



Office of the Principal Chief Commissioner of Central Tax (GST)

Bengaluru Zone

CR Building, No. 1, Queen's Road, Bengaluru- 560001

केंद्रीयकरकेप्रधानमुख्यआयुक्तकाकार्यालय

बेंगलुरुक्षेत्र

सीआरबिल्डिंग, नंबर 1, क्वीनरोड, बेंगलुरु- 560001

C. No. IV/ 16/ 67/2017 CC CEX (BZ)

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Date: 25.01.2018

**MINUTES OF THE COMBINED GST REGIONAL ADVISORY COMMITTEE (RAC) QUARTERLY
MEETING (1ST AND 2ND QUARTER) OF CENTRAL TAX, BENGALURU ZONE HELD ON
11th October 2017.**

A Meeting of the Regional Advisory Committee for Bengaluru Central Tax Zone was held on 11th October 2017 at 16.00 Hours. The venue was the Ground Floor Conference Hall of the Central Revenue Building, Queen's Road, Bengaluru. Shri. M. Vinod Kumar, Principal Chief Commissioner presided over the meeting. The list of Officers and Members of Trade present in the meeting is listed in the annexure.

The Principal Chief Commissioner of Central Tax welcomed all who had arrived to participate in the meeting and requested them to introduce themselves. present and the participants were requested to introduce themselves. Thereafter, the RAC Members were invited for discussion on the issues that were of concern, starting with the points that had been communicated in writing in the lead up to this meeting.

The matters which were raised and discussed were the following: -

I. Points raised by M/s Biocon Ltd., Bengaluru were presented by Shri. Akella AS Prakasa Rao, GM (Commercial), M/s Biocon Ltd., :

Point 1: Cash Payment: While depositing cash to pay the GST, the assessee is required to deposit it specifying the particular accounting head viz., CGST, SGST, IGST etc. This, he said, results in lock up of funds in case of any clerical error made at the time of deposit.

Member's Suggestion: The cash deposited should not be assigned to any of the tax accounting codes viz., CGST/SGST/ IGST till the assessee is allocating to any of these heads in GSTR-3 or GSTR-3B.

Department's Reply on the Point: The Chairman informed that in the way the entire scheme is devised, the GST amount is required to be deposited by specifying a particular accounting head. The issue of depositing without assigning particular accounting head is not permitted in law. Chairman also informed that, if any amount has been credited to the wrong heading, the same can be claimed as refund and the refund mechanism is expected to be ready on the GSTN Common Portal in the near future.

Point 2: Revision of GST returns before submission with DSC: GSTN allows uploading of the data, before the final submission is made using digital signature. But, there is no option to revise the data

submitted before the final submission using DSC. This is creating problems particularly in case of GSTR-3B when the tax amounts are declared wrongly due to clerical errors.

Suggestion: The assessee should be allowed to revise the details in the returns till the returns are filed/ submitted using the digital signature.

Reply : The GSTN Common Portal provides for the facility to save the entries inputted while the is being filled out.. Once the data entry is made, the portal provides for a preview of the return. If on preview the inputted or keyed in return data is found to be correct, only then, the submit button is to be clicked. Once the "submit" button is clicked, it is not possible to change or edit the data any further. The premise is that at the time of entering the data, due care has been taken and when the submit button is pressed, it has been done after due consideration. The process flow expects that the operator would thereafter proceed to the next step of filing the return by duly appending his/ her digital signature. The Chairman informed that the taxpayers are advised to make all necessary changes at the time of preview stage of the return itself, before submitting the return. The portal also gives sufficient prompts that clicking the submit button disables any further modifications. Keeping in mind that at some point in this exercise of uploading and filing of data, the matter has to reach a stage of finality, there appears to be little to persuade the addition of any more steps, without making the return process longer than desirable in some views.

Point 3: Rationalization of GST tax rates under HSN: Currently different GST rates are applicable for the same HSN resulting in confusion and operational challenges.

Suggestion: GST requires the HSN at four digits only and hence the GST rates should be aligned at 4 digit level (that is at Chapter heading and sub-heading level)

Reply: In GST, a broader level classification is provided at the four digits level of the HSN, when compared to the practice in Customs or in the Central Excise domains. Members of the RAC were requested to indicate specific HSN codes where the present methodology is leading to problems of the nature suggested.. Suitable remedial course could then be examined and submitted as a suggestion to the Council/ CBEC, once such specific examples are made available.

