
An extraordinary going by GST Council; More decisions to be made tomorrow

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IN the history of evolution of Goods & Service Tax (GST) in India, last Thursday and Friday were landmark days. The recently-notified GST Council met for the first time on both the days, and surprised all political pundits by demonstrating unexceptional degree of federal spirit in taking critical decisions. And the two key possible reasons which can be attributed to for such a level of bonhomie among the Finance Ministers present at the Council meeting are - 1) close interactions among the Central and State VAT officials over a long period of time which has resulted in strong bonding and better understanding of each other's problems; and 2) good homework by the various technical committees which met in the first half of Thursday to finalise the critical components of the proposed tax regime before the Council could discuss them. There were five agenda points -

1) Draft Rules for conduct of business of the GST Council; 2) a possible time-table for implementation of GST; 3) Threshold for exemption and the Compounding Scheme; 4) Major contours of GST Compensation Law; and 5) Cross-empowerment to ensure single interface.

So meticulously and exhaustively were worded the Draft Rules for conduct of business by the GST Secretariat that the Council did not take even 30 minutes to finalise the same. As per sources, the GST Council is going to elect or nominate its **FIRST** Vice-Chairman at its next meeting tomorrow. The Vice-Chairman is going to be nominated or self-nominated by the Members from the States and will have a tenure of **TWO years**

. In case one resigns in his own State as Finance Minister, the Council will go through the drill of electing a new Vice-Chairman or will do the same every two years. The Council is also going to meet **every quarter** which means there will be a minimum of **four sittings** in a year. It also approved the procedure for moving proposal seeking recommendation of the Council on a particular issue. It also approved the ballot paper which has been designed keeping in mind an eventuality where voting becomes **sine qua non**

. It was also decided that the entire proceeding of the Council will be **video-recorded** and the same can help sort out disputes in future. And such disputes among States or between the Centre and the State cannot be ruled out at this stage. With minor changes, all the proposals relating to the rules smoothly sailed through.

The second vital decision was taken with respect to the time-table which the Union Finance Minister talked about in his briefing to the media persons immediately after the meeting got over. Under the head "Legal Framework", it has been decided that the GST Council will finalise its recommendations on the Draft IGST, CGST and SGST laws; their rules; the GST rate structure and exemption lists latest by the commencement of the Winter Session of the Parliament which conventionally begins on November 22. If the Government decides to advance the Session in consultation with the Opposition parties, the deadline would further contract. Before the Winter Session gets over in December, all the new laws are going to be passed by the Parliament and the States would call for Special Sessions of their legislatures to approve the SGST laws.

Under the head "IT Framework", the Govt hopes to finalise the backend IT systems of banks, RBI, Central & State accounting authorities by November-end. The CBEC and nine States hope to wind up their IT backbones by December-end. By January, 2017, the GST portal and its frontend IT modules as well as backend IT systems of 22 States and UTs are expected to be put in place. Since the target for the GST Network (GSTN) is very tight, the CBEC has, earlier this week, circulated the Draft Rules and Formats for Returns, Registration, Payment, Refund and ITC mismatching. The GST Council is likely to approve all these draft rules as they are subsidiary legislations and are desperately required by the GSTN to develop its software and the backend systems.

Let's now move to the vital decision on the thresholds under GST. No doubt, there were some expert recommendations for higher exemption limit but poor and underdeveloped States have for long been advocating lower threshold as a higher limit would have wiped off their tax base. Although there was an acute realisation among most of the Members that as much as

65% of their tax base barely contributes about TWO per cent

of their revenue but the reality of having a few thousand quality and paying assesseees scared most of them. Fearing adverse political fall-out, they prevailed over the Centre to compromise for a lower limit of Rs 20 lakh in place of Rs 25 lakh as talked about initially. Even for the Centre,

which has a large tax collection machinery today, as high as **72% of its service tax assessees account for less than THREE per cent** of total service tax collections. Anyway, a consensus was developed for Rs 10 lakhs for the Special Provision 11 States and Rs 20 lakhs for the others.

Then popped up the issue of Composition Scheme for small taxpayers. Although the Union of India was in favour of Rs 75 lakhs but a consensus was arrived at for a figure of Rs 50 lakh. However, the tax rate was left open to be decided later - either one or two per cent. Since many States insisted on making this Scheme exclusive for the **TRADERS**, the Centre saw its interest being protected by exiting the service providers and manufacturers. In any case, such a scheme does not exist even now for service providers.

Next on the agenda was the most contentious issue of compensation to States in lieu of revenue loss if any. A good number of States wanted the current year as the **BASE YEAR**

but the Centre pointed out the instances of many States hiking the VAT rates in the recent months, perhaps only to claim higher compensation. So, a consensus was developed for the previous fiscal - 2015-16. However, no consensus could be achieved over the next parameter of computing the projected growth rate in revenue. The Centre's proposal was to go for an average of last three fiscals, including the current one. Since it is a sensitive issue for the States, no decision was pushed through and may be discussed later by the Council. However, once it is finalised, the Council is going to recommend a Compensation Bill to be tabled in the Parliament along with other legislations.

Then came up the last agenda item. The virtue of the need for single interface under GST does not need to be overemphasised. Such a realisation was writ large and the Union of India argued against handing over the small service tax assessees to the States as it would create problem in verifying credit flows across the entire value chain of transactions. Secondly, the Centre took the view that it was not possible to eliminate dual control so far as refund, export rebate, remission and recovery of arrears were concerned. Another key point was the handling of CAG objections. It insisted that it cannot give up the constitutional mandate to collect CGST. As an alternative model, the Centre proposed a set of protocols which entail cross-empowerment of CGST and SGST officers. The protocols would prescribe circumstances under which jurisdictions of either of the two would be excluded so that the taxpayer deals with just one tax administration. The proposal was to prescribe protocols for scrutiny of returns, audit, enforcement and cancellation of registration.

Anyway, a consensus was arrived at by deciding that the States will retain their VAT assessees up to Rs 1.5 Crore turnover and the Centre would retain its service tax assessees. As per data available, the Centre has as many as active 11 lakh service tax assessees although the registration is for more than 21 lakhs. Thus, it was clarified that such a decision would be reviewed in future as the VAT authorities would pick up skills to deal with services in the coming two to three years. So, a decision in favour of continuity is perhaps the most sensible decision one may have expected under the circumstances.

At its next meeting tomorrow, the Council is likely to approve the Draft Rules for conduct of its business and the same are going to be notified next week; would also give its nod to subsidiary legislations put in the public domain early this week and if time permits, it may initiate the initial round of talks over exemption lists. Since the third meeting on October 17, 18 & 19 is likely to be stormy as it hopes to finalise the GST rates, it would be a good move to wrap up the list of commodities and services which deserve to be exempted. Let's wait and watch as the industry and trade are clearly finding it difficult to match the pace of decision-making by the Council. A good going, indeed!

Also See: [First Mega Decision of GST Council - Service Providers & Manufacturers exited from Composition Scheme](#)

[Small Businesses - Allowing States to collect IGST & CGST may warrant another Constitutional Amendment?](#)

[First Meeting of the GST Council](#)