

CONFIDENTIAL

### Minutes of the 7<sup>th</sup> GST Council Meeting held on 22-23 December 2016

The seventh meeting of the GST Council (hereinafter referred to as 'the Council') was held on 22 and 23 December 2016 in the Parliament House Annexe, New Delhi under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley. The list of the Hon'ble Members of the Council who attended the meeting is at Annexure 1. The list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at Annexure 2.

2. The following agenda items werelisted for discussion in the seventh meeting of the Council –

1. Confirmation of the Minutes of the 6<sup>th</sup> GST Council meeting held on 11<sup>th</sup> December 2016.
2. Approval of the Draft GST Law, Draft IGST Law and Draft GST Compensation Law
  - 2A. GST Treatment of Land and Building (Real Estate)
  - 2B. Definition of State, Imposition of Tax on Goods and Services in UTs without Legislature, Territorial Waters and Exclusive Economic Zones and Provisions for authorization of proper officers in States
3. Provision for Cross-Empowerment to ensure Single Interface under GST
4. Date of the next meeting of the GST Council
5. Any other agenda item with the permission of the Chairperson

3. In his opening remarks, the Hon'ble Chairperson of the Council welcomed all the Members and informed that during this meeting, they would continue to discuss the draft Model GST Law (hereinafter called 'the GST Law'). However, before commencing discussion on the GST Law, he invited comments of the Members on the draft Minutes of the 6<sup>th</sup> Council Meeting held on 11 December, 2016 before the confirmation of the same.

#### Discussion on Agenda Items

#### Agenda Item 1: Confirmation of the Minutes of the 6<sup>th</sup> GST Council Meeting held on 11 December, 2016:

4. Only one Member suggested the following amendment to the draft Minutes of the 6<sup>th</sup> meeting of the Council (hereinafter referred to as 'the Minutes') –



- i. Para 6 (xiv) of the Minutes: The Secretary to the Council informed that a letter had been received from the Government of Rajasthan to replace the version of the Hon'ble Minister of Rajasthan recorded in this paragraph with the following version: 'The Hon'ble Minister from Rajasthan stated that penalty should not be considered as a source of revenue, rather it should be used as deterrent.' The Council agreed to the suggestion to replace the version of the Hon'ble Minister from Rajasthan.
5. In view of the above discussion, for Agenda item 1, the Council decided to adopt the draft Minutes of the 6<sup>th</sup> meeting of the Council with the following change –
- i. To replace the version of the Hon'ble Minister of Rajasthan recorded in paragraph 6(iv) of the draft Minutes with the following – 'The Hon'ble Minister from Rajasthan stated that penalty should not be considered as a source of revenue, rather it should be used as deterrent.'

**Agenda Item 2: Approval of the Draft GST Law, the Draft IGST Law and the Draft GST Compensation Law:**

**Discussion on the Draft Model GST Law**

6. The Hon'ble Chairperson observed that in the last meeting, the Council had discussed up to Section 99 of the GST law. However, before taking up the discussion on Section 100 onwards of the GST law, he informed that based on the guidelines agreed upon in the last meeting of the Council in respect of Arrest and Prosecution provisions, the provisions of Sections 81 and 92 had been redrafted and circulated to the Members in advance and this could be discussed first.

7. After discussing the provision of Arrest and Prosecution, a section-wise discussion took place from Section 100 to Section 197 and Schedules I to V of the GST Law. The important points discussed in respect of Arrest and Prosecution (Section 81 and 92) as well as the Section 100 to 197 and Schedules I to V are as follows –

- i. **Section 81 (Power to arrest) and Section 92 (Prosecution):** Shri M.K. Sinha, Commissioner, GST Council explained the changes made in these two provisions. He stated that arrest was proposed in only three instances, and out of these, two related to cases where either only invoice had been issued without any supply of goods or services or where goods or services had been supplied without issue of invoice and the third related to collecting tax but not depositing it with the Government. He also informed that the provision regarding gross mis-declaration in the description of the supply on invoices had been deleted keeping in view the guideline agreed upon in the last meeting that no arrest should be made in a case relating to any grey area in assessment. He also pointed out that the threshold for arrest was tax evasion of Rs. 2 Crore or more and arrests relating to tax evasion up to Rs. 5 Crore were bailable and arrests for tax evasion beyond Rs. 5 Crore were non-bailable.





- ii. The Hon'ble Deputy Chief Minister of Gujarat stated that there should not be a situation of arrest in a case where if by chance any truckload of goods for some reason moves without a document. The Hon'ble Chairperson observed that this would not be the case as the threshold for arrest was tax evasion of Rs. 2 Crore or more. The Hon'ble Minister from Bihar observed that all tax evaders needed to be punished and he expressed strong support for the original draft relating to arrest. The Hon'ble Minister from Assam also supported the original arrest provisions. The Principal Secretary, Finance, Maharashtra, stated that their State had expressed reservation on the arrest provision earlier on the ground that there was no arrest provision in the Value Added Tax (VAT) Law and that this provision could be misused by the officers. He also expressed that it would hinder the ease of doing business. The Hon'ble Minister from Bihar observed that there would be administrative check and control over misuse of arrest provision as was the case with the police department. He further observed that the Commissioner could also be punished for misusing this provision. The Hon'ble Minister from Assam also supported this view.
- iii. The Hon'ble Chief Minister of Puducherry observed that proportionality should be maintained for large and small tax evaders and punishment should be in proportion to the amount of tax evasion involved. The Hon'ble Minister from Madhya Pradesh also observed that the big and small crime should not have the same punishment. The Hon'ble Minister from West Bengal observed that economic offences were not the same as offences under the Indian Penal Code (IPC). He further observed that arrest was a serious issue and its provisions were to be used as a last resort. He supported the principle of making a distinction between small and big tax offenders and also expressed support for removing any interpretational clause as a ground for arrest. He also pointed out that even for tax evasion below Rs. 2 Crore, all procedures would be carried out but no arrest could be made. The Hon'ble Minister from Bihar pointed out that if tax collected by a taxpayer was not paid to the Government, it seriously affected the interest of the State as this money could be spent for the benefit of the poor. The Hon'ble Chairperson summed up the two competing viewpoints expressed by the Members: the first view point expressed by Maharashtra and a few others was that if arrest provisions were excessive, it would hurt the sentiment regarding ease of doing business; the second view point expressed by the Hon'ble Minister from Bihar and a few others was that as resources of States were required for economic development, anyone evading taxes should not be shown sympathy. He further added that it was useful to keep into account the statement of the Hon'ble Minister from Bihar that the States and the Central tax laws were being merged and that though VAT laws did not have arrest provision, the Central laws, namely Central Excise and Service Tax had provisions of arrest. He further added that grounds of arrest had been whittled down under Service Tax and a similar approach was being followed in the GST regime and the circumstances of arrest were being limited to those violations which were similar to those in





