed by the ITGRC.

14.2. After detailed discussion, the 11th ITGRC decided and recommended as under:

14.3. Recommendation for Agenda 1; Pertaining to cases received from Nodal Officers on account of technical glitches in filing TRAN-1 & TRAN-2 (257 cases):

- i To allow 75 cases of TRAN-1/TRAN-2 pertaining to Subcategories A1, A2, A4 and A5 of technical glitch for filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.
- ii Not to allow remaining 182 cases of TRAN-1 pertaining to Category 'B' (Subcategories B1, B2, B3, B4, B5, B6, B7 and B8) in the absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past ten IT-GRC meetings.

14.4 Recommendation for Agenda 2; Pertaining to cases received as Court Cases on account of technical glitches in filing TRAN-1 & TRAN-2 (18 cases):

- i. To allow 07 Court cases of TRAN-1/TRAN-2 pertaining to subcategories A1 and A5 of technical glitch for filing of TRAN 1/TRAN 2 in accordance with the Law Committee recommendations regarding consequential benefits related to filing of TRAN 1 and TRAN 2.
- ii. Not to allow remaining 11 Court cases of TRAN-1/TRAN-2 pertaining to Category 'B' (Subcategories B1, B3, B4 and B6) in the absence of any evidence of technical/system errors in these cases, as was decided in similar cases in past ten IT-GRC meetings.

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14.5. **Decision for Agenda 3 (05 cases):**

- i. To allow reopening of portal for 01 case of Subcategory A1 as per Extended Scope of ITGRC decided in 32nd GST Council Meeting.
- ii. Not found suitable 04 cases of Subcategory A2 to take decision as per extended scope of ITGRC as laid down by 32nd GST Council decision.

14.6. **Recommendation for Agenda 4:**

- a. The Committee agreed and directed that cases shall not be referred to ITGRC wherever an appeal against the order of Court at appropriate judicial forum is decided to be filed.
- b. The Committee agreed and directed that if the order of High Court to allow filing of TRAN-1/2 etc has been accepted by the jurisdictional Competent Authority of the Centre/ State Tax, then such cases shall not be referred to ITGRC.
- c. In cases pertaining to Central Tax taxpayers, if it is decided by the jurisdictional Central Tax Commissionerate with the approval of the Chief Commissioner concerned to accept the said order of Hon'ble High Court / Supreme Court as per prescribed procedure, then the same needs to be communicated in writing to GSTN by the concerned Central Tax Commissionerate with the approval of the Chief Commissionerate for implementation of the order of the Hon'ble Court. Similarly, in case of State Tax taxpayers, if the jurisdictional State Tax authorities decide to accept the said order of Hon'ble Court, then it needs to be communicated in writing to GSTN by the jurisdictional State Tax authorities with the approval of State Tax Commissioner for compliance of the order of Hon'ble Court. On receiving of the communication from the jurisdictional field formation with the approval of the Chief Commissioner of Central Tax or Commissioner of State Tax, as the case may be, GSTN will take action for compliance of Court order for opening of the portal for the said taxpayer. However, the jurisdictional tax authority will verify the correctness, genuineness and eligibility of the transitional credit claimed by the taxpayers as per provisions of CGST / SGST Act 2017 and the rules thereof and will take appropriate remedial action, if required.
- d. All technical glitch cases submitted to Nodal Officers by the tax payers till 31st March, 2020 should be forwarded to GSTN as per SOP dated 12-04-2018 of

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GSTN and procedure specified in CBIC Circular 39/13/2018 dated 03.04.2018 read with CBIC letter F.No.CBEC-20/06/17/2018-GST dated 04.02.2020. Thereafter, GSTN shall examine technical logs of all such cases and place before the ITGRC for decision

- e. The following issue shall be referred to the Law Committee through GSTN:

whether the date prescribed under Rule 117(1A) is the last date for completion of all the formalities including the filing/revision of TRAN-1/2 and whether the said date would need to be extended again if the cases have been received upto 31.03.2020 by Nodal Officers and GSTN but considered and approved after 31.03.2020 by ITGRC for being allowed to file/revise TRAN-1/2.

12th ITGRC Meeting – 26th May 2020

14.7 The 12th meeting of the IT grievance Redressal Committee (IT-GRC) was held on 26th May 2020 through Video Conference to resolve grievance of the taxpayers arising out of technical problems. The Agenda 1 consisting of a total of 118 cases of TRAN-1/TRAN-2 had been examined by GSTN and presented before the ITGRC. Out of these, 104 cases were sent by Nodal officers and 14 were court cases. After detailed discussion, the 12th ITGRC decided and recommended as under:

14.8. Recommendations for Agenda-1:

- i. 38 cases of TRAN-1/TRAN-2 have been recommended, pertaining to Category 'A' (subcategories A1 and A5) for filing of TRAN-1/TRAN-2 to avail consequential benefits related to filing of TRAN-1 and TRAN-2.
- ii. 80 cases of TRAN-1/TRAN-2 have not been recommended, pertaining to Category 'B' (Subcategories B1, B2, B3, B4, B5 and B6) in the absence of any evidence of technical/system errors in these cases.

14.9. The decisions/recommendations as per attached Minutes of the 11th and 12th ITGRC were placed for information of the Council.

15. For **Agenda item 6**, the Council took note of the decisions/recommendations of the 11th and 12th Meeting of the IT Grievance Redressal Committee.

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Agenda Item 7: Creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh:

16. The Secretary introduced the agenda and stated that the Chapter XVIII of the CGST Act 2017 provides for the Appeal and Review Mechanism for dispute resolution under the GST regime. The proposal of States and UTs for creation of State and Area Benches of Goods and Services Tax Appellate Tribunal was considered in the 35th, 37th, 38th and 39th meeting of the GST Council.

16.1. He further stated that in the 39th GST Council meeting the Council approved the proposal for creating State Bench of Goods and Services Tax Appellate Tribunal for the State of Uttar Pradesh at Allahabad and 4 Area Benches at Ghaziabad, Lucknow, Varanasi and Agra. He then asked JS, DoR, GoI to apprise the Council of the latest update.

16.2. JS, DoR, GoI stated that a fresh proposal was received from the State of Uttar Pradesh vide DO. No 20/GST dated 29th May, 2020 regarding creation of the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh. As per this letter, the State Government of Uttar Pradesh has decided to create total 04 benches of GSTAT including State Bench in the State i.e. State Bench in Lucknow and 03 Area Benches in Varanasi, Ghaziabad and Agra respectively, instead of 05 benches of GSTAT proposed by the State earlier.

16.3. Hon'ble Minister for Finance from Uttar Pradesh intervened and further proposed to consider creation of another Area bench at Prayagraj apart from Varanasi, Ghaziabad, and Agra with State Bench at Lucknow.

16.4. Accordingly, the proposal for creating the State and Area Benches of the Goods and Services Tax Appellate Tribunal (GSTAT) for the State of Uttar Pradesh i.e State Bench at Lucknow and 04 Area Benches at Varanasi, Ghaziabad, Agra and Prayagraj was considered and approved by the Council

17. **For Agenda No. 7** the Council approved the creation of State Bench at Lucknow and 4 Area benches at Varanasi, Ghaziabad, Agra and Prayagraj for the State of Uttar Pradesh.


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Agenda Item 8: Quarterly Report of the NAA (National Anti-profiteering Authority) the period from 01.01.2020 to 31.03.2020

18. In terms of provisions of clause (iv) of Rule 127 of the CGST Rules 2017, National Anti-Profiteering Authority (NAA) was required to furnish a performance report to the GST Council by 10th of the closing of each quarter. The Secretary introduced this Agenda Item pertaining to various issues related to the National Anti-profiteering Authority (NAA) and placed the quarterly performance report for the period from 01.01.2020 to 31.03.2020 of National Anti-profiteering Authority of the financial year 2019-2020 before the Council, as under:

- (a) 34 Orders were passed by the Authority during this quarter. All the orders were passed unanimously. A total of 66 Investigation Reports are pending for disposal with the NAA.
- (b) Apart from the above, the following important DO letters have been issued by NAA:
 - (i) D.O. letters dated 14.01.2020 addressed to Chief Commissioners/CCTs of various zones/states to take necessary action on the complaints which are getting time-barred to ensure that the applications of consumers can be timely addressed.
 - (ii) D.O. letter dated 19.02.2020 addressed to Principal Secretary (Finance), Government of Punjab for appointment of Screening Committee on Anti-profiteering in Punjab for quick disposal of pending complaints and proactive approach in dealing with implementation of anti-profiteering provisions in GST law.
 - (iii) D.O. letters dated 17.03.2020 addressed to Director General, DGAP regarding smooth functioning of State Level Screening Committee and implementation of the Authority's Orders.

18.1. In the wake of corona pandemic outbreak and subsequent lockdown in Delhi, the hearings scheduled from 23.03.2020 to 31.03.2020 could not be held.

18.2. The complaints received by the Authority during the Quarter are as follows and the same were forwarded to the respective Screening Committee/ Standing Committee where allegation of profiteering was there:

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- NAA Portal : 37
- E-Mail : 20
- Physically (by post) : 8

The complaints related to enforcement issues and where allegation relates to tax-evasion etc. were forwarded to the Jurisdictional Chief Commissioners & CCTs for necessary action.

18.3. The NAA is operating a helpline (011-21400643) for the consumers to get their profiteering related queries resolved and to provide help to them in filing the complaints, along with an online grievance registration portal on NAA's official website; www.naa.gov.in.

18.4. The above Quarterly Report of the NAA (National Anti-profiteering Authority) the period from 01.01.2020 to 31.03.2020 was placed before the Council and the Council took note of it.

19. For **Agenda item 8**, the Council took note of the performance of the National Anti-Profiteering Authority period from 01.01.2020 to 31.03.2020.