Point 4: Invoice generation in GSTN: GST is designed in such a way that the assessee uploads his sale in GSTR-1 and the purchases are auto populated by GSTN, which are then to be accepted by assessee in GSTR- 2, after these have actually been received. Then ITC is auto populated after matching of transactions in GSTR-3. Filing 3 online returns every month for a single registration fails to enhance the ease of doing business.

Suggestion: Number of returns to be filed in a tax period to be reduced. If GST invoice is allowed to be generated on the GSTN, then there will not be requirement of filing GSTR-1. This will result in uniformity of invoicing, clarity in terms of GST rates and the classification and avoids future litigation.

Reply: This flexibility could be had through the GSP developing an appropriate module. However, this issue is flagged to be referred to the appropriate authority on how the ease of doing business could be further enhanced by re-examining the periodicity of the return.

Point 5: Refund for Exporters: - Delay in refund of IGST tax amount to exporters creating working capital blockage & increase the cost of capital thereby reducing the competitiveness of goods across borders.

Suggestion: To expedite the process of refund of GST to exporters.

Reply: The Chairman informed that the GST Council's 22nd meeting at New Delhi on 6th October 2017 has announced major relief packages for exporters, which included the point relating to expeditious disposal of refund claims that have been filed. The process of making refunds to exporters has already started at the Air Cargo Complex, Bengaluru from 10.10.2017 itself.

Updated position: Refunds are being processed in accordance with Circulars 15/15/2017-GST dated 15.11.2017 and 24/24/2017-GST dated 21.12.2017 and instructions have been issued to accord due priority to the matter.

Point 6: GST credit accumulation in SEZ units: In the past, where ever Suppliers to SEZ units are not able furnish bond/LUT, such suppliers supply goods on payment of IGST. SEZ unit avail credit of IGST and would get accumulated as the output supplies are zero rated and there is no option for SEZ unit to claim back such IGST.

Suggestion: Provision for claim of refund of such IGST amount paid at the time of inward supplies may be enabled.

Reply : - The Chairman informed that in terms of Notification No. 37/2017- Central Tax, dated 4th October, all registered persons who intend to supply goods or services for export without payment of integrated tax are eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence in the specified Acts; and that provisions of this Notification have been made applicable, mutatis mutandis, in respect of zero - rated supply of goods or services or both made by a registered person (including a Special Economic Zone developer or Special Economic Zone unit) to a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax. In addition, there also exists a provision under Section 54 of the CGST Act for refund of unutilized Input Tax Credit. The taxpayers could consider using any one of the available options in the situation.

Point 7: In-bond sales in GST : In-bond supplies to DTA are attracting double taxation. Once at the time of making the in-bond sale by the supplier who filed the into Bill of Entry and another at the time of filing ex-bond Bill of Entry for home consumption by the recipient. It is not clarified that the procedure envisaged for High Sea Supply need to adopted for In-bond sales as well.

Suggestion: Procedures for In-bond sales need to be clarified to avoid double taxation.

Reply : Circular No 33/2017 Cusdt 01.08.2017, clarified on the impost of IGST on High Sea Sales of imported goods stating that 'High Sea Sales' is a common trade practice whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. After the High sea sale of the goods, the Customs declarations i.e. Bill of Entry etc. is filed by the person who buys the goods from the original importer during the said sale. It was clarified that The importer (last buyer in the chain) would be required to furnish the entire chain of documents, such as original Invoice, high-seas-sales-contract, details of service charges/commission paid etc, to establish a link between the first contracted price of the goods and the last transaction. This particular circular refers to decisions of the GST council in the context and gives a sense of what needs to be done while making a 'High Sea Sale' in terms of payment of IGST/GST.

Updated position: Circular No 46/2017-Customs dated 24.11.2017 has made a further clarification on the matters connected with levy of IGST/GST on goods transferred/sold while being deposited in a warehouse.

