

**Minutes of the 1<sup>st</sup> GST Council Meeting (22<sup>nd</sup> and 23<sup>rd</sup> September 2016)**

The first meeting of the GST Council (hereinafter referred to as 'the Council') was held on 22<sup>nd</sup> and 23<sup>rd</sup> September 2016 under the Chairpersonship of the Hon'ble Union Finance Minister, Shri Arun Jaitley in Vigyan Bhawan, New Delhi. The meeting was attended by the Hon'ble Union Minister of State for Revenue, Shri Santosh Kumar Gangwar, the Hon'ble Chief Minister of Puducherry, Shri V. Narayanasamy, the Hon'ble Deputy Chief Minister of Arunachal Pradesh, Shri Chowna Mein, the Hon'ble Deputy Chief Minister of Delhi, Shri Manish Sisodia and the Hon'ble Ministers from the other States. The meeting was also attended by the officials of the Centre and the States. The list of the Hon'ble Ministers who attended the meeting is at Annexure 1. The list of officers of the Centre and the States who attended the meeting is at Annexure 2.

2. In his opening remarks, the Chairperson of the Council observed that the political parties showed statesmanship in passing the historic taxation legislation in the Union Parliament and thereafter, the States also played an active role in ratifying it. He also thanked the Empowered Committee of the State Finance Ministers for playing an important role in reaching a broad consensus on GST. He observed that the Council has a very important constitutional responsibility to deal with all important issues relating to GST.

3. Five agenda points were taken up for meeting which are as follows:

- (i) Draft Rules of Procedures and Conduct of Business in Council
- (ii) Proposed timetable for the implementation of GST
- (iii) Thresholds for exemption and composition under GST
- (iv) Draft Modalities for GST Compensation and draft Compensation Law
- (v) Provisions for Cross-Empowerment to ensure Single Interface Under GST

4. Before taking up the agenda points, the Chairperson invited the Members of the Council to make general comments, if any. The following issues were highlighted –

(i) The Hon'ble Minister from Kerala expressed that given the good experience with the Empowered Committee of State Finance Ministers during the last sixteen years, the institution of Empowered Committee should continue. After some discussion, it was decided that the decision regarding the continuance or otherwise of the Empowered Committee rested with the Empowered Committee. However, the forum for discussing and deciding all issues relating to GST shall be the Council.

(ii) The Hon'ble Minister from Kerala observed that the Rules of Procedures and Conduct of Business in the Council should have a clause that decisions would be arrived at by consensus. The Chairperson observed that consensus was key to a forum where sovereignty is shared. However, we must provide for a possible scenario where voting can be resorted to in the absence of a consensus.

**Discussion on Agenda Items**

**Agenda Item 1: Draft Rules of Procedures and Conduct of Business in Council**

5. The Additional Secretary, Department of Revenue presented the Draft Rules of Procedures and Conduct of Business in the Council. After discussion, the Rules were approved by the Council with the following amendments/observations –

(i) Rule 2 – In the definition clause, the word “Chairman” be substituted by the word “Chairperson” in line with the expression used in Article 279A of the Constitution (One Hundred and First Amendment Act) of India.

(ii) Rule 2 – A new clause 2(1)(iv) to be added to take care of a situation where a State is under President’s Rule. Clause (iii) only refers to Minister-in-charge of Finance or Taxation or any other Minister nominated by each State Government but there would be no Minister when a State is under President’s Rule (point raised by the Hon’ble Minister from Jammu and Kashmir). The Chairperson suggested a broad formulation, subject to legal vetting, namely that in a state where there is a proclamation under Article 356 of the Constitution of India, for the purposes of the Council, the person nominated by the Governor of the State shall exercise the power of a Minister.

(iii) Rule 3(2) – The Hon’ble Minister from West Bengal observed that the detailed agenda notes were circulated only two days before the Council meeting, which left little time for their examination in the States. He suggested that the agenda be circulated at least 10-15 days in advance. The Chairperson observed that as there was a tight time-frame for implementation of GST, a 15-day notice along with agenda notes before every meeting could derail the deadline. It was agreed that a meeting notice along with agenda points shall be sent at least 7 days prior to the date of the meeting of the Council and the agenda notes would be sent at least 3 working days prior to the date of the meeting. The timelines could be revisited once GST was implemented.

(iv) In respect to Rule 3, the desirability of holding meetings via video conferencing was suggested by the Hon’ble Minister from Tamil Nadu and discussed. Some members felt that it was an efficient way of conducting business where the agenda points might be very few whereas some others felt that chemistry of the group was important, especially during the initial stages when important issues were being discussed and this could be achieved only by a physical meeting. The Chairperson observed that the idea of video-conferencing could be explored at a later date, specifically in cases of meetings where the agenda points were few and required just a formal approval. Furthermore, the desirability of postal ballot was also discussed and it was decided that this was not required.

(v) Rule 4 – The Hon’ble Minister from Kerala observed that a rule regarding order of seating of the members was not needed. The Chairperson agreed that Rule 4 should be deleted.