- criminal law, namely for forgery (fake invoices), breach of trust (failing in the duty to act as agent of the Government to collect and deposit tax into government account) and cheating (moving goods without paying tax). He pointed out that in the new text, no arrest could be made where non-payment of tax was due to dispute in interpretation and that there were sufficient safeguards against harassment, namely that arrest could be only authorized by the Commissioner and tax evasion threshold for arrest was Rs. 2 Crore or more and it was bailable for evasion up to an amount of Rs. 5 Crore.
- iv. The Hon'ble Minister from Bihar pointed out that the Officers' Committee had drafted the law after taking into account the difficulties faced by them. The Hon'ble Minister from Assam observed that arrest should be non-bailable in respect of repeat offenders. The Commissioner, GST Council pointed out that a person could be arrested irrespective of the quantum of tax evasion if he had been convicted earlier for tax evasion. The Hon'ble Chairperson observed that this provision could be revisited and arrest could be provided for repeat offences. The Council agreed to this suggestion. The Hon'ble Deputy Chief Minister of Delhi supported the principle of gradation for taking action and observed that power be available with officers for inflicting punishment even for lower grade of offences so that there was a real fear of punishment against the errant taxpayers.
- v. The Hon'ble Deputy Chief Minister of Delhi raised another issue in relation to the proviso to the explanation contained in revised Section 92(1). He pointed out that this required prosecution to be instituted after the previous sanction of the Central Government which was not desirable in a case where action was initiated by the State tax administration. The Hon'ble Chairperson observed that sanction of the Central Government would be required if action was initiated under the CGST Act and if action was initiated under the SGST Act, sanction of the State Government would be required.
- vi. The Hon'ble Deputy Chief Minister of Puducherry observed that for sanctioning prosecution, a prosecution wing would be needed to decide whether prosecution was legally justified. The Hon'ble Chairperson observed that the States would need to set up internal mechanisms for sanctioning prosecution and could also take the help of legal advisors. The Secretary to the Council explained that while arrest was to be authorised by the Commissioner, prosecution could be launched for other offences where no arrest had been made and for all prosecutions, sanction of a designated authority would be needed. He added that the designated authority could be decided by a notification. The Hon'ble Deputy Chief Minister of Gujarat raised a question whether the designated authority had to mandatorily sanction prosecution in respect of every proposal. The Secretary to the Council clarified that in normal course, the investigating wing would move the proposal to the designated authority who would apply his mind whether or not to sanction prosecution. The Hon'ble Deputy Chief Minister of Gujarat also raised a question whether before sanctioning prosecution, the taxpayer could be given time to pay the





evaded tax amount. The Commissioner, GST Council clarified that there was a provision of compounding of offences under Section 97 of the GST Law under which prosecution could be waived if the evaded amount, as determined by the competent authority, was paid by the accused person as the compounding amount but this facility could be used only once.

- vii. The Hon'ble Minister from Andhra Pradesh observed that there was no arrest provision under the VAT law and incorporating arrest provision under SGST Act, even with the prescribed threshold, would adversely affect the ease of doing business and could create a fear psychosis amongst the traders. He added that this could also cause political problems. The Hon'ble Minister from Karnataka stated that in the last meeting, it was decided to make the arrest provisions more restrictive, and the revised formulation was acceptable, as also was the original formulation. He added that in the proviso to the explanation in the revised Section 92(1), the expression 'Central Government' should be replaced by the expression 'designated authority.' The Council agreed to this proposal.
- viii. The Hon'ble Minister from Kerala observed that it was important to have an understanding whether the provision for arrest was proposed for a commercial offence or a criminal offence. The Hon'ble Chairperson observed that the breaches of the provisions, which attracted arrest, were both commercial and criminal offence, as was the case with smuggling activities. The Hon'ble Minister from Kerala stated that arrest for criminal offence was acceptable and suggested that these could be specified as criminal offences. The Hon'ble Chairperson observed that in the law they were being treated as criminal offence. The Hon'ble Minister from West Bengal supported the view of the Hon'ble Minister from Kerala and observed that arrest should be for such offences which were akin to criminal offence. The Hon'ble Chairperson observed that an alternative way of discussing this issue was that commercial dispute should not lead to arrest and revised draft took care of this concern. After the discussion, the revised formulation presented during the meeting in respect of Section 81 (power to arrest) and Section 92 (prosecution) was approved by the Council with two amendments, namely, (a) arrest could be made for repeat offences; and (b) in Section 92(1), the expression 'Central Government' to be replaced by the expression 'designated authority.'
- ix. **Section 100 (Constitution of the National Appellate Tribunal), Section 101 (Appeals to the Appellate Tribunal), Section 102 (Orders of Appellate Tribunal) and Section 103 (Procedure of Appellate Tribunal):** The Secretary to the Council explained that these provisions related to the Appellate Tribunal (hereinafter called the 'Tribunal') and that the Union Law Ministry had suggested some changes to the existing draft. He invited Shri Upender Gupta, Commissioner (GST), CBEC to explain the proposed changes. The Commissioner (GST), CBEC explained that the changes suggested by the Union Law Ministry related to Section 100 of the GST Law. The first proposed change was that the National Goods and Service Tax Appellate Tribunal





headed by the National President could not be created without assigning it any work and the second proposed change was that the qualifications, eligibility conditions and manner of selection of the Members of the National and the State Tribunals should be prescribed in the GST Law itself and not under the Rules as proposed in the existing draft. He further informed that the Central Government had suggested to the Union Law Ministry that the existing provision under Section 106 of the GST Law under which an appeal against the Tribunal's order relating to the dispute between two or more States or between the Centre and one or more State regarding a transaction being intra-State or inter-State or regarding place of supply, would directly lie before the Supreme Court could be changed and such disputes could be adjudicated by the National President and appeal against it could lie before the Supreme Court. The Hon'ble Minister from Haryana suggested that disputes relating to subject matters of Union Territories could also be handled by the National Tribunal.

