

[The Coalition for GSTAT](#) welcomes the responsiveness shown in operationalising the GSTAT and wants the GST Council to draft rules in a collaborative and transparent manner.

June 9, 2023 - Bengaluru, India

We understand from press reports that the GST Council is likely to discuss in its upcoming 50th meeting, among other items, the Rules for the GST Appellate Tribunal ('Rules').

The Coalition's vision for a truly modern, digital dispute resolution institution has been detailed in the [Joint Note for the Constitution of the GSTAT, November 2022](#) and incorporates learnings from research on the functioning of courts and tribunals in India over the years, developments in technology, and global best practices on institutional design. The framework of Rules is critical to realising this vision.

The Rules will need to contain the following aspects (*apart from those that are usually found in rules of other tribunals in India*), to enable operationalising such a GSTAT:

Digital: The entire lifecycle of a case, from filing to disposal, digital signing of judgments etc., should be paperless and entirely digital using standardised online forms. It should also enable easy retrieval of case documents from central and state tax administration systems by integrating with GSTN. This will require putting in place a robust technology office that can engage with all stakeholders in the ecosystem. The technology architecture of GSTAT should be envisioned as a digital public infrastructure that the ecosystem can build on top of. This is also required to be in compliance with the directions of the Hon'ble Supreme Court in *Bilfinger Neo Structo Construction Ltd.* Modules already developed on GSTN may be studied for this purpose.

Permanent Cadre: The Rules must ensure that members are not given the option of returning either to the judicial service or back to the IAS/IRS/state-level cadres.

Certainty of proceedings: The GSTAT Rules must enable certainty of hearings and proceedings by enabling case flow management by the President, Bench and Registry (see pages 21 to 25 of the Joint Note).

Strengthening administrative functions: The new GSTAT should have well-defined technology, analytics, financial, human resources, and infrastructure functions that are manned by specialists. A Chief Executive Officer or a Chief Operating Officer could also ease the administrative burden and provide continuity. It is possible to imagine such administrative functions to be also carried out by a separate dedicated entity, just like the GSTN was set up to take care of the technology (see pages 26 to 29 of the Joint Note).

Third member: Cases which require reference to a third member, should be through constituting a special bench, with the third member being the judicial member.

Rules for transparency and open data: The Rules should explicitly mandate the regular voluntary publishing of performance reports and minimum data disclosures. It should also enable bulk access to data of GSTAT for researchers and academics after suitable measures to guard privacy and security.

Further considering that the setting up of the GSTAT has already been delayed, it will start with a huge backlog of cases. To address this, the GST Council may consider granting the President (for a limited period of time during the transition period) power:

- to constitute special benches to fast-track certain categories of cases to expedite the disposal; and
- to club cases involving a specific issue for being fast-tracked for quicker disposal by specific benches.

The Principal Bench at New Delhi being granted exclusive jurisdiction to hear appeals on questions relating to place of supply needs to be watched closely and would require thinking through systemic impact over the medium term.

We also note that the states are yet to make amendments to state GST Acts consequent to amendments made to Central GST Act by the Finance Act, 2023. These state-level amendments are required to set up the search-cum-selection committee and the adoption of Rules. We request you to urge the state governments to take this up on priority.

We also request the GST Council to place the current Rules under discussion in the public domain for submitting feedback. It should also evolve a mechanism for consultations with stakeholders for framing Rules going forward.

About the Coalition:

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.

Our previous work in this regard has been:

- [Concept Note on the GSTAT, May 2022](#)
- [Join Note on the Constitution of the GST Appellate Tribunal, November 2022](#)
- [A Note of on GSTAT: State Level vs National Level, February 2023](#)

The members of the Coalition are:

- Ajit Ranade, Vice Chancellor, Gokhale Institute of Politics and Economics (GIPE), Pune;
- Najib Shah, IRS(retd.), former Chairperson, Central Board of Excise and Customs, Bengaluru;
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- S Ramesh, Managing Director at Price Waterhouse & Co LLP, Gurugram;
- Prashanth Agarwal, Partner at PwC, Delhi; and
- Surya Prakash B.S., Programme Director, DAKSH, Bengaluru

The Coalition has been convened by DAKSH (www.dakshindia.org), a civil society organisation working on law and justice system reforms, accountability and transparency of institutions.

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.