Agenda 9: Constitution of Grievance Redressal Committee at CBIC Zonal/State level for redressal of grievance of taxpayers on GST related issues

20. The Secretary introduced the agenda and stated that the GST Council in its 38th meeting held on 18.12.2019 had decided that a structured grievance redressal mechanism should be established for the taxpayers under GST to tackle grievances of taxpayers on GST related issues of specific / general nature. GST Council has accordingly approved constitution of 'Grievance Redressal Committee' at Zonal/State level consisting of both Central Tax and State Tax officers, representatives of trade and industry and other GST stakeholders.

20.1. Office Memoranda F.No. 820/GRC/GSTC/2019 dt. 30.12.2019 and 07.02.2020 were issued by this GST Council Secretariat for constitution of Grievance Redressal Committee (GRC) at CBIC Zonal/State level in accordance with CBIC letter F.No. 20/10/16/2018-GST(Pt.1) dated 24.12.2019.

20.2. The present position of constitution of GRC on the basis of orders constituting Zonal/State level Grievance Redressal Committee which have been received in the GSTC


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Secretariat, have been compiled and updated (**Annexure 4**). The details of constitution of these GRCs are being uploaded regularly on the GST Council website <http://www.gstcouncil.gov.in/grievance-redressal-committees-central-zonestate-level> under sub-menu "Public Grievance Redressal Committee (GRC)" under menu "Help" for creating awareness amongst the trade.

20.3. It was requested that the remaining CBIC Zones and States /UTs constitute GRC at Zonal or State/UT level, as the case may be, and copy of orders of constitution of GRC may be sent on priority to the GST Council Secretariat.

20.4. It is also informed that GSTN has created a specific portal for uploading the grievances received in these meetings, for the purpose of escalating the same to the appropriate authority. The CBIC Zones /States/UTs are requested to take Login credentials from GSTN for the aforesaid Portal.

20.5. In view of the COVID-19 instead of conducting physical meeting of GRC, it was advised that video conference option may be utilized for conducting such GRC meetings.

21. For **Agenda Item 9**, the Council took note of the latest status of the Constitution of Grievance Redressal Committee at CBIC Zonal/State level for redressal of grievance of taxpayers on GST related issues.

Agenda Item 9A: Inverted Rate Structure in GST- Correction of inverted rates on certain key sectors

22. Finance Secretary requested JS (TRU-I) Sh. G.D. Lohani, to take up Agenda Item 9A on inverted duty structure

22.1. JS (TRU-I) initiated the Agenda with a presentation (**Annexure 5**) and briefed the Council that the issue of Inverted Duty Structure was placed before the Council in the 39th GST Council Meeting held on 14.03.2020 and the presentation was based on the observations of Committee of Officers as also recommendations made subsequently on examination by the Fitment Committee. In the meeting emphasis was made on four commodities which were contributing heavily to inversion to the extent of being more than 50% of the total inversion. The commodities were:

- Mobile phone
- Textiles

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- Footwear
- Fertilizers

He recapitulated that the Council had a detailed discussion on these items. Decision was taken wherein GST on mobile phones and specified parts was increased from 12% to 18% and notification to that effect was subsequently issued. With regard to the other 3 commodities Council decided that it needed further deliberations & discussions and it was decided that discussion could happen in future meeting. Accordingly, the Agenda had been brought up again in this meeting.

22.2. JS, TRU I initiated his presentation with the Textiles sector and informed that the Textile Ministry had again made a recommendation that the discussion which took place in the previous Council meeting should be taken forward as the entire industry was bearing the brunt of inversion. He emphasised that the textile industry felt that for the growth of entire textile chain and to make it more competitive in the international market, a uniform rate structure for the entire textile value chain was required and that there should be immediate correction of inversion. He added that therefore, the emphasis of his presentation was more on the textile sector because of the kind of inversion in the sector and the way it was affecting the industry.

22.3. JS, TRU I elaborating on the need for correction of inversion in this sector submitted that there were significant implications in terms of cash flow and unutilised ITC. No refund was given on input services and capital goods. As a result, working capital gets blocked and the ITC became cost to the sector. Most importantly, while big units could take care of their inversion in view of their integrated business beginning from initial stage of supply chain and their significant value addition in the supply chain. For instance large units may start from chemical and go up to fabric but the issue has wider ramification for the small standalone units which may take yarn and make fabric out of it or may take fabric and make garment out of it. The accumulated ITC from capital goods hurt everybody in the domestic market and since no refund was given for the same, it was a bottleneck for investment in this sector. Investment decisions were being affected by non-refund of ITC on capital goods and the sector was not able to utilise entire ITC on the capital goods.


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22.4. JS, TRU I highlighting the adverse impact of inversion stated that it led to incentivizing imports as they didn't suffer inversion. Quoting an example, he stated that fabric being imported into the country attracts 5% GST and there was no baggage of ITC on previous supply chain because all taxes were refunded in the country of export. The same fabric in India suffers from the ITC because of the higher taxes on fabric, fibres and chemicals. As a result, whenever there are inverted duty rates, the imports get undue benefits over the domestic manufacturer. He added that with all these kinds of issues in the sector the problem of misclassification of rates, etc., also arise. Moreover, while refunds were being given for goods only, claiming refunds on account of inverted duty structure is in itself an effort for business. It entails costs, process and hardship and naturally when entire ITC is not available, services being major part of the supply, consumers are also not benefitted to the extent as it appeared by the rate of 5% on fabric and low-end garments.

22.5. Elaborating further on the sector the JS, TRU I submitted that the problem was more severe in the synthetic segment of the industry where Fibre attracted GST of 18%, Yarn attracted rate of 12% and Fabric of 5%. He recalled that at the time of rollout of GST, the rate on Yarn was 18% which was subsequently brought down to 12% to ease inversion, but the problem persisted to a large extent as inversion was not only on account of goods but because of capital goods and input services also. Input services such as financial services, telecom services, security services, manpower services, supply services all attract 18% whereas final product attracts 5%. Emphasising that multiple channels of inversion were happening in the sector he cited the example of dyeing units where taxes were at 5% whereas chemicals were at 18% leading to inversion and consequent adverse impact on the sector. So, in all the sectors, the inversion comes from various sides and this inversion is resulting in blockage of funds. Some refund is given and some refund is blocked. Some corrections have been made in past but all those corrections are not fully helping the sector and also as refund of capital goods credit is not there, investment issues are there. Further discussing the implication of inversion in terms of revenue as well as refunds he stated that in 2018-19, refunds started from August as before that refund on fabric was not allowed and as of now, we end up giving a refund of about Rs. 6000 crores in a year on the textile chain and this was bound to increase in future.

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22.6. JS, TRU I further stated that the entire issue was examined at great length and the recommendations of the Fitment Committee on the proposed structure of GST was as brought out in the presentation (**Annexure 5**). He stated that if inversion could be corrected, following benefits will accrue:

- A simple uniform rate across textile chain
- Refund outgo shall be reduced by at least Rs 6000 crore a year
- No cash flow issues for domestic manufacturer
- No undue advantage to imports
- Litigations and other hardships are avoided
- Growth of textile sector and encouragement to investment, as also represented by the Textile Ministry.

Countering the possibility of an argument that, if rates are increased from 5% to 12%, this may impact the price to the final consumer (e.g., implication of GST rate on garments of value less than Rs 1000 if raised from 5% to 12%) he clarified that fact was that, if we take out cost of taking refund, ITC on capital goods and services which gets blocked on account of refund not given on capital goods and services and the compliance effort, net impact on unit price (and thus impact to the consumer) would only be only marginal while otherwise benefiting the domestic industry immensely

22.7. The Finance Secretary informed that textiles was one such item; there were two other items in the Agenda i.e. footwear and fertilisers which could be taken up once a decision on this was made.

22.8. The Hon'ble Finance Minister West Bengal stated that in principle, inverted duty structure was an anomaly that all had been trying to grapple with. He submitted that he didn't have any problem in looking into correcting inverted duty structure but there were many other cases of inversion. He estimated over 215 other cases where there was inverted duty structure which needed correction. He stated that in today's situation where there was some projection by the Manufacturers' Association, in a study he had seen that approximately one third of small units, many of which them are in textile may not be able to survive. At a time when the unemployment rate which according to CMIE is above 23% nationally though in Bengal it was about 17% but some other States had 30%, any


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increase in GST on textiles and garments which are labour-intensive industries, would send out a wrong signal to the SMEs which were providing perhaps 90-93% employment in the sector. When condition of SME's was well known to them this was not the right time to send a signal to the country that in textile, they were increasing GST. Understanding of Inverted Duty Structure in terms of ITC etc. may not be understood by common people but the political/economic message at this time, when everybody was struggling and large portion of struggle is in textile sector, is absolutely not the right time. He urged that he was unable to accept the proposal. When things stabilised, they could revisit the proposal may be in July- August as he was in agreement in principle.

22.9. The Hon'ble Finance Minister, West Bengal further added that logic of correcting inverted duty structure, not only in textiles but in many areas is very strong and theoretically he agreed to it but this was not the right time to send out message that garment goes to 12% from 5%. He added that in the proposed structure only man-made fibre benefits by going down from 18% to 12% and there were very big players in this segment who could afford the inverted duty structure. He lauded the presentation given by JS TRU I but again emphasised that this was certainly not the right time and he could not agree to the proposal for present. He suggested that the matter be reviewed when things stabilized and un-employment rate came down. He urged the Council to defer their decision on the proposal.

22.10. Hon'ble Deputy CM Bihar stated that he agreed with West Bengal that this was not an opportune moment as rate would increase from 5% to 12% for the garments having price of less than Rs. 1000. This will give wrong message to public as in these Corona times they were increasing the tax rates and people will not understand the nitty gritty of ITC and tax rates will be visible on bill. He stated that the Council could discuss this along with footwear and fertiliser after 4-6 months. He added that proposal was good and could be adopted with minor changes but certainly not now.

22.11. Hon'ble Deputy CM Gujarat said that they supported West Bengal and Bihar. He stated that on one hand Centre was announcing package of Rs 20 lakh crore, various States were also giving packages, in Gujarat they had announced Rs 14 thousand crore package and also giving several other reliefs for return filing and on other hand, increasing rates on textiles looks very inappropriate. He urged that the matter be postponed for a significant period as nobody knew when Corona would be controlled and

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the period of its impact, how economic recovery would happen, how employment and state income would increase was not clear. He opined that in such a situation the proposal should be kept on hold.