(vi) Rule 5(2) – Some members observed that Rule 5(2) was too restrictive as a Minister nominated to the Council might not be able to attend a meeting due to some other pre-occupation. The Chairperson observed that the rule could be re-formulated to provide that where the



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originally nominated Member was unable to attend a Council meeting on account of some reason, another Minister could be nominated to attend a particular meeting of the Council. It was further agreed to amend Rule 5(2) to provide that in the absence of the Member Minister or another nominated Minister from a State, a nominated officer could also attend and speak in the meeting of the Council. However, he would not be allowed to vote. An officer accompanying a Minister could also speak on technical matters, if required.

(vii) Rule 6 including its Heading – On the suggestion of the Hon'ble Minister from Mizoram, it was decided that the expression "Vice-Chairman" be replaced by the expression "Vice-Chairperson" in line with the expression used in Article 279A of the Constitution (One Hundred and First Amendment) Act.

(viii) In Rule 6, the desirability of having a provision for withdrawal of nominations for the post of Vice-Chairperson of the Council was discussed and it was decided that a provision for this may be made in rules.

(ix) In Rule 12, it was discussed whether, in respect of Rule 12(b) (to receive comments from the Members on a proposal circulated by a member seeking recommendation from the Council), a time-period be prescribed for receiving comments from the States and it was decided that it is for the Chairperson to give reasonable time and decide to put up the proposal before the Council with or without receiving comments from all or any State.

(x) Rule 16 – The Hon'ble Minister from Tamil Nadu pointed out that the weightage of vote gave a veto to the Union Government. The Chairperson pointed out that this idea was first mooted in the Bhubaneswar Empowered Committee meeting in 2013 and it was now part of the Constitution. This provision compelled the Union and the States to come to a consensus. He also observed that there cannot be a situation where the Union Government gets excluded in decision-making relating to the taxation policy of the Union of India, which is not desirable. The Hon'ble Minister from Bihar observed that under the leadership of the Chairperson, a healthy convention should be developed of taking decision by consensus.

(xi) In respect of Rule 16, the Hon'ble Ministers from Tamil Nadu and Uttar Pradesh suggested that there should be different weightage of votes for States within the two-third weightage of votes given to the States. The Hon'ble Minister from Tamil Nadu stated that States with a population of 20 crores and 1 crore should not be treated equally in terms of votes. It was pointed out that such an approach was followed for Rajya Sabha membership. Some criteria like population, GDP, revenue collected or Lok Sabha representation could be adopted to assign weighted votes to each State. The Hon'ble Minister from UP also endorsed this suggestion. This suggestion was objected to by several States. The Hon'ble Minister from Meghalaya stated that no inequality should be created between the States. The Hon'ble Minister from Assam also strongly opposed this suggestion and observed that each State played an important role in the Union and that a small State like Arunachal Pradesh contributed to ensuring the security of India. The Hon'ble Chief Minister of Puducherry too objected to this proposal. Most of the other States also supported the stand that all States should have an equal vote. The Chairperson pointed out that this issue was deliberated upon by the Select Committee of the Rajya Sabha while examining

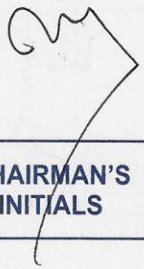
the One Hundred and Twenty Second Constitutional Amendment Bill and they had recommended equal vote for all States. It was therefore decided that all States shall have equal vote within the two-third share.

**Agenda Item 2: Proposed timetable for the implementation of GST**

6. The Secretary to the Council briefed the Members of the Council regarding the proposed timetable for completing various steps in order to implement GST by 1<sup>st</sup> April 2017. He stated that the Draft IGST, CGST and SGST Laws and Rules, GST Rate Structure and Exemption Lists would have to be recommended by the Council by 22<sup>nd</sup> November 2016. By December 2016, the CGST and IGST Acts would need to be passed by the Parliament and the SGST Acts by the respective State Legislatures in the Winter Session of 2016. For this purpose, if need be, the Winter Sessions would have to be advanced to December 2016. On the setting up of the Information Technology (IT) Framework, he informed that the target dates for development of backend IT systems of banks, RBI and Central and State accounting authorities was November 2016 and that of CBEC and 9 States who were developing their own backend IT systems was December 2016. The target date for the development of frontend IT modules on the common GST portal and the backend IT systems of 22 States and Union Territories by the Goods and Services Tax Network (GSTN) was January 2017. Testing and integration of GST frontend and backend IT systems of all stakeholders by GSTN was to be done by February-March 2017. He further mentioned that 5-day training courses on the GST Law of all Central and State tax officials being conducted by the National Academy of Customs, Excise and Narcotics (NACEN) and the concerned State authorities was to be completed by December 2016. He also mentioned that sensitization of the trade, industry and consumers was to be carried out by March 2017.

7. The Hon'ble Chief Minister of Puducherry and the Hon'ble Minister from Uttar Pradesh stated that they were ready to implement GST by April 2017. The Hon'ble Minister from Kerala stated that they were ready with the IT systems but they would be in a position to pass the legislation only by February 2017. The Hon'ble Minister from Jammu and Kashmir stated that they would be able to pass the law only by January 2017. The Chairperson observed that the States that were going for elections would need to make a special provision for passing their SGST Legislation. He also advised the States to meet the deadline and for this, where needed, a one-day special session of the legislature could be convened. The Hon'ble Minister from Tamil Nadu suggested that implementation of GST should be by 1<sup>st</sup> September 2017 as it was a challenging task and the officers needed to be deployed properly. He also mentioned that inadequate preparations could harm the taxation system.