- x. The Hon'ble Minister from West Bengal stated that under the existing provision of Section 100 and Section 103 of the GST Law, each State Tribunal was to be headed by a President and that he was to be appointed by the State Government under the SGST Law. Commissioner (GST), CBEC informed that the Union Law Ministry had observed that there could not be a National President and a State President and it had suggested to rename the heads of State Tribunals as Vice President but they would be appointed by the State Government and the State Tribunals could have as many benches as required. The Deputy Chief Minister of Delhi suggested that the head of the State Tribunal should also be called President as otherwise, the structure appeared to be hierarchical with a National President and State Vice Presidents. The Hon'ble Minister from Kerala also suggested that the Presidents of the Tribunal should be appointed by the respective States. The Hon'ble Chief Minister of Puducherry observed that as the Vice President of the State Tribunal was not subordinate to the President of the National Tribunal, he should not be called Vice President. The Hon'ble Deputy Chief Minister of Delhi stated that under the RTI Act, there was State and Central Information Commission and both drew their power from the same law. The Hon'ble Minister from Punjab observed that the jurisdiction of the National and the State Tribunal would be different. The Secretary to the Council explained that it was proposed to have a National Tribunal with State level benches to facilitate creation of coordinate benches whose judgments would have persuasive value for each other and this would help to settle the jurisprudence faster.
- xi. The Hon'ble Minister from Tamil Nadu observed that instead of creating work for a National Tribunal, it could be removed altogether and all disputes could go to the State Tribunals. The Commissioner (GST), CBEC explained that if Tribunals were created under SGST Acts, the CGST Act would need to adopt thirty-one State Tribunals under the CGST Act and instead, it was proposed to create one Tribunal under the CGST Act which could be adopted the by States

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to create State Tribunals under the respective SGST Acts. The Hon'ble Chairperson observed that the option of incorporating State Tribunals under the CGST Act should also be explored and cautioned against creating superfluous Tribunal causing a drain on the public exchequer. The Hon'ble Minister from Haryana pointed out that a National Tribunal would also be needed for disputes relating to Union Territories. The Hon'ble Minister from Bihar suggested that the expression "President of the Tribunal" should be replaced by the term "Chairperson". The Hon'ble Deputy Chief Minister of Gujarat stated that if disputes of Union Territories were heard by the National Tribunal, then the appeal would lie before the Supreme Court and thus the Union Territories would miss out on one level of appeal before the High Court. The Secretary to the Council observed that it would be examined whether appeal in relation to Union Territories should also first go to the High Court before reaching the Supreme Court.

- xii. The Secretary to the Council stated that the selection of the Vice Chairperson of the State Tribunals should be done jointly by the Centre and the concerned State, as appeal against both taxes were to be heard by the State Tribunals. The Council agreed to this suggestion. He further observed that the revised draft relating to the Appellate Tribunal would be shared with the States in advance.
- xiii. The Hon'ble Minister from Haryana raised an issue regarding the status of the Tribunals created under the State VAT Acts. The Hon'ble Chairperson observed that the Tribunals created under the State VAT Acts as well as the Customs Excise and Service Tax Appellate Tribunal (CESTAT) could deal with the old cases.
- xiv. The Hon'ble Minister from West Bengal suggested to give the State Tribunals in law the power of a single bench of the High Court in order to avoid the matters from Tribunals being heard by a single bench of the High Court and then being subjected to an appeal before the Division bench of the same High Court. He therefore suggested to create Tribunal under Article 323 B of the Constitution. Shri Ritvik Pandey, the Commissioner Commercial Tax (hereinafter referred as CCT), Karnataka pointed out that under Section 106 (9) of the GST Act, it was provided that appeal in the High Court shall be heard by a bench of not less than two Judges of the High Court.
- xv. The Commissioner (GST), CBEC raised the issue that the quantum of pre-deposit for filing appeal in Tribunals could be the same as agreed in the last meeting of the Council for the appeal to be filed before the First Appellate Authority, i.e. 20% of the amount of tax in dispute. The Secretary to the Council suggested that logically, pre-deposit at the level of the First Appellate Authority should be lower, i.e. 10% of the disputed tax amount as sometimes assessments at the original level were excessive, whereas if the case had been upheld at the level of the First Appellate Authority, there was a reasonable presumption that the case was strongly in favour of revenue and therefore a higher pre-deposit could be taken for filing appeal before the Tribunal. The Hon'ble Minister from Odisha suggested to keep pre-deposit for appeal in

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Tribunal at 5%. The Hon'ble Minister from West Bengal suggested to keep pre-deposit at 10% each for appeal before the First Appellate Authority and the Tribunal. The Hon'ble Minister from Punjab suggested to keep a higher pre-deposit in order to discourage frivolous appeals and informed that presently, under their VAT Act, it was 25%. The Hon'ble Minister from Karnataka suggested to keep pre-deposit at 20% of the disputed tax amount for appeal before the First Appellate Authority and 10% for appeal before the Tribunal. He observed that for filing appeal in Tribunal, pre-deposit would be effectively 30%. The Hon'ble Chairperson observed that taking pre-deposit of 20% at both levels of appeals made the pre-deposit amount too high. The Hon'ble Minister from West Bengal stated that this would deter frivolous appeals. The Hon'ble Chairperson observed that another option could be to keep pre-deposit at 20% each at the level of the First Appellate Authority and the Tribunal respectively but the Tribunal could be given the power to waive pre-deposit in deserving cases. The Secretary to the Council cautioned that if the Tribunal was given such a discretion, a lot of time would be spent in deciding stay applications before the Tribunal. The Hon'ble Minister from Haryana suggested pre-deposit to be 20% at the level of the First Appellate Authority and 10% at the level of the Tribunal. The Hon'ble Minister from Telangana suggested to keep pre-deposit at 12.5% for filing appeal before the First Appellate Authority and 25% for filing appeal before the Tribunal in order to ensure that only people serious about pursuing an appeal availed this remedy. The Hon'ble Minister from Tamil Nadu enquired regarding the provision of pre-deposit in the Central Excise and Service Tax laws and it was informed that pre-deposit was 7.5% each at the level of the First Appellate Authority and the Tribunal. He observed that raising the pre-deposit amount very high would cause difficulty to traders in view of the existing provisions in the Central Law and suggested to keep pre-deposit as 10% of the disputed amount each at the level of the First Appellate Authority and the Tribunal. The Hon'ble Minister from Karnataka observed that the original adjudication order might suffer from revenue bias but the order at the second level was expected to be more balanced and therefore, for the next appeal, the amount of pre-deposit should be higher. The Hon'ble Minister from Punjab observed that keeping 10% pre-deposit at both the levels would give a big relief to the VAT assesseees and he suggested to keep the pre-deposit as 10% for appeal before the First Appellate Authority and 20% for appeal before the Tribunal. The Hon'ble Deputy Chief Minister of Gujarat suggested to keep the pre-deposit at 10% at both the levels. The Hon'ble Chief Minister of Puducherry and the Hon'ble Ministers from Andhra Pradesh, Bihar and Chhattisgarh supported pre-deposit of 10% for appeal before the First Appellate Authority and 20% for appeal before the Tribunal. The Council agreed that pre-deposit for appeal before the First Appellate Authority shall be 10% of the disputed amount and that for the Tribunal it shall be 20% of the disputed amount.

