

GSTAT Coalition India submits GSTAT Concept Note to FinMin

Bengaluru, India, 4 May, 2022

The Coalition for Goods and Services Tax Appellate Tribunal in India ('**GSTAT Coalition India**') announced that it has submitted a concept note to the finance minister, Smt. Nirmala Sitharaman and other top officials in the finance ministry, urging that immediate steps to be taken for the constitution of the Goods and Services Tax Appellate Tribunal (GSTAT). The Coalition has also submitted a series of suggestions to the Law Committee of the GST Council detailing features and functionalities from the perspectives of institutional design, technology, and procedures which would be required for the constitution of a state-of-the-art dispute resolution forum in the form of GSTAT.

Since the introduction of the Goods and Services Tax in India more than four years ago, there has been a steady rise in litigation as taxpayers are often faced with ambiguous legal provisions. The situation has been exacerbated due to the non-constitution of the GSTAT. The first level of appellate decisions is accumulating against assesseees awaiting the setting up of the GSTAT to provide clarity on a host of issues. Others have been constrained to approach the High Courts for relief, thereby adding to the latter's workload. In September 2021, the [Supreme Court](#) directed the government to set up the GSTAT without any further delay to avoid hardships caused to litigants and to curb the huge backlog of cases.

GSTAT Coalition India and its members believe that the GSTAT presents a greenfield opportunity to build a completely online dispute resolution system that can significantly ease doing business and signal the Indian government's intentions on solving tax disputes fast and economically without compromising revenue interest. A state-of-the-art dispute resolution institution backed by a constitutionally sound legal framework would require well-drafted rules and regulations to be put in place for its functioning.

The Coalition has recommended that GSTAT be set up as a new tribunal instead of subsuming it under existing CESTAT which may not be legally sound or practical given that both the States as well as the Centre have significant interest in the cases to be decided by the GSTAT. Being a common forum for both state and central GST acts, the GSTAT will need to ensure uniformity in the interpretation of and redressal of disputes. One way to achieve such uniformity would be to allow for appeals from GSTAT order directly to the Supreme Court in certain specific types of cases like those involving issues like place of supply, classification, valuation etc.

The Coalition has stressed the need to devise reimagined processes that make full use of technology to deliver on the vision of a modern GSTAT. The entire lifecycle of a case, from filing to disposal should be digital. Better docket management system which prioritises cases for listing and hearing must be developed. Hearings must be permitted on virtual mode as the default unless the taxpayer opts for physical mode. One software application should be used by all benches with separate databases. This will ensure uniformity of processes and facilitate automation. The Coalition notes that Goods and Services Network (GSTN) has already developed the software

being used by the first appellate authorities across the country. The same could be modified and upgraded for use by the GSTAT.

As a one-time transitional mechanism, the Coalition has advocated that alternative dispute resolution (ADR) be considered as a voluntary step after filing of appeal but before listing of cases for disposal. Some form of concessions/incentives may be considered for those who opt for ADR and matters that fail to be resolved can continue to be heard by the GSTAT. It has also recommended the formulation of case flow management rules which will provide for norms for prioritisation of cases based on subject matter, types of litigants, the amount under litigation, etc., timelines for various stages of appeal and adjudication, bifurcation between and allocation of procedural and substantive work, procedures for issuing of notices to ensure prompt service, rules discouraging excessive adjournments like higher filing fees if the number of adjournment exceeds a threshold number, refusal of early hearing and other benefits if the assessee takes adjournments frequently, etc. It has also suggested that there is a need to explore ways to reduce the number of cases admitted through the use of checklists, employing artificial intelligence, etc. and harmonise thresholds for filing appeals with administrative practice guidance notes.

As regards the next steps to be taken, the Coalition has urged that the Law Committee of the GST Council formulate a legal framework for a new modern GSTAT as envisaged above and put out the draft in public domain for comments by a broad range of stakeholders.

About the Coalition for Goods and Services Tax Appellate Tribunal in India:

The Coalition for the Goods and Services Tax Appellate Tribunal in India (**‘GSTAT Coalition India’**) is convened by DAKSH, Bangalore and brings together domain experts from the field of law, economics, chartered accountancy, public policy and civil service to advocate for the speedy constitution of, and develop an inclusive and shared imagination of a modern digital Goods and Services Tax Appellate Tribunal (**‘GSTAT’**) in India.

For more information about GST Coalition India and its work, please visit our website or contact: Mr. Surya Prakash, B.S. , Convener, GSTAT Coalition India at surya@dakshindia.org.