Point 8: Amendments in GSTN : GSTN permits amendment in Core & No-core fields using the existing authorised signatory's DSC. It is not permitting to file the application using Digital Signature Certificate (DSC) of a new authorised signatory. This is creating operational/legal challenges in cases where the authorised signatory left the organisation and an amendment is required in GSTIN.
Suggestion: GSTN to allow using the DSC of a new authorised signatory of the Assessee.

Reply: The Chairman informed that the problem has since been resolved. Trade suggestion for alternate DSC at the time of Registration will be taken up with the appropriate authority for consideration.

Point 9: Double taxation on GTA services : As per Section 9(3) of CGST Act, if a corporate assessee is the recipient of Goods Transport Agency (GTA) services and liable to pay the freight amount, such corporate would be liable to pay GST on Reverse Charge mechanism (RCM) at the rate of 5% GST (combined rate). If the GTA is registered under GST and not availing Input tax credits, then they are liable to charge GST at the rate of 5% (combined rate) on the forward charge. It is not clear that in the latter case, whether the corporate is liable to pay GST on RCM also. If so there would be double taxation.

Suggestion: To remove the anomaly in GTA notification resulting in double taxation by way of clarification.

Reply : The Chairman informed that as per Section 9(3) of the CGST Act read with Notification No 13/2017 Central Tax (Rate) dated 28.06.2017 and Notification No 22/2017 Central Tax (Rate) dated 22.08.2017, taxable supplies made by a Goods Transport Agency who has not paid GST at 6% will be liable to be taxed on reverse charge basis at the recipient end; the liability to pay such a tax for specified persons under Reverse Charge Mechanism arises only when the GTA has not paid the GST of 6%; that the question of double taxation may not arise at all as it is either the GTA who pays the tax at 6% or the tax will be paid by the specified recipient on reverse charge basis.

Point 10: Taxability of employee transportation: Pickup and drop transportation facilities are provided to employees by the assessee in course of business. The transporter of such services are not categorised as rent a cab operator nor is it a service of transportation of passengers.
Suggestion: Clarification required for availment of GST credits on the input services received from such transporter.

Reply : The Chairman said that only those credits that are permissible in terms of Section 17(5) of CGST Act, would be available on motor vehicles and other conveyances.

Point 11: Legal Services to SEZ : Legal services are received from the individual advocates or legal firms fall under reverse charge mechanism. If such services provided to SEZ units, the taxability is not clear in the hands of SEZ as the service provider is not registered and he cannot furnish bond/LUT.
Suggestion: Clarification is required on this issue.

Reply : The Chairman informed that the SEZ can pay the appropriate tax by reverse charge method and may claim refund under Section 54. In this regard, Notification No. 5/2017 CT dated 19.06.2017 read with Notification No. 4/2017 IGST dated 28th June 2017 can be referred.

Point 12: Speeding up of the past litigation : There are many pending SCNs at various stages of adjudication, wherein substantial funds are involved. Since all old laws are repealed, we need to expedite the adjudication process.
Suggestion: A special cell to clear the old pendency with clear timelines will help the trade.

Reply: The Chairman informed that steps have been taken to expedite the clearance of legacy issues.

II. Points sponsored by M/s CREDAI Bangalore: Shri. R Nagaraj presented the points for discussion:

Point 1: Whether a developer who has executed 2 separate agreements with customers- One for selling the undivided share in land and another for constructing flat can opt for paying GST under the classification (ii) composite supply of Works Contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017- @ 18% on consideration under the agreement to construct? or Is it compulsory for all the developers to pay tax under entry (i) Construction of a Complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier @ 18 % of 2/3rd of total consideration including consideration for land?

Reply: Chairman informed that the issue is to be analysed with reference to each of the project and there cannot be any generic formulation without paying heed to particular facts in question as practices vary. He suggested that the issue can be taken up with the Jurisdictional Commissioner of GST along with relevant agreements and contracts for determining the most appropriate course of action for the matter at hand.

Point 2: Whether a developer paying GST under entry (i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation can avail input tax credit on works contract services rendered by his sub-contractors since section 17 (5) (c) provides that input tax credit shall not be available in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

Reply : Chairman informed that the issue is to be analysed with reference to each of the project and suggested to take up the issue with the Jurisdictional Commissioner of GST along with relevant agreements and contracts.