22.12. Hon'ble Deputy CM Haryana stated that it was not the right time, as they were looking for upliftment of SSIs and putting more money into the economy. He added that looking at the agenda, all three items related to the people who are highly affected by COVID, specially, textile, footwear and fertilizer. He also urged that they should postpone this as was suggested by Hon'ble Deputy CM of Bihar and Gujarat FM.

22.13. Hon'ble Member from Tamil Nadu stated that Fitment Committee had recommended to increase the rates on fabric and garments and he did not support the move to increase taxes on garments. Fabric includes Dhotis and Sarees and other garments of value less than Rs 1000 were widely used by masses and any increase would adversely impact this class of consumers. He further added that the tax structure of various items should be decided on the basis of the ability of the consumer to pay and not because the system could not manage deficiencies such as the inverted duty structure. He opposed the proposal.

22.14. The Hon'ble Minister from Andhra Pradesh stated that they agreed with the view of Bihar and Bengal and asked for deferring the proposal.

22.15. The Hon'ble Minister from Uttar Pradesh thanked Union Finance Minister for correcting inverted duty structure for mobile phones and stated that they had to accept to live with Corona. There is no last date or time period when it would end. He also congratulated Fitment Committee for bringing out this proposal and said they were not increasing rates, but just correcting anomaly and therefore as per their understanding the proposal could be accepted now and implemented later when deemed fit.

22.16. Hon'ble Finance Minister Kerala stated that he wished to recall the discussions that had taken place in last Council meeting. He stated that there was no objection to the proposal but the time was not appropriate and that the crisis had only deepened since. He accepted that the proposal would help production and industry but the rate on final product was increasing and that's where the problem lied. He requested to defer the issue.

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22.17. Gauging the sense of the Council the Hon'ble Chairperson felt that the Agenda Item may be deferred for a later appropriate time.



22.18. The Hon'ble Minister from Tamil Nadu in his written speech submitted that in their State, they had been receiving numerous representations from the trade associations dealing with food grains complaining that the tax authorities were demanding tax for delayed filing of disclaimer affidavit before the jurisdictional Commissioner for voluntarily foregoing the actionable claim or the enforceable rights on their brand name. The intention of issuing such notification for filing disclaimer affidavit was to grant exemption on the supply of food grains having unregistered brand name. However, the delay in filing such affidavit should not be a ground for levy and collection of tax on the supply of food grains. He urged the Hon'ble Chairperson to kindly issue guidelines to condone the delay in filing the disclaimer affidavit and not to raise demands on that ground. He also suggested to completely do away with distinction between branded and unbranded food grains as most taxpayers had switched to unbranded category by filing affidavits. Doing so therefore will not have any significant impact on revenues. He further urged the Hon'ble Chairperson to kindly consider the remaining representations forwarded to the Council on the ground of rationalization of tax, items of essential use by common man, items for the benefit of farmers and fishermen, items made by small artisans and items relating to religious sentiments at the earliest. He also brought attention of the Council to the representation of Automobile manufacturers for reduction in rate of tax as a stimulus measure during this critical phase of COVID 19.

23. For **Agenda Item 9A**, the Council decided to defer the Agenda to a later more appropriate time.

Agenda Item 10: Any other Agenda Item with the permission of the Chairperson

Agenda Item 10(i): Sharing of GST data with Comptroller and Auditor General of India for the purposes of GST audit

24. The Secretary asked Joint Secretary, Department of Revenue to place the issue of the sharing of GST data with CAG before the Council. Joint Secretary, Department of Revenue stated that this was discussed in the 35th GST Council Meeting on 21st June 2019. The Council referred the issue to the Law Committee for discussion. Multiple rounds of discussion have taken place with C&AG. The current status note has been put before the Council. He mentioned that lot of work has to be done on this issue and the Council will be updated as and when the progress is made.

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25. For Agenda Item 10(i), the Council took note of the submissions made.

Agenda Item 10(ii): Discussion on compensation to States

26. Introducing the agenda the Secretary stated that several Hon'ble Ministers mentioned about the discussion on compensation. The Finance Secretary drew the attention of the Council to the presentation made by Joint Secretary, Department of Revenue on issue of revenue position and stated that the compensation cess collected during 2017-18 and 2018-19 was more than the compensation requirement. However, since last year 2019-20, the compensation cess collected was only Rs 95,444 crore and actual compensation required was more than Rs 1,50,000 crore. In the last financial year 2019-20 itself Rs 1,20,498 crore was released and in the current financial year, during the months December, January and February, Rs 36,000 crore was released. So, for the last Financial Year, more than Rs 1,50,000 crores compensation was released by the Central Government. Now, the position is that the money coming into the compensation fund has been much less than the actual requirement due to the falling revenues in these difficult times. The difficulty is on two counts. The first is due to the lower volumes of trade; the compensation cess collection is low and second is that the compensation requirement is also increasing. The law (Goods and Services Tax (Compensation to States) Act, 2017) provides that the compensation to States will be provided from the Compensation Fund. The law also envisages that in case compensation fund is inadequate to compensate the States, it is the GST Council that has to take the decision as to what is required to be done. In normal times, GST Council perhaps could have taken a decision to rationalize rates on certain items. Other rationalization measures like levying compensation cess on more items could also have been undertaken in normal times. However, at this point of time, it has to be decided on how exactly more money could be brought into the compensation fund. Another factor is that the whole concept of compensation cess was to help the States transition into GST regime. The underlying presumption was during the transition, certain disturbances will take place. It was not very clear on how the revenue will grow, how the rate structure will play out, how IGST on interstate trade will get collected etc. Keeping these in mind along with the spirit of GST regime, the compensation provision was brought in. However, now we are confronted with COVID pandemic which is a *force majeure* (act of God) and the falling revenue is not because of transition into the GST system but because of a reason which was not anticipated during


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the time of drafting of the law. Since the law provides for the GST Council to decide in these situations, suitable decision may be taken on how to deal with the situation. Hence, he requested the Hon'ble Union Finance Minister to invite other Hon'ble Ministers to present their views on how to deal with this situation.

26.1. Hon'ble Minister from Kerala stated that it was a very important topic and it is good that this is being discussed. He had no debate regarding how this current impasse came. In the presentation made, one important factor was left out. The way the whole GST had been implemented is also an important factor that contributed to non-buoyancy of the tax collection. Starting with the IT backbone, our inability to administer the tax by scrutinizing the tax returns and so on, the way rates were drastically reduced without considering the financial implications etc. have contributed to the fact that GST revenues have been non-buoyant. Now, the pandemic has come. Since there is the pandemic, the revenues of the States have shrunk and it is all the more reason that the legally binding compensation needs to be paid to the States. He had mentioned it earlier that it is a contra-cyclical measure. Giving compensation when the revenues shrink enables the State revenues to be stable. The issue now is how to meet it when the revenues are going down and the compensation requirement is going up. There is only one solution to this. The GST Council has to borrow the money to pay and let the compensation cess be extended. There is no other option. Now, there is no option of increasing the number of commodities on which compensation cess can be imposed because it is unacceptable during the economic slump. It is the same reason the agenda earlier was put aside. The borrowing by the GST Council does not affect the fiscal deficit of the Central Government because it is outside the budget. There was consensus on this issue in the GST Council and it was recorded in the minutes of the earlier meetings. There was a detailed discussion on this issue and the assurance of 14% growth was the reason why many States which had serious reservations agreed to this. Tamil Nadu, till the very end held out against GST. Some other States also had reservations. It was because of this promise that everyone agreed to transition into GST regime. Therefore, this measure had to be undertaken. In fact, there should be a more detailed discussion at a later time where the Council can look at the whole architecture to an extent, rates, inverted duty structure etc. He had a fear that the current rate is not Revenue Neutral. So the rates would have to be relooked at in the future. The Council also has to look into whether the compensation period has to be extended from five year to six or seven years. Already a number of

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Ministers have raised the issue in the Council. He thought that if the Council is looking at the whole architecture of GST, he would say in the present circumstances, the rate split must be changed from 50:50 to 60:40 (60 for the States and 40 for Centre). Perhaps, a little more flexibility of SGST rates may also be looked into. He did not want to raise the issues now but sometime later when things become normal. For the time being, there is no other solution other than GST fund borrowing and extending the compensation period by another year so that the money can be recouped. Given the present dire financial circumstances of States, the promise made by the GST Council should be met. Neither the Centre nor any particular States are sacrificing anything because of this measure and everybody wins in this.

26.2. Hon'ble Minister from Assam stated that the subject of discussion is of immense importance. Of course everyone is concerned about the fact that the compensation amount is not being paid because of the low collection on the compensation front and as a whole fall in the GST collections. What was stated by the Revenue Secretary in his initial remarks must be acknowledged. From April-May 2020, the fall in GST revenue is not because of the architecture of GST but because of the act of God. Whatever we are suffering today, for example, revenue losses in the month of April-May cannot be assigned to the architecture of GST. It is because of something else which was not imagined at the time of enactment of GST law. First, in principle, we have to decide whether these losses can be attributed to GST or GST compensation will be different. He raised this issue because raising loan is an option. Finance Minister of Kerala had stated that every State needed revenue. However, as provided by law, the GST Council can prescribe manner for collection of GST to pay compensation to the States. But, whether the GST Council has the mandate to raise the loan as a sovereign body like Centre or State need to be examined very closely. As of now, the Union Government is so gracious that in spite of low collections, it has borrowed money and released Post Devolution Revenue Deficit Grant to States. The Central Government was taking good care of States by, firstly, allowing Revenue Deficit grant for states like Assam and Kerala and secondly, by not curtailing as of now the Devolution Grant of States. These two streams of fund were a big help for the States. They were initially afraid whether the Centre would be able to give the amount since these are big amounts like Rs 1,400 crore and Rs 600 crore for a State like Assam. His first request to the Central Government was to continue the Revenue Deficit Grant and Devolution Grant since these were their bread and butter. He