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- xvi. The Hon'ble Chief Minister of Puducherry suggested to prescribe a time-limit for disposing of appeals. The Secretary to the Council informed that a period of one year had been provided in the law for disposing of an appeal but with a rider that this time limit would apply only in cases where it was possible to do so. The Hon'ble Minister from West Bengal suggested that delay in decision beyond the prescribed period of one year should lead to an automatic decision in favour of the appellant, which was an existing provision in the West Bengal VAT Law. The Hon'ble Chairperson observed that this would not be a desirable provision as delays could be for various reasons, including deliberate acts of the appellant and substantive benefit should not accrue on this basis. The Hon'ble Minister from Telangana suggested to charge a higher amount of pre-deposit if the appellant deliberately prolonged the litigation. The Secretary to the Council observed that it would be difficult to establish deliberate delay. The Commissioner (GST), CBEC further pointed out that there was already a provision of not granting more than three adjournments during an appeal.
- xvii. **Section 105 (Appearance by authorised representative):** The Hon'ble Minister from Tamil Nadu suggested to replace the expression 'Tax Return Preparer' in Section 105 (2)(e) with the expression 'GST Practitioner' as agreed in the 6<sup>th</sup> GST Council meeting held on 11 December 2016. The Council agreed to the suggestion.
- xviii. **Sections 113 – 124 (Advance Ruling):** The Hon'ble Chairperson introducing this provision, explained that the provision of Advance Ruling was often used by those making new investment, say in a manufacturing activity, to determine the rate of duty on the new product with certainty and it helps them in their financial planning. The Secretary to the Council further explained that it was not to be headed by a Judge but to consist of a Committee of tax officers and it also had an appeal provision. He observed that the experience in Income Tax was that advance ruling took a long time to settle as it had become a formal judicial process and he hoped that the proposed arrangement under the GST Law would lead to faster decisions. The Hon'ble Chairperson observed that paucity of Judges had hindered effective functioning of the Advance Ruling Authority in the Central taxation laws and it was hoped that officials familiar with the taxation matters would be able to function more effectively. The Hon'ble Minister from Telangana pointed out that the existing provision under Section 117(7), namely that where the Members of the Appellate Authority for Advance Ruling differed on any point referred to them, it shall be deemed that no Advance Ruling shall be issued, should be changed and that such cases could go to the Tribunal for a decision. Shri P.K. Mohanty, Consultant (GST), CBEC pointed out that the international practice was not to subject decisions of Advance Ruling Authority to appeal before a Tribunal and that after one level of appeal before the Appellate Authority for Advance Ruling, if there was no agreement between the two members of the Appellate Authority, then it would be deemed that no Advance Ruling could be given. The Secretary to the

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Council observed that such cases would be rare and it would be prudent for such matters to go for regular assessment.

- xix. The Hon'ble Minister from Tamil Nadu said that under Section 121, Advance Ruling should also apply to other similar cases within the jurisdiction of the Commissioner of Commercial Tax and suggested to make a suitable amendment in this regard in Section 157. The Hon'ble Chairperson explained that the rulings were given *in personem* and not *in rem*, that is, not to the whole world and therefore, rulings could not apply to other similar cases. The Secretary to the Council further clarified that each ruling was based on the facts of a particular case and it could not be applied to other cases. The Council approved the provisions of Advance Ruling without any change.
- xx. **Sections 125 and 126 (Presumption as to Documents):** The Hon'ble Chairperson explained that this was a standard provision of law that if a document was seized from the custody of a person, its truthfulness was presumed unless proven otherwise. The Council approved these two Sections.
- xxi. **Sections 127 – 136 (Liability to pay in certain cases):** The Council approved these Sections.
- xxii. **Section 137 (Special Procedure for certain processes):** The Hon'ble Minister from West Bengal observed that this provision permitted 'special procedure' for 'certain classes of taxable persons' which was discriminatory amongst the taxpayers. He observed that this provision was to facilitate centralized registration through Integrated Goods and Services Tax (IGST) to encourage ease of doing business, but it was pertinent to remember that in the Goods sector, a taxpayer operating in multiple States was registered in every State. He added that it was not advisable to create an artificial distinction between goods and services, particularly when audit was envisaged for only 5% of taxpayers. He cautioned that providing special treatment to a certain category of taxpayers could lead to litigation by those who were denied such special treatment. In this view, he suggested to delete this provision. The Secretary to the Council explained that sectors like Telecommunication, Financial Services (Banking and Insurance), Airlines, Railways, IT and ITeS had raised several issues relating to registration in individual States. He explained that their main concern was that under GST law, they should be allowed to pool their Input Tax Credit (ITC) so that surplus ITC in one State could be used for payment of tax in another State. He added that as no unanimity could be reached on this issue, it was proposed to have an enabling power for the Council to prescribe a different procedure for certain classes of taxable persons. He suggested that the Council could hear these sectors in the next meeting and then take a decision on the issues raised by them. The Hon'ble Minister from West Bengal stated that if certain sectors of business were allowed to make representations before the Council, then, other sectors should also be allowed to make representations before the Council. He suggested that instead, written representations could be called from them and these could be shared with the Council. Dr. P.D. Vaghela, CCT, Gujarat explained that the Law Committee had discussed the