8. After discussion, it was agreed that the implementation date for GST would be 1<sup>st</sup> April 2017. The Chairperson observed that between 22<sup>nd</sup> September 2016 and 22<sup>nd</sup> November 2016, a lot of work was required to be done and that officers of the State Governments should be spared for the work relating to GST. The Hon'ble Deputy Chief Minister of Arunachal Pradesh pointed to some special difficulties in respect of his State like lack of multiple telecom service providers, loss of large amounts of revenue due to subsuming of entry tax, etc. The Chairperson directed that the officials of the Department of Revenue should call a separate meeting of officials of Arunachal Pradesh to look into their specific difficulties.

  
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**Agenda Item 3: Thresholds for exemption and composition under GST**

9. A presentation was made by Shri Manish K. Sinha, Commissioner, Central Excise, CBEC in which it was suggested that in the GST regime, the threshold limit for a taxpayer to get registered should be Rs. 25 lakhs for all States other than the eleven Special Category States mentioned in Article 279A of the Constitution. The Composition threshold was suggested to be Rs. 50 lakhs. It was also suggested that Service providers should be kept out of the Composition scheme.

**EXEMPTION THRESHOLD**

10. The Secretary to the Council explained that by raising the exemption limit to Rs.25 lakhs, 60% of tax-payers would be out of the tax net but the loss of revenue would only be 2%. The Hon'ble Chief Minister of Puducherry stated that an exemption limit of Rs. 25 lakhs for his Union Territory would mean that 12% of traders would go out of the tax net and would result in substantial revenue loss. He suggested that for the small states, the threshold for exemption should be Rs. 10 lakhs. The Hon'ble Deputy Chief Minister of Delhi stated that the exemption limit of Rs. 10 lakhs was too low and that they had a good experience after increasing the threshold limit to Rs. 20 lakhs. The Hon'ble Minister from Kerala observed that the potential revenue loss by increasing the threshold was low but it would keep a large number of traders out of the tax net, which would help administrative efficiency. The Hon'ble Minister from Jammu and Kashmir also supported the threshold of Rs. 25 lakhs and stated that this would help in moving away from the control era. The States of Haryana, Chattisgarh, Gujarat, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and West Bengal also supported the threshold exemption of Rs. 25 lakhs.

11. The Hon'ble Minister from Uttar Pradesh observed that increasing the threshold to Rs. 25 lakhs would mean that 4 lakhs of their registered tax payers would go out of the tax net who accounted for 7% of their revenue. He supported a threshold of Rs. 10 lakhs. The Hon'ble Ministers from Punjab, Telangana, Goa and Bihar also supported a threshold of Rs. 10 lakhs.

12. As regards the Special Category States, the Hon'ble Minister from Meghalaya informed that their present threshold was only Rs. 1 lakh and therefore, exemption for Special Category States should be Rs. 5 lakhs. The Hon'ble Minister from Mizoram also supported a threshold limit of Rs. 5 lakhs. The Hon'ble Minister from Assam supported a threshold of Rs. 10 lakhs.

13. Given the difference in opinions, the issue was deferred for reconsideration to the next day. In the meeting of 23<sup>rd</sup> September 2016, after further discussion, it was agreed that the threshold exemption shall be Rs. 20 lakhs. The Chairperson also observed that taking note of the concerns expressed by the Hon'ble Chief Minister of Puducherry, this decision would be reviewed after 5 years (during which compensation for any loss of revenue is guaranteed) and a decision regarding any modification to the exemption threshold would be taken thereafter.

14. As regards the Special Category States enumerated in Article 279A of the Constitution, it was decided that the threshold exemption shall be Rs. 10 lakhs.

**COMPOSITION (OR COMPOUNDING) THRESHOLD**

15. The Secretary in his introductory remarks stated that at present, the Composition scheme was only for trading entities. Most State administrations did not allow Composition for manufacturers. The Union Government also did not allow Composition for service providers.

16. After discussion, it was decided that the Composition threshold shall be Rs. 50 lakhs. It was also decided that manufacturers and service providers shall be kept out of the Composition scheme as the value addition in these segments was quite high.

**Agenda Item 4: Modalities for GST Compensation and draft Compensation Law**

17. Shri Udai Singh Kumawat, Joint Secretary, Department of Revenue [hereafter referred to as J.S. (Rev)] made a presentation on this agenda point. In his presentation, he highlighted that in order to compensate the States for any loss of revenue due to implementation of GST, the revenue collected by the State in the base year needed to be projected at a specified growth rate with respect to a base year. There were thus two components which needed to be arrived at, to calculate the compensation, viz –

(i) a base year and

(ii) the projected growth rate.

18. In the presentation, it was further explained that it would be desirable to take 2015-16 as the base year for making growth projection of Revenue and projected growth rate might be taken as average growth rate of revenue collection in the preceding 3 financial years ending 31<sup>st</sup> March, 2016, 31<sup>st</sup> March, 2015 and 31<sup>st</sup> March, 2014 over the previous year. It was also explained that the projected growth rate shall be calculated on the basis of the figures of revenue collected as audited by the Comptroller and Auditor General of India.