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thought that States are not thanking enough the Central Government for continuously giving the amounts to States which could have been cut due to low tax collections. He was sure that lot of hard labor must have gone into achieving this. The Council can continuously discuss from where the compensation revenues can be managed, whether the Council has the power to raise a loan and if the Council does not have the power to raise the loan, what are the options. Just now the Council had decided to defer a decision to augment Revenue Collection proposal knowing very well that by deferring such decision, the compensation requirement of States will go up. He fully agreed with the Hon'ble Minister from Uttar Pradesh that bold decisions have to be taken. In the beginning of the meeting it was said that any mistake committed like inverted duty on textile should not be corrected at this point of time. But then again they are now asking for compensation. Is it not contradictory? The issue is that people of many States like Assam do not like to hear that State Government was raising loan beyond a point. If Council raises loans, RBI might calculate the loan amount against States' accounts. Although GST Council is a body corporate, the loan raised will be assigned against every State. Raising loan for compensation is a huge decision and urged Hon'ble Union Finance Minister to discuss the issue with legal luminaries whether the GST Council has the legal authority to raise a loan or whether Council should correct some of the mistakes made earlier and gradually try to augment revenue for paying compensation. He thought that at some point of time, bold decisions have to be taken to raise GST revenue. If the Council starts taking loan from the market, the focus on collecting revenue will go down. Every subsequent Council meeting there will be demand to raise more loan. He clarified that he did not say the issue should not be decided but while deciding, the Council has to be very careful. He added that Assam also required compensation money. He requested all the members of the Council to come back with some suggestions to the Council as to how to increase revenue, on whether Council should borrow. These issues should be discussed in the State Cabinets. He once again requested for continuation of Revenue Deficit Grant and Devolution Grant. He stated that while considering on raising money for payment of compensation by augmenting revenue collection, or by correcting certain mistakes that were committed earlier or by borrowing, suggestions from all States should be considered carefully before any decision is taken. Finally, he had three requests to make. First was to not stop Revenue Deficit Grant. Second was to not stop Devolution Grant and third to see whether some conditions for availing increased borrowing limit can be relaxed? He agrees that some conditions have to be implemented but some of these

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were difficult or near impossible to implement before December 2020. He requested for some flexibility in this regard. He promised that the States will put in best efforts and in case if it is not possible to fulfill some conditions, relaxation may be given. For example without Aadhaar, One Nation One Ration Card cannot be implemented but Assam does not have Aadhaar. They had just completed up to 35%. State of Meghalaya does not have Aadhaar at all. In cases where, despite best efforts, if some of the conditionalities are not implemented, the States may not be penalized for that and may be next year they will fulfill all the conditions.

26.3. Hon'ble Dy. CM of Bihar read from page no 22 of the Agenda Note that as per the proceedings of the 39th GST Council Meeting, the Hon'ble Union Finance Minister said that *'She reiterated the commitment made by the then Chairperson of the GST Council that in case there are no adequate resources for giving compensation to the States, market borrowing may be resorted to She also stated that as suggested by Dy CM of Bihar, after the Parliament session is over, may be if everyone so desire, she will work on whether the GST Council itself can borrow, the legality of such a borrowing and she will convene a meeting of all the State Finance Ministers to discuss contingencies in terms of compensation cess requirements; who would stand guarantee in case of market borrowing to fund the compensation requirements of the States, what impact FRBM Act and ways to counter the negative effects of Corona Virus pandemic on the economy.'* Firstly, he requested that the Hon'ble Union Finance Minister can fix a day after 10 to 15 days from the 40th GST Council Meeting to discuss the sole issue of compensation cess. States will also be ready to give their view points. So for four-five hours, a separate meeting can be conducted. Secondly, as Finance Minister of Assam had mentioned, FRBM limits on State borrowings has been relaxed from 3% to 5% and the unconditional borrowing is only 0.5%. He requested that this may be increased to 1% and the conditionalities should apply to another 1% only. If the Central Government allows relaxation from 3% to 4% without any conditions it will benefit backward States like Bihar. Thirdly, by 20th June, they would be getting their devolution part for the month of June. For April-May, the Central Government gave what was required. For the month of June, they are waiting for their devolution part and he hoped that in the month of June also they would get the same revenue that they were getting. He again requested for a separate meeting on compensation cess.

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26.4. Hon'ble Minister from Uttar Pradesh stated that he had keenly listened to the points made by Hon'ble Ministers from Assam and Bihar. They referred to the proceedings of the previous GST Council Meeting. He stated that State of Uttar Pradesh also had a revenue gap of about Rs 9000 crore which the State should receive. Uttar Pradesh is a big State and it had shortage of funds. In the month of April 2020 their collections were only 10% and during the month of May 2020 they collected around 40% only. Since they have an acute shortage of funds, he submitted that all the possibilities should be explored in this regard. He agreed with Hon'ble Dy. CM of Bihar that there should be detailed discussion on the issue of compensation. Along with this, he requested that detailed discussion should also be held on anomalies, sources of funds and inputs outgo as refunds since there is no end date for Corona epidemic. We should move ahead with the idea that we go forward along with the COVID disease. Just like we wear a raincoat and carry an umbrella during rains, wear a coat and muffler during winter season, we should take all precautions cum protective measures to deal with Corona epidemic and move forward with an understanding that corona epidemic will not end soon and we learn to live with it accordingly. Along with this we should recognize that economic activities are essential. If the economic activities stop, we do not move forward and we postpone decisions then all our activities will stop. He submitted that in the 37th GST Council Meeting, it was discussed that Mentha-oil may be brought within the ambit of Reverse Charge Mechanism (RCM). Mentha-oil is the subject of only Uttar Pradesh. The burden should fall on the purchaser and not on the farmer. Under RCM, Kaju (cashew), Tendu leaves, silk yarn, cotton etc. are present. The Council could not take decision on the subject on Mentha-oil in this regard. He requested that such decisions may be taken which can bring some revenues just by simplification of taxes, where additional taxes are not imposed, correcting anomalies and ambiguities. He impressed upon the Council again that lot of discussion has already taken place regarding Brick Kilns and Pan Masala. He had raised this issue in the Council multiple times. Earlier their revenue was Rs 500 crore, now, after GST, they collect only Rs 75 crore. He stated that there is a dire urgency to take decisions on these issues as well. Decisions that will enable inflow of additional revenues without putting burden on anyone should be taken immediately. That is why he pointed out that anomalies should be corrected. He stated that he may be forgiven for pointing this out but majority of the States which have presented their views in the Council did not have any difficulty in raising the price of diesel. Diesel is the necessity of a common farmer. It is required for transportation,

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agriculture and industry. But the price of diesel was increased. Decisions which directly benefit the revenue, increase the revenue, should not be deferred. The States have to pay salaries to their employees, meet their expenditures and also it must be kept in mind that we have to live and move forward with Corona. Hence he once again requested that appropriate decisions may be taken.

26.5. Hon'ble Dy. CM of Delhi stated that it is true that nobody had imagined at the time of drafting of GST law that a national disaster of such high magnitude will occur. He was fortunate enough to be present in the meetings of the drafting committee. It was not imagined that a disaster of such a scale would happen. However, when it was told to the States and States were also discussing amongst themselves that States surrendering their taxing rights and Centre also giving up its tax rights and all subsume in the GST Council, it was not imagined that a pan India disaster would take place. But there was a history of localized disasters at the State level. There would be a flood, a tsunami, cyclone, a famine or a drought in State or a number of other factors for losses. Not just because of an economic disaster but due to an act of God, if the collections of States fall, it was not thought that GST Council would step aside from its responsibility and will only oversee economic management. Some items like Petrol, Diesel, and Liquor are still taxed by the States. Today, when there is an extraordinary situation in Delhi, though neighboring States have not made it so costly but we have increased the price of diesel by Rs 6. Also, they imposed 70% 'special corona fee' on liquor since they had the power to impose on these items. Now, the power to impose GST rests with the GST Council. Therefore, in extraordinary situations GST Council has to support the States. While the responsibility to pay and meet expenditures is with the States, the power to tax rests with the GST Council. Therefore, GST Council has to take up the responsibility. By labeling it as 'act of God' the GST Council cannot shirk off responsibility stating that it will only look at economic management and reimburse only if there was some issue with GST and its management. For the first time in the history of this country, we have created a superb federal structure. The responsibility should be showcased now and whatever extraordinary measures can be undertaken like possibilities of raising a loan from the market should be explored. He praised the way the Hon'ble Union Finance Minister in the previous Council meeting had perfectly summarized her position regarding this issue. He thought that the Council should fulfill its responsibility and not shirk it off labeling the pandemic as an act of god. This is very important for the coming future.

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26.6. Hon'ble Minister from Goa stated that the discussions have gone as back in time by talking about the architecture of GST that had been adopted. He was surprised time and again various aspects of GST implementation were discussed except act of God. Now that *force majeure* has come in and whatever losses of revenue have occurred in the last two months cannot be attributed to the functioning/working of GST itself. At one point of time, 14% growth was envisaged and he wanted to remind all the Ministers present that it was always a decision by consensus. The decisions were arrived with the involvement of Centre and with the full involvement of every State in this country. Now, when there is a talk on architecture and opinion is presented that something is wrong, he was not willing to believe it and he had reiterated time and again that in spite of drawbacks, we are doing well as far as working of GST is concerned. He pointed out earlier that crores of transactions were happening, it was only the GSTN perhaps, in the initial stages, though it is streamlined now, did not give enough support that the system needed or the decisions of GST Council were wanting for sake of implementation. We have to realize that this did not happen because lakhs of tax payers filing returns, cores of transactions flowing were not something which was envisaged at all in one go. There were no established benchmarks anywhere in the world. The world has appreciated us for this. He further stated that today when we are faced with corona pandemic, we have a tendency to act and behave as if it is only India specific and only we are faced with the problems. We must look at the brunt borne by the advanced nations of the world, what has happened to their economies and number of deaths in those countries. He was not comparing *per se* but we are much better off. We have resilience, capacity and leadership to respond strongly and this is what has been done. If we look at the 37th GST Council Meeting at Goa meeting, the package announced by Hon'ble Union Finance Minister went a long way in helping the economy to move forward and take it to a different level. Unfortunately, while it seemed that we were on the right track, COVID pandemic happened. When it comes to lowering the rates there is a tendency to be State specific. Only those rates which affect particular State revenues are desired to be lowered by respective members. If that is so, then who is going to think of the country and overall buoyancy in the revenue. He did not want to name anyone but the Council did not, at one point of time, hesitate to tinker the architecture of GST. A certain State was in distress and he also supported the decision then allowing them to impose a State specific cess with a sunset clause. The Council wanted to be practical. This subject needs much more time and much more application of mind. Even the States want to apply their mind and come out with some solution. It is not

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just merely giving opinion on whether we are allowed to borrow. Whether we will borrow, how exactly it will be done and contacting legal luminaries are not the points to ponder. What we need is pure and strong application of mind and that is why need a fuller session to discuss this particular subject. He strongly believed that all the State Finance Ministers combined with the Centre have the capacity to surmount this particular problem. There is a shortfall in revenue and it is also happening with other stronger economies in the world. At least we are progressing well and we are on the right path. He requested the Hon'ble Union Finance Minister for some time to have a full session to discuss. He did not think that a decision needs to be taken right now and he complimented Hon'ble Union Finance Minister for getting this issue on the table and at least making the States aware and allowing the States to apply their mind and come up with fresh ideas.