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issue regarding centralized registration and it was agreed that for multi-State operators like telecom companies, processes like registration and payment of tax would be done in each State but there would be a single return-filing containing details of taxes paid in each State and that there would be a single audit by a team consisting of tax officials of the Central Government and a few State Governments. He added that no agreement could be reached regarding cross-utilization of input tax credit of SGST between States. The Hon'ble Minister from Tamil Nadu observed that if pooling of ITC was the only issue, a separate provision could be made for this and not for other processes like registration, etc. mentioned in Section 137 of the GST Law. The Hon'ble Chairperson stated that the Indian Bank Association (IBA) had made a strong representation for permitting centralized registration. He stated that such a provision could be considered for those sectors whose nature of business was such as to make it a necessity, but no special dispensation was desirable only for certain categories of big taxpayers. The Hon'ble Minister from Jammu & Kashmir observed that the nature of service provided by banks made centralised registration a necessity for them as a credit card could be swiped in one city, the IT Centre could be located in another city and the payment might be made in a third city. He further pointed out that financial services was a growing sector and needed support. The Hon'ble Minister from Haryana observed that keeping an enabling provision for certain categories of taxpayers would be wise as future complexities of the business enterprises could not be envisaged at this stage. The Hon'ble Minister from Tamil Nadu observed that the provision should not be so overarching as to bring all types of taxpayers within its fold. The Hon'ble Chairperson observed that any special procedure could not be size-centric, rather it would depend on the nature of business. The Hon'ble Minister from West Bengal stated that the sectors highlighted for coverage under this provision accounted for a very large per cent of Gross Domestic Product (GDP) of the country and States must have a say in the administration of such sectors. He also observed that the model suggested by Gujarat had not been discussed in the Council. The Hon'ble Chairperson stated that the Council could hear the stakeholders from Banking, Insurance, Information Technology (IT and ITeS), Telecom, Airlines and Railways for one hour in the next Council meeting. The Hon'ble Minister from Kerala stated that the proposal to have a separate special treatment for a class of taxpayers was discriminatory. The Hon'ble Chairperson observed that for a distinct class of persons, a separate procedure was possible but there could be no discrimination between two equally placed persons. The Hon'ble Minister from West Bengal posed a query whether they could be considered as a separate class and the Hon'ble Chairperson observed that if they were unable to show that they were a separate class, then, no separate procedure could be allowed.

xxiii. The Hon'ble Minister from Tamil Nadu suggested that keeping in view the need not to make a distinction between goods and services, this issue presented an opportunity to redefine the provisions relating to place of supply and ITC-





related aggregation. He suggested that the officers could make a revised provision on these two subjects and make a presentation to the business stakeholders and seek their comments. The Hon'ble Chairperson observed that the officers' viewpoint could be heard later but as this section of taxpayers was very important, there would be a value addition if the Council listened to them. The Secretary to the Council explained that the problem for some service sectors arose because of dual administration under GST and that place of supply rules were very well-drafted by the officers of the Law Committee. The concern was regarding excess credit accumulation and multiple auditing and this needed to be addressed. He pointed out that any special procedures made under Section 137 would be on the recommendation of the Council. The Hon'ble Chairperson stated that this section be kept in abeyance and that the stakeholders from Banking, Insurance, Information Technology (IT & ITes), Telecom, Airlines and Railways could be heard in the next Council meeting. The Council agreed to this suggestion.

- xxiv. **Section 138 (GST compliance rating):** The Secretary to the Council explained the rationale of GST compliance rating for taxpayers provided for in this Section. He pointed out that in the GST Law, there was a provision of reversal of ITC in the hands of the recipients where suppliers did not upload invoices within a fixed period of time. He explained that it would help traders if defaulters were identified in advance to alert prospective customers, and keeping this in view, every GST-registered taxpayer would be given a compliance rating. He suggested to replace the word 'shall' with the word 'may' in Section 138(1). The Hon'ble Minister from Tamil Nadu suggested to retain the word 'shall' and pointed out that this provision would be a powerful selling point for GST. The Secretary to the Council explained that GST compliance rating could be given only after one year of implementation of GST once the data had been collected and lack of a compliance rating for one year might be treated as a default if the word 'shall' was used. The Hon'ble Minister from Assam supported the proposal to replace the word 'shall' with the word 'may'. The Council agreed to replace the word 'shall' with the word 'may' in Section 138(1). The Hon'ble Minister from West Bengal stated that different rating bodies assigned different aggregate rates and enquired as to what rating principle would be followed for the taxpayers. The Secretary to the Council explained that such rating would be done by the Goods and Services Tax Network (GSTN) on the basis of the track record of each registered taxpayer. The Hon'ble Minister from Tamil Nadu stated that the Council should have access to the metrics to be used to determine the rating. The Council agreed to this suggestion and it was agreed to amend Section 138(2) by adding the phrase 'by the GST Council' at the end of the sentence.

- xxv. **Section 142 (Disclosure of information required under section 141):** The Secretary to the Council pointed out that in Section 142(3), the maximum limit set for imposing fine was only Rupees One Thousand which was too low and suggested to enhance it to Rupees Twenty-Five Thousand. The Council agreed





- to this suggestion. The Hon'ble Minister from Tamil Nadu observed that the State Government should have equal power to call for information and collect statistics. The Commissioner (GST), CBEC clarified that the law was common for both CGST and SGST and that reference to Commissioner in Section 141 of the SGST Law would mean Commissioner of SGST.
- xxvi. **Section 145 (*Burden of Proof*):** Shri Vivek Kumar, Additional Commissioner, Commercial Taxes, Uttar Pradesh observed that in the original text, the burden of proof was on the taxpayer where he claimed exemption from tax and this provision should be retained. He explained that if a supplier made one supply valued at Rs. 15 Lakh and he was within the threshold limit, there would be no prescribed records to check the value of his other supplies and in this situation, the burden of proof should lie with him to prove that his earlier supplies in the same financial year amounted to less than Rs. 5 Lakh. The Hon'ble Chairperson observed that the burden of proof in such a situation would lie with the Department and observed that there were several judgements of Courts that assessments were quasi-criminal in nature and so, the onus of proof lay on the department. The Council agreed not to make any change in the provision.
- xxvii. **Section 155 (*General power to make Regulations*):** The CCT Tamil Nadu pointed out that there were certain blanks in Section 155(2) which needed to be filled up. The CCT, Karnataka explained that this sub-section was kept for any Regulation that might be made in respect of the Tribunal and the Advance Ruling Authority and that the relevance of this Section would be determined after the GST Law was finalized.
- xxviii. **Section 163 (*Anti-profiteering Measure*):** Introducing this section, the Secretary to the Council explained that while implementing GST, some taxpayers could indulge in profiteering in two different ways. One situation was that a retailer might not pass on the benefit of ITC of the embedded Central Excise duty component on a good allowed under the transitional provision of the GST Law and charge the customer the cumulative tax of CGST and SGST claiming that both taxes had been imposed under the new GST Law. Second situation could be a case where tax rate on a commodity was lowered in GST as compared to the existing combined rate of tax of Central Excise and VAT but the benefit of lower tax was not passed on to the customer by a commensurate reduction in the price of the commodity. He pointed out that the Malaysian GST Law also had an anti-profiteering provision which provided that the margin of profit of traders after introduction of GST should be the same as before its introduction. He explained that this provision was not successful because the Malaysian GST Law was passed a few months before the actual GST rollout and the traders used this time to doctor their books of account to show a higher margin of profit during the period before the GST rollout. He stated that this Section was only an enabling provision, which could serve as a warning to traders. The Council could also decide to entrust this work to the District Consumer Forum or to the Competition Commission at the national level. The Hon'ble Minister from Haryana stated that this clause was