Point 3: Whether a developer paying GST under entry (i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation is required to reverse proportionate input tax credit by treating 1/3rd of the total consideration as exempt supplies in terms of Section 17 (2) and 17 (3) .

Reply : Chairman informed that the particular supply remains taxable at the value arrived at in terms of Notification No:11/2017-CT (Rate), dated 28.06.2017. It appears that abatement in terms of the notification above, in situations of such supply, to take care of the value of land or undivided share of land, as the case may be, would not attract Section 17(2) and 17(3) of CGST Act, 2017.

Point 4: Whether GST is applicable on sale of TDR?

Reply : Chairman informed that GST is applicable on sale of TDR as it is a script which is traded and this scrip is essentially similar in nature to a DEPB Scrip. Earlier there was dispute whether the sale of

these scrips would amount to sale of goods or not. This dispute was resolved by the Hon'ble Supreme Court of India in the case of Yasha Overseas v. Commissioner of Sales Tax [2008-TIOL-97-SC-CT]. This decision was given in context of DEPB Scrip and it was held that these scrips have an intrinsic value that makes it a marketable commodity. Due to this, it qualifies to be 'Goods' within the meaning of GST acts. For further guidance on this issue, reference can be made to the FAQs posted at

<http://www.cbec.gov.in/resources/htdocs-cbec/gst/GST-Rate%20FAQs%2027.07.2017%20after%20Fitment%20Committee.pdf>

Point 5 : Whether advocates who are paying fees to Senior Advocates is required to obtain registration under GST and pay GST on Reverse Charge?

Reply : Chairman informed that the matter has been clarified vide CBEC press release dated 15th July 2017 available at <http://www.cbec.gov.in/resources/htdocs-cbec/press-release/legal-services-15072017.pdf>

Point 6: Whether input tax credit can be claimed on repairs of motor vehicles?

Reply : Chairman informed that Input Tax Credit can be claimed on motor vehicles subject to limitations and proscriptions indicated in Section 17 (5) of the CGST Act. .

Point 7: Is GST applicable on plotted development (Layout development) and sale?

Reply : Chairman informed that the same is taxable at the appropriate rate and value

Point 8: Corpus collected on Apartment owners association –Whether liable for GST

Reply : Chairman informed that if such Corpus collected in the nature of maintenance charges, it is liable to GST.

Point 9: The rate of GST on the following is reduced to 12% vide Notification No 20/2017 dated 22nd August 2017 :-

Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-

(a) railways, excluding monorail and metro;

(b) a single residential unit otherwise than as a part of a residential complex;

Since the term : “residential complex” is not defined in the notification. But the same is referred in Notification 12/2017 as follows :

“residential complex” means any complex comprising of a building or buildings, having more than one single residential unit;

“single residential unit” means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family;

In the circumstances it may be clarified as to :

1. Whether the villas in gated community project can be treated as not a part of residential complex and taxed at 12% ?

2. Whether the rate of 12% is applicable only to contractor or developer as well?

Reply : The Chairman informed that the villas in gated community is part of multifamily residential complex and is therefore to be charged to 18% GST. The rate of 12% applies to contractors who are doing Works Contract.

Point No. 10 : In the context of GST Rate Notification No. 11/2017-CT (Rate) dated 28.06.2017, whether rates given in the notification are mandatory or optional? Whether 'builder/developer' is eligible to opt for the rate as the supplier of 'works contract'? Why can the builders not take abatement for land value as per guideline / market value?

Reply : Chairman informed that the issue is to be analysed with reference to each of the project and suggested to take up the issue with the jurisdictional Commissioner of GST along with relevant agreements and contracts.

Point 11: Why the provisions of section 15 of CGST Act, 2017 pertaining to 'transaction value' will override the GST rate notification specifying 'deemed valuation' inclusive of land value?

Reply : The Chairman informed that Section 15 (5) allows for the government at the to prescribe the manner of determining value of supply in certain situations. Notification No. 11/2017 CT(Rate) dated 28th June 2017, has been issued by invoking, among others, sub-section (5) of section 15. It provides for an abatement to take care of the value of land or undivided share of land, as the case may be. There appears to be no contradiction between the provisions of Section 15 and the Notification No. 11/2017 CT(Rate). The method adopted for arriving at value for has to be as per Notification No. 11/2017 CT(Rate) for taxable supplies falling under the description of "Construction of a complex, building , civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier."