19. The Hon'ble Deputy Chief Minister of Delhi desired to know as to why the year of 2016-17 could not be taken as the base year. It was explained by J.S. (Rev), that the audited figures of the year would become available much later and hence, it might be difficult for States to calculate their budgetary estimates for 2017-18. The Hon'ble Minister from Jammu and Kashmir suggested that the term 'revenue' should be defined. He also expressed the view that the base year should be taken as a normal year, that is, a year in which revenue was collected normally. He gave the example of unprecedented floods in Jammu and Kashmir in the year 2015-16 that led to reduced revenue collection. In relation to release of the compensation, he expressed the view that annual release of compensation based on the CAG's audited figure would put States to difficulty in their cash management. He suggested having a mechanism of drawing advances against prospective compensation which could be reconciled later. This would ensure that the Ways and Means Advances are well managed in the States. He was also of the view that the suggested model was too simplistic and did not take into consideration many of the variables such as inflation.

  
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20. The Hon'ble Minister for Uttar Pradesh desired to know whether the compensation formula would take into account the impact on revenue of the tax holidays provided by the States. The Hon'ble Minister from Telangana explained that his was a new State and therefore only figures for the year 2016-17 would be available. The Hon'ble Minister from Gujarat expressed the view that the base year should be the best 3 years' average of the last 10 years. The Hon'ble Minister from Kerala was not in agreement with the method of ascertaining the projected growth rate of revenue. He also expressed the view that it should be taken as the best 3 years of the last 10 years. He further pointed out that during VAT compensation, the best 3 of the last 5 years were taken into account to ascertain the growth rate. He also supported the view that the compensation needed to be paid regularly by making a provision for ways and means accommodation in the law.

21. The Hon'ble Minister from Madhya Pradesh reminded that during the implementation of VAT, going backwards by 5 years, the average of 3 best years was taken as the growth rate of the State. The same methodology should be used for GST compensation also. The Hon'ble Minister from Rajasthan was of the view that as the compensation was for 5 years, the average growth rate of 5 years or the best 3 out of 5 years should be taken to ascertain the growth rate.

22. The Hon'ble Minister from Punjab also supported the VAT formula, i.e. average of the best 3 out of the last 5 years to ascertain the growth rate. He pointed out the difficulty in using the figures of revenue audited by the CAG as CAG did not audit several taxes such as surcharges and cesses which were not accounted in the State Consolidated Fund. 11% of their VAT was directly transferred to local bodies after Octroi was abolished. He also desired to know as to what constituted 'revenue' which would be compensated and whether it included all the taxes and cesses collected by the States whether or not going through the consolidated fund of the States. His view was that all taxes which were subsumed should be compensated and there should be no condition of all revenue being audited by the CAG. He also suggested that the payment should be made on a monthly basis. The Hon'ble Minister from Odisha suggested that the best 3 out of 5 years be taken to ascertain growth rate and compensation payment be made monthly and adjusted at the end of the year on the basis of CAG-audited figures and also that the base year could be 2015-16.

23. The Hon'ble Minister from Tamil Nadu expressed that compensation be given for all revenue which was getting subsumed in GST. As for ascertaining rate of growth, the best of 3 years out of the preceding 6 years be taken into consideration to account for the floods in Tamil Nadu. He was also of the view that the States should assess their revenue loss by December and convey to the Centre and compensation should be paid on that basis. The projected growth rate should take into account all taxes subsumed under GST. He observed that more detailing was required in the Rule. He also requested for payment of outstanding CST compensation amount.

24. The Hon'ble Minister from Bihar suggested that the formula of compensation used during VAT transition should be used as it was a trusted methodology. He also expressed the view that more clarity was needed on how and when the compensation would be paid. The Hon'ble Minister from Andhra Pradesh supported the view that VAT compensation methodology might be used for paying GST compensation.

## MINUTE BOOK

25. The officer representing Maharashtra brought to the notice of the Council that Maharashtra had suffered drought during the last 3 years and therefore, for States with such special circumstances, 5 year period should be taken to ascertain the projected rate of growth of revenue. He also submitted that the Octroi collected by local bodies should be compensated under the compensation mechanism.

26. The Hon'ble Minister from Assam brought to the notice of the Council that last year was an election year in Assam and the then Government did not make much effort to garner revenue and therefore, in the case of Assam, the current year should be taken as the base year and that the VAT formula could be adopted for compensation.

27. The Hon'ble Deputy Chief Minister of Arunachal Pradesh stated that their revenue was growing every year and therefore current year should be taken as the base year and for projecting growth, the preceding 3 years should be taken into consideration.

28. The Hon'ble Chief Minister of Puducherry suggested that year 2015-16 should be taken as the base year and formula as used during VAT transition should be used to calculate compensation. He also brought to the notice of the Council that the definition in Article 366(26B) of State to include a Union Territory with Legislature is not mentioned in Clause 18 of the Constitution (One Hundred and First Amendment) Act, 2016 dealing with compensation and therefore, it was not clear as to how they would be compensated. The Chairperson clarified that they would get compensation directly from the Union Government. It was also decided after due deliberation with the approval of the Chairperson that the definition of State in the law relating to Compensation shall include a Union Territory with Legislature.