successfully implemented in Australia by the Australian Competition and Consumer Commission (ACCC) which maintained a list of items brought under GST and their prices were monitored on a daily basis through a software and this helped to check inflation and price-rise. He warned that without implementing this provision, GST could be a failure and suggested that in Section 163(1), the word 'may' should be replaced by the word 'shall'. He also stated that it was desirable to create a body like ACCC with a proper database. The Hon'ble Chairperson observed that if the anti-profiteering authority was not to be created under the GST Law, then the phrase 'by law' used in Section 163(1) could be replaced by the expression 'on the recommendation of the Council by a notification'. The Council agreed to this suggestion. The Hon'ble Minister from Tamil Nadu observed that it would be laudable to create this institution and suggested to replace the word 'may' in Section 163(1) with the word 'shall'. The Hon'ble Chairperson observed that the word 'may' coupled with the exercise of a duty would be read as 'shall' and that the authority could be created by a regulation under Section 163 or the responsibility could be entrusted to the Competition Commission of India. The Hon'ble Deputy Chief Minister of Gujarat wondered whether the provision would apply for all goods. The Hon'ble Chairperson observed that the provision would apply to goods where duty was reduced but the cost was not reduced. The Hon'ble Deputy Chief Minister of Gujarat observed that reduction in cost due to reduction in duty could only be a one-time phenomenon and in the long run, there would be increase in the cost of a product due to various factors like increase in input cost, labour cost, etc. and reduction of cost would not be possible under these circumstances. He added that this provision should be read in conjunction with the provision of Section 169(1)(ii) which stipulated that the taxable person would need to pass the benefit of ITC received for inputs held in stock by way of reduced prices to the customer. Shri Tuhin Kanta Pandey, Principal Secretary (Finance), Odisha observed that the objective was laudable but its implementation could be challenging as the authority could be swamped with representations in a situation of rising price which could be on account of various reasons and it would be a challenge to determine whether it was due to non-passing of the benefit of ITC. The Hon'ble Minister from Punjab stated that the provision could also create a fear amongst the traders that the government was monitoring the price situation. The Hon'ble Minister from Karnataka observed that there was an agreement in the Council about the need to pass the benefit of lower tax to the consumers and any challenge relating to verification could not be a reason to remove this provision altogether. He further added that the law was very specific that this provision would apply only when the rate of tax was altered and not in other circumstances. The Hon'ble Chairperson observed that difficulty in implementation could not be a ground to remove this provision. The Hon'ble Minister from Tamil Nadu suggested having a system of self-regulation entrusted to associations as was done in the micro-finance sector when the Reserve Bank of India reduced the

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rate of interest for micro-finance sector. The Hon'ble Minister from West Bengal stated that during stakeholder consultation, some big industrialists had stated that passing of the benefit of duty reduction would be addressed through competition in the market. He stated that the concern of the Hon'ble Deputy Chief Minister of Gujarat as to how prices of a large number of commodities would be monitored was valid. He stated that an institution like the Competition Commission of India might not have sufficient number of economists to do this job. He suggested that the law should contain the power and the authority and create the wherewithal to monitor prices of a large number of commodities when rates of taxes could shift between six slabs of tax rates. He further observed that in Australia, such a body could be successful as Australia has a formal market economy whereas India faced various challenges like a large segment of informal economy as also presence of a large number of small and medium enterprises, unregistered units and exempt farming sector and that if such a provision was to be adopted, it must be implemented with seriousness. The Hon'ble Minister from Kerala stated that there must be a mechanism for monitoring prices and it should be transparent. The Hon'ble Chairperson stated that at this stage, it was only an enabling provision and that the exact formulation of words would be done in the relevant Regulation. The Hon'ble Chief Minister of Puducherry observed that the Regulation should be brought back to the Council for approval. Shri P. Marapandiyan, Additional Chief Secretary, Kerala informed that during the introduction of VAT, the Empowered Committee (EC) had several meetings with traders who promised that the reduction in duty would be passed on to the consumers but it was not done and therefore, a body should be created to monitor this. The Secretary to the Council observed that the requirement for passing the benefit of ITC to the consumers was only in the transitional provision in Section 169(1)(ii) and that it would be advisable to mandate the requirement of passing the benefit of duty reduction to the consumer in the relevant provisions other than the transitional provisions. The Council agreed to this suggestion.

- xxix. **Section 164 (Repeal and saving):** The CCT, Andhra Pradesh questioned the logic of not mentioning the VAT Act and CST Act in Section 164(2). The CCT, Karnataka explained that VAT and CST on petroleum products and alcoholic liquor for human consumption would continue and therefore, it was kept in Section 164(1). The CCT, Andhra Pradesh also raised the issue of audit relating to VAT in the years subsequent to implementation of GST. The CCT, Karnataka pointed out that Section 164(1)(e) gave the enabling power for audit. The Hon'ble Minister from Haryana suggested to add the words 'or after' following the word 'before' in Section 164(1)(f). The Consultant (GST), CBEC pointed out that such a provision was already contained in Section 182. The Hon'ble Minister from Haryana suggested to harmonise the provisions of Section 164(1)(f) and Section 182. The Council agreed to this suggestion.
- xxx. **Section 167 (Amount of CENVAT credit carried forward in a return to be allowed as input tax credit):** The Principal Secretary (Finance), Odisha pointed





out that in Section 167 as also in Section 169 and 171, carry-forward of credit under VAT was allowed but they had no provision of carry forward of entry tax and therefore, rationale for keeping it under the SGST Law was not clear. The CCT, Karnataka explained that credit of entry tax was available in some States like Gujarat and therefore, it was indicated in brackets and it would be included in the SGST Laws only of those States.