Point 12: Occupancy Certificate obtained prior to 01.07.2017 and customer has paid a significant portion of the Agreement Value before 01.07.2017. As per the agreement the Builder was supposed to provide the finishing works like A.C., Electrical Fixtures, Other works which includes GST along with Cost. Whether GST paid on this can be collected from Customer along with balance consideration receivable?

Reply: Issue of Occupancy Certificate indicates that the project is completed. Levy attracted on taxable supplies made subsequent to implementation of GST would be as per the Transition provisions applicable under the GST Acts and Rules.

Point 13: What are the implications under GST for the payments made after GST to contractors who have done work before GST?

Reply : Transitional provisions and the Time of Supply provisions will apply appropriately in the given situation in each instance depending on the facts of particular case.

Point 14 : GST Applicability on JDA:

I. JDA Sharing:

1. Point of Taxation?

2. Valuation for consideration for Land Owner Share:

- a. Whether Land Consideration received from Customers of Developer Area?
 - b. Actual Construction Cost?
 - c. Construction Cost charged to Developer Share Customers?
 3. Output Payable for Land Owner Share can be collected from Land Owners?
 - II. Area Sharing:
 1. Point of Taxation?
 2. Valuation for consideration for Land Owner Share:
 - a. Whether Land Consideration received from Customers of Developer Area?
 - b. Actual Construction Cost?
 - c. Construction Cost charged to Developer Share Customers?
- Output Payable for Land Owner Share can be collected from Land Owners?

Reply : Chairman informed that the GST applicable in the case of Joint Development Agreement depending on the nature of the contract. The practices connected with such joint developments vary from state to state and it would not be possible to clarify that one treatment applies all across. Each situation will have to be analysed for facts to determine how the GST law would apply in the particular situation. Members are encouraged to consult Jurisdictional Commissioners for further guidance after making available all facts that may be necessary for the determination.

Point 15 : In case of sale of apartments, deemed deduction towards land at 1/3rd of the total contract value is insufficient :

The law does not differentiate the reason for different values for apartments in different localities and cities across India. Blanket deduction of 1/3rd of the total value of the contract is provided irrespective of where the apartment complex is.

Eg: Apartment coming up in the prestigious MG Road area and another apartment coming up in outskirts of Bangalore get the same proportion of deduction. This is unjust. Must appreciate that the difference in sale value per sft. is essentially due to location, which is nothing but land.

Government should consider providing for a deduction of the market value of the land – as per the agreement between the developer and customer; OR based on certification etc. or at least provide for different rates of deemed deduction based on areas or cities or distance from cities.

Reply : The GST Council had arrived at the deduction towards the land at 1/3rd of the total contract based on the all India data. The manner of determination of value for such supplies has been prescribed in terms of Section 15 (5) of the CGST Act vide the Notification No. 11/2017 CT(Rate)

Point 16 : All arrangements between employer-employee should be kept out of GST - Only the supply of services by an employee to an employer under the terms of an employment contract is kept out of the meaning of supply.

Suggestion: The reverse should also be excluded. Cost of monitoring and reporting of supplies by an employer to an employee and payment of taxes thereon is an administrative hassle. In effect, once paid, it is allowed as credit. Hence, it is a point of reiteration from a Government perspective.

Reply: Only supplies by an employee to an employer is specifically excluded from being taxed under the GST law today. For what is admissible as credit one needs to look at the provisions of Section 16 and 17 of the CGST Act.

Point 17 : Clarity in respect of payment of GST on land owner's share

In substance, it must be appreciated that the consideration for the developer is essentially the UDI in land and not the developmental rights. Accordingly, tax would become payable based on achievement

of milestones and not at the time when the contract for JD is entered into. A clarification must be issued to this extent to avoid unwarranted litigation.

Reply : GST is required to be paid as per the provisions of Point of Supply. Provisions of Section 13 of CGST Act, 2017 may be referred in this regard.