26.7. Hon'ble Minister from Karnataka stated that many ministers have deliberated on the subject. One thing that everyone should remember is that there is no magic in economy. Results come through efforts. This is an extraordinary situation and therefore we have to think extraordinary. Nobody had envisaged such a situation that has come now and we are dealing with it. Let us deal with it firmly with a resolute mind and move forward. He added that the finances part of it was already discussed but whole economy had to kick start. The real solution lies there and to kick start the economy, States are the engine. Therefore any support to State will certainly bring back revenues of GST into coffers. Therefore, whenever this will be discussed, this one year period, we have to go through rough waters. With the capability of Hon'ble Union Finance Minister and her fantastic performance before and during COVID, they really believe in her. Next one year, all States would have to support her to see that rough waters are safely sailed through. Having said that, he added that lot of options have been discussed by States and lot of consultations are necessary. Crises throw up opportunities also. Therefore, for few States compensation is very important issue for them as far as their finances are concerned and there are few States for whom compensation is not a big part of it. Each State has got its own story to tell. Hence, looking into whole picture of entire country, it is difficult to manage different economic situations in entire country, it is important to micromanage. We should go deeper in the States' management also. Therefore, there are two ways of looking at things, short term measures and long term measures. Short term measures could be that some States would like to have compensation at the right time and


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therefore they may be given the option of borrowing at their own end, by removing certain conditions, the borrowing limit which was increased from 3% to 5% recently may be further increased by 0.25% or more. Whether the whole borrowing should be done by the GST Council is a very big question. Secondly, looking into the situation, RBI always deals with the emergencies; RBI maintains its SLR rate with banks. RBI has certain deposits to deal with the emergencies. Similarly, in future, we should have certain corpus funds for the Council. Whenever few States have certain problems or whenever the whole country is faced with issues like the current corona pandemic, certain corpus funds have to be built over a period of time, so that they can be utilized in emergencies. He thought that wider consultation is necessary, course corrections are necessary and so many other things have come up. He believed that we can get through this if everyone put their energies together. Under the leadership of the Hon'ble Union Finance Minister, we need to come up with an extraordinary solution to deal with the extraordinary situation.

26.8. Hon'ble Minister from Telangana stated that States are under a lot of stress. At this juncture if a State like Telangana did not get GST compensation, it will be difficult to maintain the State. A progressing State like Telangana will be the big loser. As per the 15th Finance Commission report, they are not getting any Revenue Deficit Grant. On the other hand, devolution for the State also has gone down. Supporting the argument of the Hon'ble Dy. CM of Delhi, at this junction, his sincere request is that the Hon'ble Union Finance Minister had to support the States. How to find a solution to this can be deliberated. Just like Dy. CM of Bihar stated, a full day discussion on this topic needed to be done. His request on behalf of State of Telangana was that, either loan has to be raised or FRBM norms may be relaxed by 1% just like Hon'ble Minister for Karnataka suggested. Somehow GST compensation needed to be paid. They had already factored in GST compensation in their budgets. On one hand, already a lot of income of the State has reduced. On the other hand, if GST Compensation also was not given, then it will be very difficult to maintain the programs run by the State. They are not in a situation to pay the full salaries to their employees which did happen in the previous month. His sincere request was that GST compensation must be paid. He stated that if the Act does not provide for borrowing then the Act may be amended to that effect to raise a loan. For repayment of such a loan, some measures can be undertaken. Once the situation improves, GST revenues can be raised, course corrections and raising rates wherever necessary can be done to improve revenues. At this juncture, he requested that the Central

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Government to pay the GST compensation. He emphasized that in the last two years, State of Telangana had taken the lowest GST compensation except for the North-Eastern States. Now, when they are supposed to get compensation, if they do not timely compensation, then a progressing State like Telangana will be a big loser. He finished by requesting the Hon'ble Chairperson to give the GST compensation.

26.9. Hon'ble Minister from West Bengal submitted that he agreed with many of his senior colleagues. He stated that Hon'ble Union Finance Minister had been very patient. He requested that the matter may be taken up for discussion exclusively and whether the GST Council had the constitutional authority to borrow, what are the sources may be discussed. He supported the statement of Dy. CM of Bihar that this should be taken up exclusively and before that the officers should be instructed to do due diligence on the available options. A detailed discussion can follow after this. It is time that this should be taken to another meeting exclusively with the due diligence and options to be given in advance to the States so that they can also do their due diligence and come back to the Council.

26.10. Hon'ble Minister from Uttar Pradesh stated that it was his humble request to specially present a view point that whatever matters are assigned to Law and Fitment Committees, since the Council meets once in every three months, the reports of the Committees should be tabled before the Council in its subsequent meeting. Along with this, issues that were raised, issues related to revenue collections and topics which can increase revenue collections should be decided at the earliest. Mentha-oil is an issue relevant to the State of Uttar Pradesh There would not be any additional burden due to this and therefore it has to be brought within the ambit of RCM. Brick Kiln & Pan Masala issues have been deferred for a long time. He impressed upon the Chairperson that these issues need to be considered and requested that since Uttar Pradesh is facing hardship due to shortage of funds. They have lot of liabilities to face. All States have been demanding compensation. He stated that decisions resulting in increase of revenue may not be deferred. The Hon'ble Chairperson responded that their points are valid and will be looked into.


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26.11. Hon'ble Union Finance Minister concluded this issue by stating that a separate exclusive meeting would be held. Firstly, as a first step towards that, States which want to share their view points, should share their thoughts in the next ten days. Secondly, as



suggested by Hon'ble Minister from West Bengal, Revenue Secretary as the Secretary to the Council should do all the due diligence on the mode with which this can be accomplished, get all the opinion, compile and share with the States within the next ten days. Two weeks post that, in mid-July, taking all the Ministers' conveniences, a date can be fixed for an exclusive discussion on the matter of compensation. If that is suitable, exchange of thoughts would have happened within the next ten days; application of mind can be done by all the parties involved and a day long discussion can take place.

26.12. The Secretary concluded that all the agenda had been discussed and the decisions taken. Before, he formally closed this meeting; he stated that he wished to place on record the appreciation for Ms. Kajal Singh. She is an IRS Officer working in GSTN as Executive Vice President (EVP) for three years. Her tenure was concluding this week and Council may like to record the appreciation for her work.

27. For the **Agenda Item 10 (ii)**, the Council:

- i) Took note of the discussion.

Agenda Item 11: Date of the next Meeting of the GST Council

28. This agenda item was not taken up for discussion.

29. The Meeting ended with a vote of thanks to the Chair.

(Ms. Nirmala Sitharaman)
Chairperson, GST Council

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Annexure 1

List of Hon'ble Ministers who have attended the 40th GST Council Meeting on 12th June 2020

Sl No	State/Centre	Name of Hon'ble Minister	Charge
1	Govt of India	Ms. Nirmala Sitharaman	Union Finance Minister
2	Govt of India	Shri Anurag Singh Thakur	Minister of State (Finance)
3	Andhra Pradesh	Shri Buggana Rajendranath	Minister for Finance, Planning and Legislative Affairs
4	Assam	Dr. Himanta Biswa Sarma	Finance Minister
5	Bihar	Shri Sushil Kumar Modi	Deputy Chief Minister
6	Chhattisgarh	Shri T.S. Singh Deo	Minister, Commercial Tax
7	Delhi	Shri Manish Sisodia	Deputy Chief Minister
8	Goa	Shri Mauvin Godinho	Minister for Transport and Panchayat Raj
9	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
10	Haryana	Shri Dushyant Chautala	Deputy Chief Minister
11	Himachal Pradesh	Shri Bikram Singh	Minister for Industries, LEP, Tech. Education and Vocational & Ind Training
12	Jammu and Kashmir	Shri K. K. Sharma	Advisor to Lt. Governor
13	Jharkhand	Shri Rameshwar Oraon	Minister - Planning cum Finance, Commercial Taxes, Food, Public Distribution & Consumer Affairs.
14	Karnataka	Shri Basavaraj Bommai	Minister for Home Affairs
15	Kerala	Dr. T. M. Thomas Isaac	Minister for Finance & Coir
16	Madhya Pradesh	Shri Narottam Mishra	Minister for Home and Public Health and Family Welfare
17	Meghalaya	Shri James K. Sangma	Taxation Minister
18	Mizoram	Shri Lalchamlia	Minister, Taxation, Home, Disaster Management & Rehabilitation
19	Odisha	Shri Niranjan Pujari	Finance & Excise Minister
20	Puducherry	Shri V. Narayanasamy	Chief Minister
21	Punjab	Shri Manpreet Singh Badal	Finance Minister
22	Tamil Nadu	Shri D. Jayakumar	Minister for Fisheries and Personnel & Administrative Reforms
23	Telangana	Shri T. Harish Rao	Finance Minister
24	Tripura	Shri Jishnu Dev Varma	Deputy Chief Minister
25	Uttarakhand	Shri Madan Kaushik	Minister of Urban Development, Housing, Rajiv Gandhi Urban Housing Scheme, Census, Reorganisation and Elections
26	Uttar Pradesh	Shri Suresh Kumar Khanna	Minister Finance, Parliamentary Affairs, Medical Education
27	West Bengal	Dr. Amit Mitra	Finance Minister