- xxxi. **Section 169 (Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations):** The Hon'ble Minister from Punjab stated that in their State VAT Law, there was a single point of taxation for some Fast Moving Consumer Goods (FMCGs) and tax embedded in the stock of such goods in the retail chain should also be available as ITC. The CCT, Karnataka explained that excise duty was also embedded in the stock of goods lying with the retailers as it was part of the Maximum Retail Price (MRP) and that this Section had a provision for allowing ITC on deemed basis for such embedded excise duty. He stated that the Rules Committee of Officers could also look at allowing ITC of embedded VAT through Rules to be made in this regard.
- xxxii. **Section 2(10) (Definitions):** The Hon'ble Minister from West Bengal stated that the definition of works contract should cover both movable and immovable property as was the case in the original text of the Model GST Law. He gave an example that the building of bus body on a chassis was also a Works Contract. The Council agreed that the Law Committee of officers would look into it.
- xxxiii. **Section 4 (Classes of officers under the Central/State Goods and Services Tax Act) and Section 5 (Appointment of officers under the Central/State Goods and Services Tax Act):** The Hon'ble Minister from West Bengal pointed out that Section 4(2) relating to SGST provided that jurisdiction of officers other than Commissioner shall be specified by the Commissioner whereas in Section 5(2), it was provided that the jurisdiction of officers other than Commissioner shall be specified by the State and that this contradiction needed to be addressed. The Council agreed to this suggestion.
- xxxiv. **Sections 165 – 197 (Transitional Provisions):** The Hon'ble Chairperson observed that these were technical provisions relating to transition from the existing Central and State tax laws to GST and these could be tentatively approved, and if there were any suggestions, these could be sent in writing before the next meeting of the Council. The Council agreed to this proposal.
- xxxv. **Schedule I (Matters to be treated as supply even if made without consideration):** The Secretary to the Council explained that this Schedule specified that certain supplies made without consideration such as supplies within companies or by an employer to employee would be treated as supply under the GST Law. The Council approved the Schedule.
- xxxvi. **Schedule II (Matters to be treated as supply of goods or services):** The Secretary to the Council explained that in order to avoid dispute, in this Schedule, certain supplies were designated as supply either of good or supply

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- of service. The CCT Gujarat pointed out that in the 5<sup>th</sup> Council meeting held on 2-3 December 2016, it was decided that supplies of works contract (Clause 5(f) of Schedule-II) and restaurant (Clause 5 (h) of Schedule-II) shall be treated as composite supply on which all provisions relating to services shall apply. He therefore suggested to revisit the need for Clauses 5(f) and 5(h) of Schedule II. The Council agreed to the suggestion and approved the rest of the Schedule.
- xxxvii. **Schedule III (*Activities or transactions which shall be treated neither as a supply of goods nor a supply of services*):** The Secretary to the Council explained that this Schedule treated certain transactions neither as a supply of goods nor as supply of services. The Commissioner, GST Council suggested an addition to Clause 4 of the Schedule namely, 'or any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947.' However, he later added that this could also be exempted by way of notification and the Council agreed to this suggestion.
- xxxviii. **Schedule IV (*Activities or transactions undertaken by the central government, a state government or any local authority which shall be treated neither as a supply of goods nor a supply of services*):** The Secretary to the Council explained that under this Schedule, certain activities undertaken by any Government was to be treated as neither a supply of goods nor a supply of services. He recalled that the Hon'ble Minister from West Bengal had also made a suggestion for an addition in this Schedule. He explained that under the Finance Act, 2015, all services provided by the Government to private entities were made taxable on reverse charge basis except those exempted by various notifications as compiled in the Circular No. 192/02/2016-Service Tax dated 13 April 2016 issued by the Tax Research Unit (TRU), Department of Revenue. He gave an example of Service Tax leviable on the right of way given on Government land for laying pipelines. The Hon'ble Deputy Chief Minister of Gujarat informed that pipelines of companies like Gas Authority of India Limited (GAIL), Oil and Natural Gas Corporation (ONGC), etc. were permitted to be laid on Government land without charging any rent or charge. The Hon'ble Deputy Chief Minister of Delhi observed that the same principle was followed for laying fibre optic cables. The Secretary to the Council explained that exemption to Government activities/services through a Schedule in the Act was very inflexible and it would be desirable to operate these exemptions through a notification so that greater flexibility could be exercised in bringing certain services in the tax net at a future date without making an amendment to the GST Law. He, therefore, suggested to delete Schedule IV except the entry at Clause 4 (relating to exemption to Government Services for diplomatic or consular activities, citizenship, etc.) and to take a decision in the Council that all the Government services listed in Schedule IV shall be exempted through a notification. The Hon'ble Deputy Chief Minister of Gujarat observed that several Special Purpose Vehicles (SPVs) fully owned by the Government had been created to carry out work like State road services,





metro planning, urban development planning, etc. and these should not be taxed. The Hon'ble Minister from West Bengal drew attention to his suggestion made in the 5<sup>th</sup> meeting of the Council held on 2-3 December 2016 that any licence fees, user charges, and other fees arising out of statutory compliances and related to State welfare and development measures should be included in Schedule IV, and that this was duly approved by the Council. He stated that this formulation took care of the new services that might be provided by the Government in the future. The Hon'ble Deputy Chief Minister of Gujarat supported this proposal and stated that in the Smart City Project, Government was to provide wi-fi to the cities and this should not be subject to Service Tax. The Secretary to the Council suggested that the clause suggested by the Hon'ble Minister from West Bengal, with suitable modification, could also be added in the exemption list under the proposed notification. The Hon'ble Minister from Tamil Nadu stated that there were certain services which should be legitimately attracting service tax like spectrum sale on which the Central Government had removed service tax only a few months back knowing fully well that GST was around the corner and this would lead to loss of Service Tax to the tune of about Rs. 10,000 Crore. He suggested to bring such services back in the Service Tax net. The Secretary to the Council clarified that spectrum sale had been subject to Service Tax from the current year and that the TRU Circular dated 13 April 2016 circulated in this meeting only clarified certain exemptions and clarifications given by the Central Government. The Hon'ble Chairperson observed that there would be greater flexibility to control the entire universe of Governmental services through an exemption notification rather than through a Schedule in the GST Law as the latter would require amendment in thirty-two Acts every time a Governmental service was required to be brought under the tax net. The Hon'ble Deputy Chief Minister of Delhi agreed to the suggestion. The Hon'ble Minister from West Bengal stated that the notification should be placed before the Council for approval. The Hon'ble Deputy Chief Minister of Delhi and the Hon'ble Minister from Bihar supported this proposal. The Council agreed that the notification containing the exemptions of Government services shall be placed before the Council for approval. The Secretary to the Council stated that the Council could agree upfront that no tax would be chargeable in respect of entries contained in Schedule IV. The Hon'ble Minister from West Bengal suggested to have an in-principle statement based on the formulation that he proposed earlier. The Secretary to the Council stated that using this formulation might lead to an interpretation in which license fees for spectrum could become non-taxable and therefore, the formulation suggested by the Hon'ble Minister from West Bengal needed some redrafting. The Hon'ble Minister for Karnataka stated that while he agreed with the flexibility principle by bringing Schedule IV in a notification, one advantage of keeping these items as neither supply of goods nor of services was that the suppliers of Government services would not be required to take registration if they were also making small