III. Points sponsored by M/s Karnataka Drugs and Pharmaceuticals Manufacturers Association (KDPMA), Bengaluru. Shri. Harish Jain of M/s KDPMA read over the points for discussion:

Point 1 : While depositing cash to pay the GST, we need to deposit it specifying the particular accounting head viz., CGST, SGST, IGST etc. This results in lock up of funds in case of any clerical error made at the time of deposit. Suggestion: The cash deposited should not be assigned to any of the tax accounting codes viz., CGST/SGST/ IGST till the assessee is allocating to any of these heads in GSTR-3 or GSTR-3B.

Reply : The Chairman informed that in the way the entire scheme is devised, the GST amount is required to be deposited by specifying a particular accounting head. The issue of depositing without assigning particular accounting head is not permitted in law. Chairman also informed that, if any amount has been credited to the wrong heading, the same can be claimed as refund and the refund mechanism is expected to be ready in on the GSTN Common Portal in the near future.

Point 2: Revision of GST returns before submission with DSC - GSTN allows to upload the data, then the final submission is to be done using digital signature. But there is no option to revise the data submitted before the final submission using DSC. This is creating problems particularly in case of GSTR-3B when the tax amounts are declared wrongly due to clerical errors. Suggestion: The assessee should be allowed to revise the details in the returns till the returns are filed/ submitted using the digital signature.

Reply : The GSTN Common Portal provides for the facility to save the entries inputted while the is being filled out. return during the process of filling in the data. Once the data entry is made, the portal provides for a preview of the return. If on preview the inputted or keyed in return data is found to be correct, only then, the submit button is to be clicked. Clicking the "submit" button is clicked, renders it not possible to change or edit the data any further. The premise is that at the time of entering the data, due care has been taken and when the submit button is pressed, it has been done after due consideration. and the process flow expects that the operator would thereafter proceed to the next step of filing the return by duly appending his/ her digital signature. The Chairman informed that the taxpayers are advised to make all necessary changes at the time of preview stage of the return itself, before submitting the return. The portal also gives sufficient prompts that clicking the submit button disables any further modifications. Keeping in mind that at some point in this exercise of uploading and filing of data, the matter has to reach a stage of finality, there appears to be little to persuade the addition of one more any more additional steps to the process, without making the return process longer than desirable in some views.

Point 3: Rationalization of GST tax rates under HSN - Currently different GST rates are applicable for the same HSN resulting in confusion and operational challenges. Suggestion: GST requires the HSN at four digits only and hence the GST rates should be aligned at 4 digit level (Ch heading and sub-heading)

Reply : In GST, a broader level classification is provided at the four digits level of the HSN, when compared to the practice in Customs or in the Central Excise domains. Members of the RAC were requested to indicate specific HSN codes where the present methodology is leading to problems of the

nature suggested. and confusion. Suitable remedial course could then be examined and submitted as sent as a suggestion to the Council/ CBEC, once such specific examples are made available.

Point 4: Invoice generation in GSTN - GST is designed in such a way that the assessee uploads his sale in GSTR-1 and the purchases are auto populated by GSTN, which are to be accepted by assessee on physical receipt under GSTR-2. Then ITC is auto populated after matching of transactions in GSTR-3. Filing 3 online returns every month for a single registration fails to enhance the ease of doing business. Suggestion: Number of returns to be filed in a tax period to be reduced. If GST invoice is allowed to be generated on the GSTN, then there will not be requirement of filing GSTR-1. This will result in uniformity of invoicing, clarity in terms of GST rates and the classification and avoids future litigation.

Reply: This flexibility could be had through the GSP developing an appropriate module. However, the work of making invoices through the common portal will have to wait maybe for some more time.

Point 5: Refund for exporters -Delay in refund of IGST tax amount to exporters creating working capital blockage & increase the cost of capital thereby reducing the competitiveness of goods across borders. Suggestion: To expedite the process of refund of GST to exporters

Reply : Reply : Updated position: Refunds are being processed in accordance with Circulars 15/15/2017-GST dated 15.11.2017 and 24/24/2017-GST dated 21.12.2017.

Point 6: GST credit accumulation in SEZ units : No Bond / BG . LUT is sufficient , as per notification 37/2017 . There is a provision under Section 54 for refund of unutilized ITC.In the past, where ever Suppliers to SEZ units are not able furnish bond/LUT, such suppliers supply goods on payment of IGST. SEZ unit avail credit of IGST and would get accumulated as the output supplies are zero rated and there is no option for SEZ unit to claim back such IGST.