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Annexure 2

List of officials who have attended the 40th GST Council Meeting on 12.06.2020

Sl No	State/Centre	Name of the Officer	Charge
1.	Govt. of India	Dr. A B Pandey	Revenue Secretary
2.	Govt. of India	Dr Krishnamurthy Subramanian	Chief Economic Advisor
3.	Govt. of India	Shri M. Ajit Kumar	Chairman, CBIC
4.	Govt. of India	Shri A. K. Pandey	Member (GST), CBIC
5.	Govt. of India	Shri Sandeep M Bhatnagar	Member(Inv), CBIC
6.	Govt of India	Shri Dhruva Kumar Singh	CCA
7.	Govt of India	Shri Anil Kumar Jha	Additional Secretary, DoR
8.	Govt of India	Shri Ritvik Pandey	Joint Secretary, DoR
9.	Govt. of India	Shri G.D. Lohani	Joint Secretary, TRU I, DoR
10.	Govt. of India	Shri Manish Kumar Sinha	Joint Secretary, TRU II, DoR
11.	Govt. of India	Shri Yogendra Garg	Pr. Commissioner (GST), CBIC
12.	Govt. of India	Shri Sanjay Mangal	Commissioner (GST), CBIC
13.	Govt. of India	Shri N Gandhi Kumar	Director, DoR
14.	Govt. of India	Shri Amaresh Kumar	Addl. Comm., GST Policy Wing
15.	Govt of India	Ms Nisha Gupta	Joint Commissioner, GST Policy Wing
16.	Govt of India	Shri Vikash Kumar	DC, GST Policy Wing
17.	Govt of India	Shri Kumar Asim Anand	DC, GST Policy Wing
18.	Govt. of India	Shri Vipul Bansal	PS to Union Finance Minister
19.	Govt. of India	Shri Debashis Chakraborty	OSD to Revenue Secretary
20.	Govt. of India	Shri Rahul Raja	OSD to Chairman, CBIC
21.	GST Council	Shri Amitabh Kumar	Joint Secretary
22.	GST Council	Shri S.K. Rahman	Joint Secretary
23.	GST Council	Shri Rajesh Agarwal	Director
24.	GST Council	Shri G.S. Sinha	Director

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25.	GST Council	Shri Jagmohan	Director
26.	GST Council	Ms. Ujjaini Datta	Director
27.	GST Council	Shri Arjun Meena	Under Secretary
28.	GST Council	Shri Rakesh Agarwal	Under Secretary
29.	GST Council	Shri Nitin Deepak Agarwal	Under Secretary
30.	GST Council	Shri Mahesh Singarapu	Under Secretary
31.	GST Council	Shri Krishna Koundinya	Under Secretary
32.	GST Council	Shri Sarib Sahran	Superintendent
33.	GST Council	Shri Adesh Nayak	Superintendent
34.	GST Council	Shri Krishan Kumar Verma	Superintendent
35.	GST Council	Ms Chanchal Soni	Superintendent
36.	GST Council	Shri Sumit Kumar	Superintendent
37.	GST Council	Shri Rakesh Joshi	Inspector
38.	GST Council	Shri Vijay Malik	Inspector
39.	GSTN	Shri Prakash Kumar	CEO
40.	GSTN	Ms Kajal Singh	EVP, Services
41.	GSTN	Shri Nitin Mishra	EVP, Tech
42.	GSTN	Shri Vashistha Chaudhary	SVP (Services)
43.	GSTN	Shri Jagmal Singh	VP, Services
44.	GSTN	Shri Sarthak Saxena	OSD to CEO
45.	Govt of India	Shri Sandeep Puri	Comissioner, Delhi - Audit
46.	Govt of India	Shri Nishith Goyal	Chief Commissioner, Patna, Ranchi Zone
47.	Andhra Pradesh	Shri Peeyush Kumar	Chief Commissioner (State Tax) (GST)
48.	Andhra Pradesh	Shri K. Ravisankar	Addl. Commissioner, State Tax (GST)
49.	Andhra Pradesh	Shri D. Venkateswara Rao	OSD, Revenue
50.	Andhra Pradesh	Shri J.V.M. Sarma	Joint Commissioner, State Taxes
51.	Andhra Pradesh	Shri S. Sekhar	Joint Commissioner,

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			State Taxes
52.	Arunachal Pradesh	Shri Anirudh S. Singh	Secretary
53.	Arunachal Pradesh	Shri Kanki Darang	Commissioner of Taxes
54.	Arunachal Pradesh	Shri Tapas Dutta	DCCT
55.	Arunachal Pradesh	Shri Teli Ngomdir	Assistant Commissioner
56.	Arunachal Pradesh	Shri Nakut Padung	ST
57.	Arunachal Pradesh	Shri Tayem Jamoh	Inspector
58.	Assam	Shri Anurag Goel	Commissioner, State Tax
59.	Assam	Shri Shakeel Saadullah	JCT
60.	Assam	Shri Bedabrata Saikia	Inspector, Taxes
61.	Bihar	Dr Pratima	Commissioner cum Secretary
62.	Bihar	Shri Arun Kumar Mishra	Special Secretary
63.	Chhattisgarh	Shri Gaurav Dwivedi	Principal Secretary (Commercial Taxes)
64.	Chhattisgarh	Smt Ranu Sahu	Commissioner of State Tax
65.	Chhattisgarh	Shri K. R. Jharia	Additional Commissioner, State Tax
66.	Chhattisgarh	Shri T. L. Dhruw	Additional Commissioner, State Tax
67.	Chhattisgarh	Shri Manish Mishra	Deputy Commissioner, State Tax
68.	Delhi	Shri Sandeep Kumar	Secretary, Finance
69.	Delhi	Shri Vivek Pandey	Commissioner, State Tax
70.	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner (Policy)
71.	Goa	Shri Daulat Hawaldar	Secretary Finance
72.	Goa	Shri Hemant Kumar	Commissioner, ST
73.	Goa	Shri Pranab Bhat	Under Secretary, Finance
74.	Gujarat	Shri Pankaj Joshi	Additional Chief Secretary
75.	Gujarat	Shri J. P. Gupta	Chief Commissioner, State Tax

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76.	Gujarat	Shri S. Chhakchhuak	Joint Secretary, Taxation
77.	Haryana	Shri Anurag Rastogi	Principal Secretary, Excise & Taxation
78.	Haryana	Shri Vijay Kumar Singh	Addl. Excise & Taxation Commissioner
79.	Haryana	Shri Rajeev Chaudhary	Joint Excise and Taxation Commissioner
80.	Himachal Pradesh	Shri Jagdish Chander Sharma	Principal Secretary (E&T)
81.	Himachal Pradesh	Dr. Ajay Sharma	Commissioner, State Tax and Excise
82.	Himachal Pradesh	Shri Rakesh Sharma	Additional Commissioner
83.	Jammu & Kashmir	Dr. A. K. Mehta	Financial Commissioner, Finance
84.	Jammu & Kashmir	Shri P K Bhatt	Commissioner, CT
85.	Jammu & Kashmir	Shri Waseem Raja	
86.	Jharkhand	Smt Vandana Dadel	Secretary, Commercial tax
87.	Jharkhand	Shri Bor Singh Yadav	Commissioner, CTD
88.	Jharkhand	Shri Santosh Kumar Vatsa	Special Secretary, CTD
89.	Jharkhand	Shri Brajesh Kumar	State Tax officer
90.	Karnataka	Shri Srikar M.S	Commissioner, CT
91.	Karnataka	Dr. M. P. Ravi Prasad	Additional Commissioner, Commercial Taxes
92.	Kerala	Shri Rajesh Kumar Singh	Additional Chief Secretary
93.	Kerala	Shri Anand Singh	Commissioner, State Tax
94.	Kerala	Shri S. Karthikeyan	Special Commissioner, State Tax
95.	Kerala	Shri Mansur M. I.	Deputy Commissioner, State Tax
96.	Madhya Pradesh	Shri Manoj Govil	PS, Commercial Tax Department
97.	Madhya Pradesh	Shri Raghwendra Kumar Singh	CCT
98.	Madhya Pradesh	Shri Sudip Gupta	Jt. CCT

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99.	Maharashtra	Shri Sanjeev Kumar	Commissioner, State Taxes
100.	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner, State Taxes
101.	Maharashtra	Shri Kiran Shinde	Deputy Commissioner, State Taxes
102.	Manipur	Dr. Rajesh Kumar	Additional Chief Secretary (Finance)
103.	Manipur	Shri Charchit Gaur	Commissioner of Taxes
104.	Manipur	Shri Yumnam Indrakumar Singh	Asst. Commissioner of Taxes
105.	Meghalaya	Smt S. A. Synrem	Commissioner & Secretary, Taxation
106.	Meghalaya	Shri Arunkumar Khembavi	Commissioner of State Tax
107.	Meghalaya	Shri L. Khongsit	Additional Commissioner of State Tax
108.	Meghalaya	Smt. S. M. Sutnga	Assistant Commissioner of State Tax
109.	Meghalaya	Shri N. L. Sohliya	Assistant Commissioner of State Tax
110.	Meghalaya	Shri J. L. Kharwanlang	Assistant Commissioner of State Tax
111.	Mizoram	Shri Vanlal Chhuanga	Secretary Taxation
112.	Mizoram	Shri Kailiana Ralte	Commissioner, State Taxes
113.	Nagaland	Shri Kesonyu Yhome	Commissioner of State Taxes
114.	Nagaland	Shri Wochamo Odyuo	Additional Commissioner , State Taxes
115.	Odisha	Shri Ashok K. K. Meena	Principal Secretary, Finance
116.	Odisha	Shri Sushil Kumar Lohani	Commissioner, CT & GST
117.	Puducherry	Shri Shurbhir Singh	Secretary (Finance)
118.	Puducherry	Shri L. Kumar	Commissioner (ST)
119.	Puducherry	Shri K. Sridhar	Deputy Commissioner, State Tax