29. The Hon'ble Minister from West Bengal expressed the view that the base year should be 2015-16 and projection of tax should be based on best 3 years out of last 5 years if 2016-17 is not counted and 6 years if 2016-17 is counted. The periodicity of compensation payment should be bi-monthly or quarterly so that ways and means should not be adversely affected. He also suggested that the methodology for release of compensation should be automatic and IT-driven within a given time period. He added that for compensation, CST at the rate of 4% should also be factored in and that the pending CST compensation be paid forthwith. He also suggested some independent mechanisms for the flow of the compensation amount.

30. The Hon'ble Minister from Andhra Pradesh supported the use of VAT methodology and suggested that payments be made periodically preferably along with the devolution amount. He also desired that the CST compensation be released forthwith. The Hon'ble Minister of Chattisgarh while supporting the idea of using VAT methodology for payment of compensation, desired to know the impact of petroleum items which were outside GST on the calculation of the growth rate. He also suggested that 2016-17 be taken as the base year.

31. The Hon'ble Minister from Haryana brought to the notice of the Council that they had problems similar to that of Punjab as they also had a lot of agricultural produce in the State. The Hon'ble Minister from Telangana brought to the notice of the Council that Telangana would stand to lose Rs 700 crores of R.D.Cess (Rural Development Cess) and should be compensated. He also desired that full CST compensation be paid and details of methodology for working out

  
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CST compensation be spelt out. He suggested that the compensation should be given at least quarterly and there should be accommodation for Ways and Means Advances.

32. The Hon'ble Minister from Odisha desired to know as to when the compensation for years beyond 2013-14 would be released. He suggested that compensation should be paid on a monthly basis. Karnataka was represented by an official and he expressed the view that for payment of compensation, a Fund should be created under the Council as was suggested by the Parliamentary Committee and the Finance Commission. He added that the base year may be taken as 2015-16 and the growth rate of 2016-17 should apply for calculating compensation thrice, i.e. to also calculate compensation for 2017-18. The Hon'ble Minister from Mizoram expressed the view that the methodology of devolution as prescribed in the 14<sup>th</sup> Finance Commission may be used as the guiding principle for payment of compensation. He expressed that devolution amount to States prior to implementation of GST should be protected.

33. The Chairperson invited the Chief Economic Advisor to share his views on the methodology of compensation. He expressed that any calculation based on the best 3 of the previous 5 years would lead to a situation where going forward, the nominal GDP growth would be substantially lower as compared to revenue growth during the last 3 or 5 years and this would create challenges. He further added that inflation was likely to be below 4% compared to past rates of inflation of 9-10%. He also shared results of his calculation of rate of growth of revenue for the whole country and this came to 12.3%. The Hon'ble Ministers from Jammu and Kashmir and Assam noted that if the revenue of the Central Government fell, the amount devolved to the States would also fall. The Hon'ble Minister from Tamil Nadu informed that implementation of GST had been projected to lead to higher GDP growth for his State and that revenue growth rate had been higher than the GDP growth rate.

34. The Hon'ble Minister from West Bengal expressed the view that it was undesirable to undertake any calculation which was highly econometric based, taking multiple variables such as price elasticity and using techniques like regression analysis. Instead, effort should be to arrive at a ballpark figure and go by the earlier VAT formula of considering the revenue growth of the preceding 6 years including the base year and taking the 3 best growth rates out of that. The Hon'ble Minister from Uttar Pradesh supported this suggestion.

35. It was pointed out by the Hon'ble Minister from Assam that the VAT formula could not be completely replicated because States had got a better deal for compensation under the GST as compared to VAT. During the introduction of VAT, there was no provision of 100% compensation for 5 years. While it was agreed then for best 3 out of 5 years' growth rate, it was linked to diminishing amount of compensation for 3 years, namely 100% for year one, 75% for year two and 50% for year three. Therefore, it might be inappropriate to adopt only part of the formula.

36. The J.S. (Rev) clarified that compensation would include all taxes such as CST, Octroi, Purchase Tax, etc which are levied by the State Governments and now proposed to be subsumed in GST including cesses, if any, imposed by the States. The frequency of release could be decided by the Council and could be an interim figure. There was considerable discussion in the Council

on various other methods of calculating the compensation figure such as trends of Nominal GDP growth rate, application of buoyancy factor, variation in the GDP estimates, taking tax/GDP ratio as a factor, removing outliers from growth data of 5 years and the need to keep calculations reliable but simple.

37. The Chairperson, after getting the sense of the house summed up the following points relating to payment of compensation and placed before the Council for decision, namely –

- (i) 2015-16 shall be taken as the base year for compensation
- (ii) Revenue to be compensated shall consist of all taxes (including cesses) levied by the States and which are now proposed to be subsumed in GST
- (iii) Compensation may be released quarterly against the figures given by the Central Accounting authority tentatively and final adjustment can be done after getting audited accounts of the year

After further discussions, the Council unanimously agreed and approved the above three proposals.