Suggestion: Provision for claim of refund of such IGST amount paid at the time of inward supplies may be enabled.

Reply : The Chairman informed that in terms of Notification No. 37/2017– Central Tax, dated 4th October, all registered persons who intend to supply goods or services for export without payment of integrated tax are eligible to furnish a Letter of Undertaking in place of a bond except those who have been prosecuted for any offence in the specified Acts; and that provisions of this Notification have been made applicable, mutatis mutandis, in respect of zero - rated supply of goods or services or both made by a registered person (including a Special Economic Zone developer or Special Economic Zone unit) to a Special Economic Zone developer or Special Economic Zone unit without payment of integrated tax. In addition, there also exists a provision under Section 54 of the CGST Act for refund of unutilized Input Tax Credit. The taxpayers could consider using any one of the available options in the situation.

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filed by the person who buys the goods from the original importer during the said sale. It was clarified that The importer (last buyer in the chain) would be required to furnish the entire chain of documents, such as original Invoice, high-seas-sales-contract, details of service charges/commission paid etc, to establish a link between the first contracted price of the goods and the last transaction. This particular circular refers to decisions of the GST council in the context and gives a sense of what needs to be done while making a 'High Sea Sale' in terms of payment of IGST/GST.

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Point 9: Double taxation on GTA services - As per Section 9(3) of CGST Act, if a corporate assessee is the recipient of Goods Transport Agency (GTA) services and liable to pay the freight amount, such corporate would be liable to pay GST on Reverse Charge mechanism (RCM) at the rate of 5% GST (combined rate). If the GTA is registered under GST and not availing Input tax credits, then they are liable to charge GST at the rate of 5% (combined rate) on the forward charge. It is not clear that in the latter case, whether the corporate is liable to pay GST on RCM also. If so there would be double taxation. Suggestion: To remove the anomaly in GTA notification resulting in double taxation by way of clarification.

Reply : The Chairman informed that as per Section 9(3) of the CGST Act read with Notification No 13/2017 Central Tax (Rate) dated 28.06.2017 and Notification No 22/2017 Central Tax (Rate) dated 22.08.2017, taxable supplies made by a Goods Transport Agency who has not paid GST at 6% will be liable to be taxed on reverse charge basis at the recipient end; the liability to pay such a tax for specified persons under Reverse Charge Mechanism arises only when the GTA has not paid the GST of 6%; that the question of double taxation may not arise at all as it is either the GTA who pays the tax at 6% or the tax will be paid by the specified recipient on reverse charge basis.

Point 10: Taxability of employee transportation - Pickup and drop transportation facilities are provided to employees by the assessee in course of business. The transporter of such services are not categorised as rent a cab operator nor is it a service of transportation of passengers. Suggestion: Clarification required for availment of GST credits on the input services received from such transporter.

Reply : The Chairman said that only those credits that are permissible in terms of Section 17(5) of CGST Act, would be available on motor vehicles and other conveyances.

Point 11: Legal Services to SEZ : Legal services are received from the individual advocates or legal firms fall under reverse charge mechanism. If such services provided to SEZ units, the taxability is not clear in the hands of SEZ as the service provider is not registered and he cannot furnish bond/LUT. Suggestion: Clarification is required on this issue.

Reply : The Chairman informed that the SEZ shall pay by reverse charge and may claim refund under Section 54. Refer Notification No. 5/2017 CT dated 19.06.2017 read with Notification No. 4/2017 IGST dated 28th June 2017.

Point 12: Speeding up of the past litigation - There are many pending SCNs at various stages of adjudication, wherein substantial funds are involved. Since all old laws are repealed, we need to expedite the adjudication process. Suggestion: A special cell to clear the old pendency with clear timelines will help the trade.

Reply : The Chairman informed that steps have been taken to expedite the disposal of legacy issues.