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120.	Punjab	Shri A. Venu Prasad	Financial Commissioner (Taxation)
121.	Punjab	Shri V. K. Garg	Financial Advisor to Chief Minister
122.	Punjab	Shri Vivek Pratap Singh	Commissioner, State Tax
123.	Rajasthan	Shri Niranjana Kumar Arya	Additional Chief Secretary (Finance)
124.	Rajasthan	Dr. Prithvi Raj	Secretary, Finance (Revenue)
125.	Rajasthan	Dr. Preetam B Yashvant	Chief Commissioner, State Tax
126.	Rajasthan	Shri Ketan Sharma	Special Commissioner (GST)
127.	Rajasthan	Ms Meenakshi Sethi Zaidi	Deputy Commissioner, State Tax
128.	Sikkim	Shri J D Bhutia	Commissioner, CT
129.	Sikkim	Shri Bikash Diyali	Deputy Director, Systems
130.	Tamil Nadu	Shri N. Muruganandam	Principal Secretary (Full Addl. Charge)
131.	Tamil Nadu	Shri K. Gnanasekaran	Additional Commissioner (Policy and Public Relations)
132.	Telangana	Shri Somesh Kumar	Chief Secretary
133.	Telangana	Ms Neetu Prasad	Commissioner Commercial Taxes
134.	Tripura	Ms Tanushree Deb Barma	Secretary, Finance
135.	Tripura	Shri Tinkuma Darlong	Additional Commissioner, Taxes
136.	Tripura	Dr Sudip Bhowmik	Deputy Commissioner, Taxes
137.	Tripura	Shri Badal Baidya	Assistant Commissioner, State Tax
138.	Tripura	Shri Ashin Barman	Superintendent of Taxes
139.	Uttarakhand	Shri Vipin Chandra	Additional Commissioner (SGP)
140.	Uttarakhand	Shri Anil Singh	Additional Commissioner,

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			State Tax
141.	Uttarakhand	Dr Sunita Pandey	Joint Commissioner
142.	Uttarakhand	Shri S. S. Tiruwa	Deputy Commissioner
143.	Uttarakhand	Shri Ranjeet Negi	Assistant Commissioner
144.	Uttar Pradesh	Shri Alok Sinha	APS/Additional Chief Secretary, State Tax
145.	Uttar Pradesh	Ms Amrita Soni	Commissioner, CT
146.	Uttar Pradesh	Shri Sanjay Kumar Pathak	Joint Commissioner, CTD
147.	Uttar Pradesh	Shri Paritosh Mishra	AC, CT
148.	West Bengal	Shri H. K. Dwivedi	Finance Secretary
149.	West Bengal	Shri Devi Prasad Karanam	Commissioner, State Tax
150.	West Bengal	Shri Khalid Aizaz Anwar	GST PPU Head

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Annexure 3

PPT for 40th GST Council12th June 2020

1

Agenda 3(i)

Amendment in rule 7 of CGST Rules to prescribe the rates for Composition Scheme under Section 10(2A)

- Composition scheme for services (turnover upto Rs. 50 lakhs) implemented through Rate notification w.e.f. 01.04.2019
- Section 10(2A) enacted as part of Finance Act 2019 and notified
- Rate of tax under the same is required to be prescribed, though covered by Notification

Proposal:

- Rule 7 of CGST Rules, 2017 to be amended w.e.f. 01.04.2020 to prescribe 3% rate for such supplies by registered person opting to pay tax under section 10(2A) which is a technical change of legal drafting.

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Agenda 3(ii)

Proposal to issue Removal of difficulty order for extending the time limit for revocation of cancellation of registration

- In the 39th meeting of the GST Council, issuance of RoD order was recommended in cases where cancellation orders were passed upto **14.3.2020**, the aggrieved may be allowed to file application for revocation of cancellation till **30.6.2020**
- The same could not be implemented due to drafting issues which have now been sorted out with the Law Ministry and therefore date of implementation needs extension by three months.

Proposal:

- Filing of application for revocation of cancellation may be allowed till **30.09.2020** for all the cancellation orders that were passed up to **12.06.2020**

Agenda 3(iii)

Notification of provisions of the Finance Act, 2020 amending various sections of the CGST Act and the IGST Act

Proposal:

- **Clauses 130 and 134 of Finance Act 2020 to come into force on 30.06.2020** (*Power to issue orders for removal of difficulties valid till 30.06.2020 - now approved till 30.06.2022*) 130-CGST Act and 134-IGST Act
- In addition, **clauses 118, 125, 129 also be given effect on 30.06.2020** since having no impact on SGST Acts

The Council may also like to decide a date by which the corresponding amendment in SGST Acts may be carried out by all the States so that all the **law amendments made vide Finance Act 2020** can take effect

- Need to prescribe a process so that the recommendations of the Council requiring law amendment are implemented from a given date or within certain time frame of Centre making amendments. Those States or Centre who do the amendment later may do it with retrospective effect.

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Agenda 3(iv) – Interest and late fee where the specified date for filing return (staggered upto 6th July) is breached. (1/2)

- Compliance relief had been given to all taxpayers for February, March and April 2020 tax periods
 - late fee waiver and 15 days interest waiver with lower rate of 9% beyond that for taxpayers having turnover > Rs. 5 Cr if returns filed upto 24th June 2020.
 - late fee and interest waiver for taxpayers < Rs. 5 Cr. Turnover if returns filed by the specified dates (staggered upto 6th July 2020).

Issue:

In the relief granted as above, it was envisaged that where the return is not filed by specified date(s), for the entire compliance delay, interest at 18% will be charged with late fee and the waiver of 15 day interest and late fee shall not be available as it was expected to act as a nudge for paying tax and filing return in time.

Available options:

- Allow the scheme to continue the way it was decided,
- Extend the reduced rate of interest @9% till the date of filing of return with **full** late fee,
- Extend the reduced rate of interest @9% till the date of filing of return with **no** late fee.

Taxpayers: The decision as above can be taken for all or only for small taxpayers (< Rs. 5 Cr)

Agenda 3(iv) – Proposal for subsequent months (2/2)

- Compliance relief had been given to all taxpayers for February, March and April 2020 tax periods
 - late fee waiver and 15 days interest waiver with lower rate of 9% beyond that for taxpayers having turnover > Rs. 5 Cr if returns filed upto 24th June 2020.
 - late fee and interest waiver for taxpayers < Rs. 5 Cr. Turnover if returns filed by the specified dates (staggered upto 6th July 2020).
- GSTN has also proposed a revised schedule due to bunching of date of filing of returns around 30th June 2020.

Proposal:

- Revised schedule for Feb, March and April, 2020 may be accepted as it has no impact on interest and late fee and is essentially an IT proposal,
- Similar scheme may be granted for **May, June and July, 2020** whereby the compliance requirement is deferred till September, 2020.

Available options:

- Extend relief package only for **small taxpayers** (aggregate turnover < Rs. 5 Cr), unlike last time when the relief was provided to all taxpayers
- Extend scheme for **all taxpayers** like past scheme for Feb, Mar, Apr, 2020.
- No such scheme** for subsequent months

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**Agenda 3(v)**

Reduction in rate of interest to 9% for delay in payment of GST

Proposal: Reduce interest rate to 9% for FY 2020-21

Available options :

1. **Tax Period options:** Reduce the interest rate for:
 - (i) entire FY 2020-21; or
 - (ii) only for the Covid-19 impacted period (say from **March 2020 to July, 2020**).
2. **Taxpayers selection options**
 - (a) Reduce the interest rate for all taxpayers @9% for FY21; or
 - (b) Reduce the interest rate for only small taxpayers (i.e. with aggregate turnover < Rs. 5 crores) @9% for FY21; or
 - (c) Differential reduced interest rates for small and large taxpayers (say 12% for large tax payers and 9% for small taxpayers) for FY 21
3. **No further reduction** in interest rates beyond the previous proposal

Agenda 3(vi)

Reduction in late fees for FORM GSTR-3B for months from July, 2017 to January, 2020- One time amnesty to clean up pendency in return filing in GST regime

Proposal as follows may be considered for approval :

- Reduce late fee on GSTR-3B returns of tax periods July, 2017 to January, 2020:
 - zero late fee for taxpayers, who did not have any tax liability for the said tax periods and were thus required to file **NIL** return;
 - Reduce maximum late fee from Rs. 10000 (Rs. 5000 each for CGST & SGST) at present to Rs 500/- (Rs. 250 each for CGST & SGST) per return for others
 - such reduction would apply only if the returns are filled between **01.07.2020 to 30.09.2020**.

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Agenda 4

Deemed ratification of notifications, Circulars and Orders by the GST Council

- The following notifications, Circulars and Orders issued after 08.03.2020 till 10.06.2020 under the GST laws by the Central Government, are placed before the Council for information and ratification.
- Issued under the CGST Act:
 - Notification No. 09/2020- Central Tax to Notification No. 47/2020- Central Tax
 - Notification No. 02/2020 and 03/2020- Central Tax (Rate)
 - Circular No. 132/2/2020 to 140/10/2020
- Issued under the IGST Act:
 - Notification No. 03/2020 Integrated Tax
 - Notification No. 02/2020 and 03/2020- Integrated Tax (Rate)
- Issued under the UTGST Act:
 - Notification No. 01/2020 Union Territory Tax
 - Notification No. 02/2020 and 03/2020- Union Territory Tax (Rate)

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Agenda 5

Decisions taken by the GST Implementation Committee (GIC) for information of the Council

- Decisions by Circulation:
- Meeting dated 26.03.2020- IGST Settlement
- Meeting dated 27.03.2020- Insertion of Section 168A for Ordinance
- Meeting dated 01.04.2020- COVID-19 Relief Package
- Meeting dated 11.04.2020- Clarification on COVID-19 relief package
- Meeting dated 01.05.2020- Misc. issues on COVID-19 relief package
- 35th Meeting dated 26.05.2020
 - Extension of time for passing order in case of refund
 - Extending validity of e-way bills expired during lockdown
 - Extension of date for migration of Daman & Diu and Dadra and Nagar Haveli merged UT
 - Clarification on refund related issue

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Agenda No 6 - IT GRC

- Agenda 6 has Decisions / Recommendations of the **11th ITGRC** (held on 18th March 2020) and **12th ITGRC** (held on 26th May, 2020) for information of the Hon'ble Council.
- Minutes of 11th ITGRC are placed at **page No. 148 of Vol-1** and Minutes of 12th ITGRC are placed at **page No. 17 of Vol-2 of the Agenda Note.**
- The decisions/recommendations as per the minutes of both 11th ITGRC and 12th ITGRC meetings are placed for information of the Hon'ble Council.