38. The fourth issue on the subject of compensation namely projecting the rate of growth of revenue remained unresolved, the Chairperson noted that there were different possible approaches to the issue. One such approach could be to adopt a secular, common projected growth rate like 12% for the country. He observed that the advantage of the last methodology would be that special factors affecting revenue collection of a state like Jammu and Kashmir would be addressed. The Hon'ble Minister from Kerala opposed the last methodology but was agreeable to the suggestion of considering the best 3 growth rates out of the 5 years preceding the base year and excluding the two outliers. The Hon'ble Minister from Tamil Nadu did not favour this proposal. The Hon'ble Minister from West Bengal observed that the general consensus was to go for 6 years and take the best growth rate of 3 years out of them. The Hon'ble Ministers of Assam, Uttar Pradesh and Haryana supported the idea of a secular growth rate and Uttar Pradesh suggested that the secular growth rate be pegged at 14%. The Hon'ble Minister from Tamil Nadu stated that projection of a secular growth rate could punish states whose tax administration collected taxes more efficiently. The Chairperson observed that this issue may continue to be discussed at official level and then, the issue could be brought back to the Council for a decision.

**Agenda Item 5: Provisions for Cross-Empowerment to ensure Single Interface under GST**

39. The Secretary to the Council, in his opening remarks, stated that in the GST regime, it was important to use the expertise of officers of both the Union and State Governments efficiently in order to help increase the taxpayer base and to reinforce the functioning of each other. With this in mind, the Union Government proposed a cross-empowerment model under which officers of the Union Government and the State Government shall be empowered to undertake the functions like Audit, Scrutiny, etc. on behalf of both the administrations. With such a model, there would not be a need to have any vertical threshold of a particular turnover to divide the roles of the State and the Centre.

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40. After these introductory remarks, Shri Vivek Johri, Principal Commissioner, Customs, CBEC made a presentation outlining the broad features of the proposed cross-empowerment model. This model essentially provided for a protocol on the basis of which scrutiny of returns of taxpayers and their audit would take place. It was proposed that an overall cap might be agreed upon on the number of interventions (of scrutiny of returns and audit) to be done by the Central and State authorities taken together. Within this cap, on an annual basis, the list of taxpayers to be subjected to detailed scrutiny of returns and audit would be drawn by the Union and State Government officers in each State on the basis of certain risk parameters. Based on these lists, allocation of taxpayers to the Central and State tax administrations would be done on the basis of certain predefined criteria. The consequential actions like raising demand, adjudication, appeal, etc. shall be done by the administration that conducted scrutiny of returns/audit and it would cover both the CGST and the SGST. For enforcement action, the tax administration that initiated the action first would be responsible for taking further consequential action.

41. The Chairman, CBEC expressed that concurrency of power for the Union and State Governments was essential for GST to function. In view of this, there was no need for a threshold. Each administration should trust the other and the suggested protocol should apply across the supply chain. This would help the taxpayers to have a good experience of both the tax administrations.

42. The Secretary to the Council gave certain factual details to understand the implications of subjecting taxpayers below turnover of Rs. 1.5 crores to the exclusive jurisdiction of States. He informed that currently there were 67 lakh active dealers, Service Tax had 11.5 lakh active registrants and Central Excise had 4 lakh assesseees. Out of the above, 85% of VAT dealers and 92% of Service Tax registrants had a turnover of less than Rs. 1.5 crores. Therefore, if all taxpayers below the turnover threshold of Rs. 1.5 crore were to be administered by State tax authorities, then States would end up administering a disproportionately large number of taxpayers whereas the effort should be to work on a model which would help to optimally utilize the well-trained officers of both the Centre and the States to get the best results.

43. The Hon'ble Deputy Chief Minister of Delhi stated that no policy should be made to accommodate excess officers of a particular administration. He suggested that the Central Government officers could be deputed to the States. He also pointed out that often, the jurisdiction of the Central tax authorities was not co-terminus with the boundaries of a State. He emphasized that in the GST regime, the jurisdiction of the Central tax authorities in a State should be co-terminus with that of the States. The Hon'ble Minister from Tamil Nadu also emphasized the need for structural alignment of the two tax administrations. The Hon'ble Minister from Haryana suggested that there should be cross-deputation of officers from the Centre and States to each other's administrations. The Hon'ble Minister from Tamil Nadu suggested that if the new arrangement led to excess officers of the Central Government, they could be deployed in the Customs formations which was presently understaffed. He supported the proposed protocol for taxpayers above the threshold of Rs. 1.5 crores but suggested that administration of taxpayers below Rs.1.5 crores should rest with the States.

44. The Hon'ble Chief Minister of Puducherry stated that there was a need to move away from 'Inspector Raj' and the consensus arrived earlier in the Kolkata meeting of the Empowered Committee in July 2016 needed to be respected. The Hon'ble Minister from Uttar Pradesh stated that as 91% of revenue came from taxpayers with a turnover of more than Rs. 1.5 crores, it was advisable that the Central tax authorities focused on the big taxpayers and the small taxpayers should be left to the administration of the State tax authorities.

45. The Hon'ble Minister from Kerala observed that the proposal being discussed in this meeting had never come up for discussion earlier. He stated that the protocol appeared unworkable and very complicated. It was not clear how the CGST administration would draw the priority list. He also observed that changing the tax jurisdiction of dealers every two years was inefficient. He also suggested that Central Government staff should be deputed to work in States.