Point 13: Before the GST regime, an Importer could clear the imports duty free against the Advance License and if Finished Goods were meant for exports . All these schemes were introduced by the Commerce Ministry to make the Exports more competitive. Unfortunately, post GST regime, Govt. of India has withdrawn this facility and now, to get a consignment cleared against the Advance License or any other government scheme , the manufacturer has to pay GST on the assessable value before clearing the consignment and then process the material to export .The amount can be claimed under rebate by submitting the export documents to the concerned Authority. The whole cycle takes 4 to 6 months time which is a long period and this can make an Exporter globally uncompetitive as they will need more working capital for more duration attracting interest.

Reply : The Chairman informed that the same has been addressed by the 22nd GST Council meeting. Updated position: <http://www.gstcouncil.gov.in/sites/default/files/press-release/06oct-no-27.pdf>

Point 14: If a manufacturer gets Advance to procure the Raw material from the buyer, he needs to pay the GST, even though the consignment is not processed and shipped out so the working capital will get blocked. This also would impact very adversely a MSME sector.

Reply : The Chairman informed that the same has been addressed by the GST Council. The notifications are awaited.

Updated position: Notification 66/2017-Central Tax dated 15.11.2017 gives effect to the same.

The meeting ended with the Chief Commissioner thanking all the participants for attending and raising substantive points for discussion. He also informed them about the Help Centres being run at different places including at the Zonal Headquarters and invited Members of Trade and Industry to visit them in case they have a need to clarify matters


(अमितेशभरतसिंह / Amitesh Bharat Singh)
अपरआयुक्त / Additional Commissioner (PCCO)

To,

All Members of the combined RAC as per mailing list.

○ Copy to :

1. The Principal Commissioner/Commissioner of Central Tax, Bengaluru South / North / East / West / North West / Belgaum / Mangalore / Mysore Commissionerate.
2. The Additional Director General, DGTS, TTMC Building, Above BMTC Bus Stand, Banashankari II Stage, Bangalore 560 070.
3. The Under Secretary (CX-9), CBEC, North Block, New Delhi – 110 001.
4. The DGGSTI, 1st and 2nd Floor, West Block, VIII, Wing No. 6, Sector I RK Puram, New Delhi 110 006.
- ✓ 5. Web Master, Systems for uploading in the departmental website www.gstkarnataka.gov.in

Annexure

List of officers and Members of Trade present in the Meeting held on 20.01.2017:

Officers :

1. Shri. M Vinod Kumar, Principal Chief Commissioner in Chair.
2. Shri. Bheema Shankar, Principal Commissioner, Bengaluru West Commissionerate.
3. Shri. Vivek Prasad, Additional Director General, DGTS, Bengaluru.
4. Shri. R Sriram, Commissioner of Service Tax, Bengaluru East Commissionerate.
5. Shri. R Narayanaswamy, Commissioner, Bengaluru South Commissionerate.
6. Shri. AK Sinha, Commissioner, Bengaluru North Commissionerate.
7. Shri. Dharam Singh, Commissioner, Bengaluru North West Commissionerate.
8. Shri. Amitesh Bharat Singh, Additional Commissioner, PCCO, Bengaluru.

Members of the Trade :

1. Shri. BG Kulkarni, M/s The Ugar Sugar Works Ltd.
2. Shri. Sreemannarayana, DGM(GST), M/s BEL.
3. Shri. Akella AS Prakasa Rao, GM Commercial, M/s Biocon.
4. Shri. Harish Jain, Secretary, Karnataka Drugs and Pharmaceuticals Manufacturers Association(KDPMA), Bengaluru.
5. Shri. JateshSheth, Karnataka Drugs and Pharmaceuticals Mfr. Association (KDPMA), Bengaluru
6. Shri. Shankar Sastri, President, M/s CREDAI- Karnataka, Bengaluru
7. Shri. Suresh Hari, Vice President, M/s CREDAI, Bengaluru
8. Shri. Anil Nayak, CEO, M/s CREDAI Bengaluru
9. Shri. SF Rizvi, CMD United Group, M/s CREDAI Bengaluru
10. Shri. R Raju, GST Panel Chairman, Karnataka Small Scale Industries Association (KASSIA), Bengaluru
11. Ms. Jayashree Ramesh, BHEL, Bengaluru
12. Ms. Meenu Agarwal, BHEL, Bengaluru
13. Shri. Ashok Kumar Sahu, NMPT, Mangalore.