Agenda No 7 - GSTAT

- UP Government have sent a fresh proposal on 29-5-20 to create a total of 4 benches of GSTAT with State Bench at Lucknow and 3 Area Benches at Varanasi, Ghaziabad and Agra. This is for approval of the Hon'ble Council at **page No 312 of Vol-1** of Agenda Note
- [t may be recalled that in the 39 GSTC meeting, the Council had approved creation of State Bench at Allahabad and 4 Area Benches at Ghaziabad, Lucknow, Varanasi and Agra.]

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Agenda No 8 - NAA

- The 4th quarterly report of the National Anti-profiteering Authority for the period 1-1-2020 to 31-3-2020 is placed at **page No 313 of Vol-1** of Agenda Note. A total of 34 orders have been passed by the NAA in this period. This is for information of the Hon'ble Council.

Agenda No. 9 - GRC

- As per the directions of the GSTC in its 38th meeting held on 18-12-2019, Grievance Redressal Committees are being constituted at zonal/State/UT level.
- The present status of constitution of GRCs at various Zones/ States/ UTs as on 6-6-20 is placed at Annex A of the Agenda at **page No 317 of Vol-1** of Agenda Note, It is still pending for constitution at some of the zones at the central level and for some of the States.
- This is placed before the Hon'ble Council for information.


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**Annexure 4**

Status of GRC Zone-wise (CBIC) and States/UTs as on 10-06-2020
(as per the orders and information available with the Council's Secretariat.)

<http://www.gstcouncil.gov.in/grievance-redressal-committees-central-zonestate-level>

S. No	State/UT	State level GRC	Central Zone	Central Level GRC
1	Jammu and Kashmir	YES	Chandigarh	YES
2	Himachal Pradesh	YES		
3	Punjab	YES		
4	Chandigarh	YES		
5	Ladakh	YES		
6	Andhra Pradesh	YES	Vishakhapatnam	YES
7	Arunachal Pradesh	YES	Guwahati	YES
8	Assam	YES		
9	Manipur	YES		
10	Meghalaya	YES		
11	Mizoram	YES		
12	Nagaland	YES		
13	Tripura	YES		


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14	Bihar	YES	Ranchi	YES
15	Jharkhand	YES		YES
16	Chhattisgarh	YES	Bhopal	YES
17	Madhya Pradesh	YES		YES
18	Delhi	YES	Delhi	YES
19	Goa	YES	Pune	
20	Gujarat	Pending	Ahmedabad	Pending
21			Vadodara	YES
22	Dadra ,Nagar Haveli, Daman and Diu	Pending		
23	Haryana	Pending	Panchkula	Pending
24	Karnataka	YES	Bangalore	YES
25	Kerala	YES	Thiruvananthapuram	YES
26	Lakshadweep	Pending		
27	Maharashtra	YES	Mumbai	YES
28			Pune	YES
29			Nagpur	YES
30	Odisha	YES	Bhubaneswar	YES
31	Puducherry	Pending	Chennai	

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32	Tamil Nadu	Pending		Pending
33	Rajasthan	YES	Jaipur	YES
34	Sikkim	YES	Kolkata	YES
35	West Bengal	YES		
36	Andaman and Nicobar Islands	Pending		
37	Telangana	YES	Hyderabad	YES
38	Uttar Pradesh	YES	Meerut	YES
39			Lucknow	YES
40	Uttarakhand	YES	Meerut	YES

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Annexure 5

**INVERTED RATE STRUCTURE IN GST****40th GST Council Meeting****The 12th June, 2020**

1

A brief re-cap

- A presentation was made in the 39th meeting on the inverted rate structure
- The presentation was based on the recommendation of Committee of Officers and fitment committee
- Inversions in the four sectors was emphasized,-
 - Mobile phone
 - Textiles
 - Footwear
 - Fertilizers
- Hon'ble Council took a decision on mobile phones
- On others, after detailed deliberation, the Council recommended further discussions in future meetings

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Post Council meeting

- The GST rate on mobile phone and its specified parts has been raised from 12% to 18% (as recommended by the council)
- Textile Ministry has again reiterated and recommended
 - a uniform rate structure
 - correction of inverted rate structure for textiles sector

3

Inverted duty structure in textiles....

4

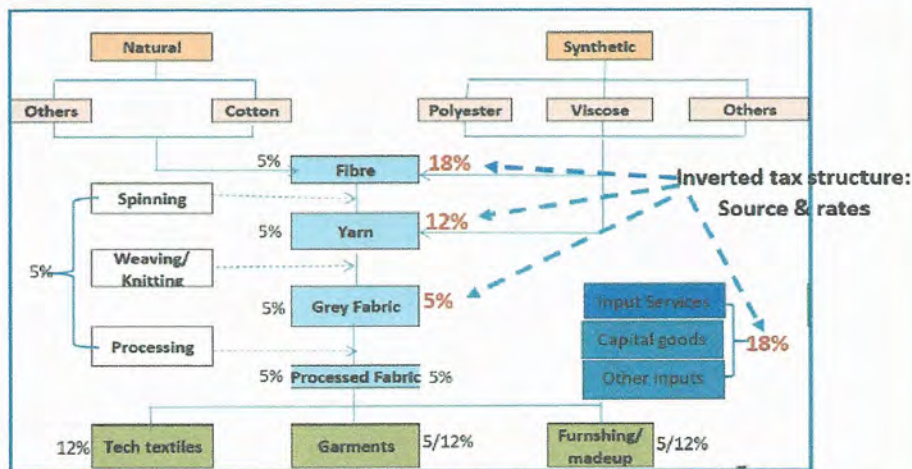
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IMPLICATION.....

- ☐ Unutilized ITC becomes a cost to the manufacturer
- ☐ Cash-flow issue even if refund is given
- ☐ No refund of on input services and capital goods
- ☐ Inverted rates greater injury to Small standalone units
- ☐ Accumulated ITC on capital goods hurts the exporter
- ☐ Disincentives domestic manufacturing and investment
- ☐ Incentivizes imports
- ☐ Gives rise to fraudulent practices- fake invoices, misclassification
- ☐ Claiming refund entails efforts, cost and hardship
- ☐ Consumer not benefitted. Unutilized ITC is a dead weight cost

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Inverted rates on Manmade Textiles segment [1/2]



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Inverted rates in Manmade Textiles segment ...(2/2)

Initial rate:

- 18% on fibre & yarns
- 5% on fabrics
- (No refund on fabrics)



GST on yarns to 12%
[Sep 2017]



Restriction on refund of ITC
removed w.e.f. 1.8.2018

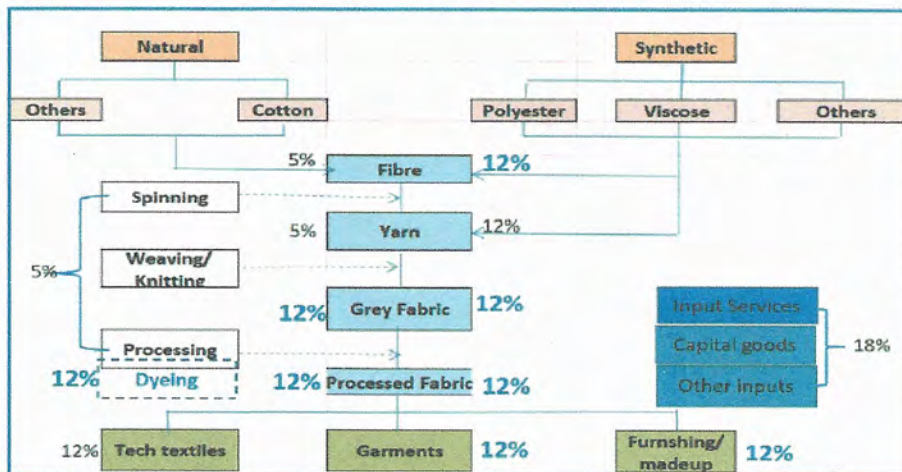
Evolution of Rate Structure

Based on 2018-19
numbers it is
estimated that annual
refund for textiles
sector is about
Rs 6000 cr a year

In coming years this
amount would
further increase

IMPLICATIONS

Fitment Committee's recommendation



The proposed changes in rates are shown in blue (bold font)

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Benefits

- A simple uniform rate across textile chain
- Refund outgo shall be reduced by at least Rs 6000 cr a year
- No cash flow issues for domestic manufacturer
- No undue advantage to imports
- Litigations and other hardships on this count are avoided
- Growth of textile sector and encouragement to investment, as argued by the Textile Ministry.

Impact on unit prices would be marginal as cash flows improves along with fully integrated ITC chain

9

Proposed Rate Structure

S. No.	Item	Present rate	Proposed GST Rate
1.	Cotton and natural fibres/yarn (except raw jute, silk, and wool)	5%	5%
2.	Manmade Fibres	18%	12%
3.	Manmade Fibre Yarns	12%	12%
4.	Fabrics [Technical and spl fabrics are at 12%]	5%	12%
5.	Garments and made-up	5%/12%	12%
6.	Dyeing Services	5%	12%

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