46. The Hon'ble Minister from West Bengal stated that the Empowered Committee had earlier unanimously agreed that taxpayers below the threshold of Rs. 1.5 crores would not face dual administration and that this needed to be respected. The State administration dealt with traders and this position should continue in GST. He observed that the Centre's proposal of cross-empowerment was too complex but agreed that the Centre's model could be applied for the taxpayers with a turnover above Rs. 1.5 crores.

47. The Chairperson observed that in the Goods sector, as the Central and State tax administrations were administering the same law, it would be desirable to deploy the experienced staff of the Centre and States to add to the efficiency of the system and use the available 60,000 personnel optimally on the basis of the proposed protocol without having a threshold limit. In the alternative, he observed that there could be a clean break where taxpayers below Rs. 1.5 crores were administered by the States and those above Rs. 1.5 crores were administered by the Centre. The States, however, were not agreeable to this proposal on the ground that above Rs. 1.5 crores, duality of control already existed as they were assessed to tax both under Central Excise and VAT. He also observed that Service Tax was a new area for States and in order to maintain stability of tax administration, it would be better that for now, the Central tax administration should continue to administer all existing Service Tax registrants. The Centre shall give training to the officers of the State Governments on Service Tax and till such time, the present arrangement shall continue. Thereafter, the following modalities for single interface were discussed but discussion remained inconclusive.

- i. Traders/manufacturers of goods with a turnover of less than Rs. 1.5 crores shall be under the jurisdiction of the State administration.
- ii. The traders/manufacturers of goods with a turnover above Rs. 1.5 crores shall be administered by both the Central and State tax administrations on the basis of the cross-empowerment model presented in the meeting which can be suitably modified by a Committee of Central and State Government officials.
- iii. All existing registered service providers irrespective of the value of turnover, for the present, shall continue to be administered by the Central tax administration.
- iv. States will also get jurisdiction along with the Centre over those service providers who get registered under GST in future and a protocol in this regard could be

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devised. Specific arrangements for the training of State Government officers in assessment of Service Tax assessee be made.

- v. The percentage of audit in all cases would be restricted to 5% of total assesseees.
- vi. Information-based enforcement powers can be exercised by the Central Government or State Government in all cases irrespective of division.

48. In his concluding remarks, the Chairperson stated that the next meeting would be held on 30<sup>th</sup> September 2016 and expressed his happiness at the progress made in this meeting. The Secretary to the Council stated that the issues to be taken up at the next meeting would be the rate structure and the tax exemption schemes of the Centre and the States. The Chairperson also mentioned that the subsequent meeting of the Council would be held from 17<sup>th</sup> to 19<sup>th</sup> October 2016 in New Delhi, in which the discussion about rate structure for GST would be undertaken.

49. The meeting ended with a vote of thanks to the Chair.

(Arun Jaitley)  
Chairperson, GST Council

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## Annexure 1 (List of the Hon'ble Ministers from the States)

Sl.No.	State/Union Territory	Minister Present	Designation
1	Andhra Pradesh	Shri Yanamala Ramakrishnudu	Minister of Finance and Planning, Commercial taxes and Legislative Affairs
2	Arunachal Pradesh	Shri Chowna Mein,	Deputy Chief Minister
3	Assam	Shri Himanta Biswa Sarma	Minister of Finance
4	Bihar	Shri Brijendra Prasad Yadav	Minister for Commercial Taxes
5	Chhattisgarh	Shri Amar Agrawal	Minister of Commercial Taxes
6	National Capital Territory of Delhi	Shri Manish Sisodia	Deputy Chief Minister and Minister for Finance
7	Goa	Shri Dilip Parulekar	Minister for Tourism, Women and Child Development
8	Gujarat	Shri Rohit Patel	Minister of State for Finance
9	Haryana	Captain Abhimanyu Singh	Minister for Excise and Taxation
10	Himachal Pradesh	Prakash Chaudhary	Minister for Excise and Taxation
11	Jammu and Kashmir	Dr Haseeb A Drabu	Minister for Finance
12	Jharkhand	Shri C.P. Singh	Minister for Urban Development, Housing, Registration and Transport
13	Kerala	Dr. T M. Thomas Isaac	Minister for Finance
14	Madhya Pradesh	Shri Jayant Malaiya	Minister for Finance and Commercial Tax
15	Maharashtra	Shri Sudhir Mungantiwar	Minister for Finance
16	Meghalaya	Shri Zenith M. Sangama	Minister of Taxation
17	Mizoram	Shri Lalsawta	Minister of Finance and Taxation
18	Odisha	Shri Pradeep Kumar Amat	Minister of Finance and Taxation
19	Puducherry	Shri V Narayanasamy	Chief Minister and Minister for Finance
20	Punjab	Shri Parminder Singh	Minister for Finance
21	Rajasthan	Shri Rajpal Singh Shekhawat	Minister for Local Self Government, Urban Development and Housing
22	Tamil Nadu	Shri K. Pandiarajan	Minister for School Education & Sports and Youth Welfare
23	Telangana	Shri Etela Rajendar	Minister for Finance
24	Uttar Pradesh	Shri Abhishek Mishra	Minister for Vocational Education and Skill Development
25	Uttarakhand	Dr Indira Hirdesh	Minister of Finance
26	West Bengal	Shri Amit Mitra	Minister for Finance and Excise