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quantum of taxable supply. The Commissioner(GST), CBEC amplified that in the GST law, registration had to be taken if aggregate turnover of a supplier, including the exempt supplies, crossed Rs. 20 lakh and that if a government hospital, whose value of supply of exempted health services was say Rs. 50 lakhs and it also rented out a shop for an annual rent of Rs. 5 lakh, the government hospital would require to be registered and pay tax on the rent received. The Hon'ble Minister from Telangana suggested to include *Anganwadis*, issuance of caste certificates and occupancy certificate under the exempted category. The Hon'ble Minister from Haryana stated that he supported the proposal of the Hon'ble Minister from West Bengal to provide for exemption of tax for specified Government services in the Schedule itself. He added that if a decision was taken to adopt the exemption route, and consensus was not reached in the Council for exempting certain Government service, then it would become liable to tax. He suggested an alternative that a generic protection to Government services from tax might be kept in the Schedule and in addition, also provide a scope to exempt certain Government services that might arise in future through an exemption. The Secretary to the Council suggested that another option could be to keep Schedule IV and to provide under it that the Government on the recommendation of the Council would notify a list of services provided by the Government for which there would be no requirement of registration. The Hon'ble Minister from Tamil Nadu observed that the way Schedule IV was presently worded seemed to be a denial of reality. He suggested that instead of stating that Services under Schedule IV were not service, it would be more appropriate to state that such services were 'excluded' from GST. He also pointed that there was already a provision for exemption of services through a notification in Section 3(4)(c) of the GST Law. The Hon'ble Minister from Andhra Pradesh observed that the issue was whether exemption for Government services should be in a Schedule or in a notification and he expressed his agreement to provide for exemption through a notification. The Hon'ble Chairperson suggested that the Officers' Committee might examine Schedule IV and to suggest a draft formulation that the services mentioned in Schedule IV (except those mentioned in Clause 4) to be exempted through a notification and that such notification shall be issued on the recommendation of the Council.

8. The Hon'ble Chairperson observed with satisfaction that the Council had completed one reading of the entire GST Law. He recalled that there were certain outstanding issues in regard to the GST Law and invited Members to discuss and take a decision on them. The important points discussed in respect of the outstanding issues are as follows:

- i. **Section 2(7), 2(8) and 2(106) (Definitions):** The Commissioner, GST Council brought to the notice of the Council that in the 5<sup>th</sup> meeting of the Council, a revised definition of 'agriculture' was approved by the Council which had broadened the definition of agriculture contained in the GST Law and had included all the





categories excluded earlier such as dairy farming, poultry farming, stock breeding, etc. He further pointed out that in the 6<sup>th</sup> meeting of the Council, the Hon'ble Deputy Chief Minister of Gujarat had requested to revisit this definition as the new definition would lead to substantial loss of revenue. Starting the discussion, the Hon'ble Deputy Chief Minister of Gujarat stated that the definition of 'agriculture' should not be kept as wide as in the revised formulation. He added that 'agriculturist' should not cover manufacturers of processed agricultural products. The Hon'ble Minister from Punjab suggested to define 'agriculture' as only primary produce from the land and the processed products should be subject to tax. The Hon'ble Minister from Maharashtra stated that his concern was similar to that expressed by the Hon'ble Deputy Chief Minister of Gujarat. He pointed out that by keeping the definition of 'agriculture' very wide, industrialists operating in 'agriculture' sector, like big centres of horse breeding and chicken processing would get the benefit of tax exemption. He suggested that the definition of 'agriculturist' should be limited to one who ploughed the land. The Hon'ble Minister from Telangana observed that income tax applied to dairy farming and poultry farming. The Hon'ble Minister from Haryana suggested that exemption for Agriculturist should be available to anyone who carried out primary production on land and it should cover small, marginal farmers as well as those carrying out contract farming. The Hon'ble Minister from Tamil Nadu suggested to distinguish agriculture products on the basis whether a product underwent a physical change or a chemical change. He added that by this method, processed chicken would be an agricultural product but a product made out of milk like cheese would not be an agricultural product. The Hon'ble Minister from Karnataka stated that if the definition of 'agriculture' in one law was kept too wide, it would have ramifications in other laws. He suggested to keep the definition of 'agriculture' narrow and then adopt the exemption route. The Hon'ble Minister from Maharashtra stated that exemption limit of Rs. 20 lakh of annual turnover would help actual producers to be out of the tax net but bigger industrialists should not be given the benefit of tax exemption. The Hon'ble Minister from Andhra Pradesh suggested to include fish farming in the exempted category. The Hon'ble Minister from Tamil Nadu suggested to define agriculture product which could be exempt and not to define agriculture. He informed that in Tamil Nadu, there was tax on sugar cane and this would go out of the tax net if a wide definition of 'agriculture' was adopted. The Hon'ble Minister from Kerala expressed agreement with the wider definition of 'agriculture' and suggested that conservation of soil and water shed management should also be added to the definition of 'agriculture' as these formed the basis of agriculture. The CCT, Gujarat informed that the idea behind defining 'agriculturist' was to exempt farmers from registration under GST and if it was not provided, then growers of sugarcane or groundnut would need to take registration and pay tax. He stated that on such products, tax could be charged on reverse charge basis. The Hon'ble Minister from Telangana observed that the business of agriculture was very uncertain and sometimes, a single virus-attack would kill large number of poultry, buffaloes, etc. and therefore, he suggested

  
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