**Annexure 2 (List of officers from the Centre and States)**

Sl.No	Centre/State/Union Territory	Officer Present	Designation/ Department
1	Centre	Shri Hasmukh Adhia	Secretary(Revenue) and Secretary to the GST Council
2	Centre	Shri Arvind Subramanian	Chief Economic Advisor
3	Centre	Shri Najib Shah	Chairman(CBEC)
4	Centre	Shri Ram Tirath	Member(GST), CBEC
5	Centre	Shri B.N.Sharma	Additional Secretary(Revenue)
6	Centre	Shri Udai Singh Kumawat	Joint Secretary(Revenue)
7	Centre	Shri Vivek Johri	Principal Commissioner, CBEC
8	Centre	Shri Upendra Gupta	Commissioner(GST Policy Cell)
9	Centre	Ms. Aarti Saxena	Deputy Secretary (Revenue)
10	GST Council	Shri Shashank Priya	Commissioner, GST Council Secretariat
11	GST Council	Shri Manish Kumar Sinha	Commissioner, GST Council Secretariat
12	GST Council	Ms Himani Bhayana	Joint Commissioner, GST Council secretariat
13	GST Council	Shri Santosh Kumar Mishra	OSD, GST Council Secretariat
14	GST Council	Shri Rohan	OSD, GST Council Secretariat
15	Andhra Pradesh	Shri J.S. Rao	Commissioner, Commercial Tax
16	Arunachal Pradesh	Dr.B.M. Mishra	Secretary(Taxation and Excise)
17	Assam	Shri Anurag Goel Shri Ravi Kota	Commissioner, Commercial Tax Commissioner and Secretary Finance
18	Bihar	Ms. Sujata Chaturvedi Shri Arun Kr. Mishra	Commissioner and Principal Secretary, Commercial Tax
19	Chhattisgarh	Shri Amit Agrawal	Finance and Commercial Tax
20	Chandigarh	Shri D.P.Reddy	ACS(Finance)
21	Goa	Shri Dipak Banderkar	Commissioner, Commercial Tax
22	Gujarat	Ms. Mona Khandhar Shri P.D.Vaghela Shri Anil Mukim Shri R.P.Raval	Secretary(EA), FD Commissioner Commercial Tax ACS(FD)
23	Haryana	Shri Hanuman Singh  Shri Sanjeev Kaushal Shri Shyamal Misra	Additional Excise and Taxation Commissioner ACS(ET) Excise and Taxation Commissioner
24	Himachal Pradesh	Shri Pushpendra Rajput	Excise and Taxation Commissioner
25	Jammu and Kashmir	Shri Navin K. Chaudhary Shri Parvez I Khatees	Finance, Secretary Commissioner, Commercial Tax



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26	Karnataka	Shri Ritvik Pandey	Commissioner, Commercial Tax
27	Kerala	Shri Rajan Khobragade Shri Shaikh Hassan Khan	Commissioner Commercial Tax Finance
28	Madhya Pradesh	Shri Raghwendra Kumar Singh Shri Manoj Kumar Srivastava	Commercial Tax Principal Secretary, Commercial Tax
29	Maharashtra	Shri Rajiv Jalota	Commissioner, Commercial Tax
30	Manipur	Shri Shailesh Kr Chourasia	Commissioner, Tax
31	Meghalaya	Shri Abhishek Bhagotia Shri L.Khmgsit	Commercial Tax
32	Mizoram	Ms L.N.Tochhawng	Finance Commissioner and Secretary(Tax)
33	Nagaland	Shri Asangba Chuka Ao	Commercial Tax
34	Odisha	Shri Tuhin K.Pandey	Principal Secretary, Finance Department
35	Puducherry	Dr V.Candavelou Shri G.Srinivas	Secretary(Finance) Commissioner, Commercial Tax
36	Punjab	Shri Rajat Agarwal Shri Supreet Singh	Excise and Taxation Commissioner Additional Excise and Taxation Commissioner
37	Rajasthan	Shri Praveen Gupta	Secretary, Finance
38	Sikkim	Shri Manoj Rai	Joint Commissioner, Commercial Tax
39	Tamil Nadu	Shri C Chandramouli	ACS/Commissioner Commercial Tax
40	Telangana	Shri Ajay Misra Shri V.Anil Kumar Shri Laxmi Narayan .J	Special Secretary, Revenue Commissioner Joint Commissioner (Policy)
41	Tripura	Shri Debapriya Bardhan	Commissioner of Taxes
42	Uttar Pradesh	Shri Mukesh Kumar Meshram Shri Vivek Kumar Shri S.C. Amir	Commissioner, Commercial Tax Additional Commissioner, Commercial Tax OSD, UP Government
43	Uttarakhand	Shri Piyush Kumar	Additional Commissioner, Commercial Tax
45	West Bengal	Smt Smaraki Mahapatra Shri H.K.Dwivedi Shri Khalid Aizaz Anwar	Commissioner, Commercial Tax Principal Secretary, Finance Sr. Joint Commissioner

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