



All India Federation of Tax Practitioners

(Indirect Tax (GST) Representation Committee)

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

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Date.....

To,

Date: 28.05.2020

1) The Hon'ble Finance Minister
Ministry of Finance,
Govt of India, North Block,
New Delhi - 110001

2) The Chairman, CBIC,
Govt of India,
North Block,
New Delhi - 110001

3) The Pr. Commissioner(GST-1),
GST Policy Wing,
Deptt. of Revenue, North Block,
New Delhi - 110001

4) GST Council, 5th Floor,
Tower-II,
Jeewan Bharti Building,
Janpath, New Delhi - 110001

Hon'ble Madam/sir,

Sub: Representation on various GST issues

All India Federation of Tax Practitioners, having registered office at Mumbai is an Apex Body of Tax Practitioners being Advocates, Chartered Accountants and Tax Practitioners having more than nine thousand members across the Country practicing before the Income-tax Appellate Tribunal, Sales Tax Appellate Tribunal and GST Appellate Authorities having Benches and jurisdiction in various parts of India. I am proud to say, many Senior Advocates and Senior Councils of various High Courts and the Supreme Court are our members and till date more than seven members of our Association have been elevated as Judges of various High Courts. The object of the AIFTP is to take up various causes and act as a



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conduit and facilitator amongst the Tax Practitioners, Revenue Authorities, the Central Government and the Members of the Hon'ble Appellate Tribunals, High Courts and the other cogs in the wheels of dispensation of Justice in the fields of tax jurisprudence and to identify and overcome the impediments that may hamper the proper and effective functioning of the provisions of law. We have in the past taken up various issues and have made numerous representations across various fora for the mutual benefit of both the general public and the Revenue Authorities. AIFTP functions through five zones namely East, West, South, North and Central.

About 136 professional associations are our members. We have always been at forefront in representing Direct and Indirect Tax issues faced by our members before various authorities including the Central Government.

We have Central Representation Committees for Indirect tax and Zonal Representation Committees at each zone.

The Indirect Tax Representation Committee of AIFTP submitted various suggestions on GST Law since its inception and many of these suggestions have been accepted from time to time.

The members of our federation and other stake holders are facing various difficulties, which are detailed hereunder, in various compliances and on legal issues under GST which need your immediate attention and kind consideration for remedial action.

- 1. Input Tax Credit restrictions on purchases from dealers filing Quarterly GSTR-1 -** Vide Notification No. 75 / 2019 CT dt.26.12.2019 entitlement of ITC has been restricted to not exceed by more than 10% of ITC available in GSTR-2A as per Rule 36(4). This rule severely hits the taxpayer making purchases from suppliers filing quarterly GSTR-1

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their turnover being up to 1.5 Crore and, in result, they are refusing to make purchases from such small dealers.

We, therefore, represent that above rule 36(4) be withdrawn from retrospective effect so as to provide ease of doing business to small dealers otherwise their businesses are likely to be closed very soon.

2. **Input Tax Credit for F.Y. 2018-19** - The due date for claiming ITC for F.Y.2018-19 expired on 20th Oct, 2019 i.e. the due date for filing of return for Sept. 2019. In many cases, the ITC is left to be claimed inadvertently and it comes to the knowledge of the taxpayer or his professional consultant only at the time of filing of the Annual Return. For F.Y.2017-18, due to many technical glitches and it being the first year of implementation of GST Law, the time limit to claim the ITC was extended up to 31.3.2019. Thereafter, the taxpayers and the professionals were extremely busy in preparation and submission of Annual Return GSTR-9 and Reconciliation Return GSTR-9C because of which the reconciliation of ITC for F.Y.2018-19 could not be done in time in many cases and some part of the eligible ITC was left to be claimed. In view of the same, the time limit to claim the ITC for F.Y.2018-19 should be extended till the extended date for submission of Annual Return GSTR-9, there being no loss to the revenue.

3. **Interest on net Liability of Tax** – GST Council in its 39th meeting dated 14.03.2020 recommended that interest should be charged on net tax liability with retrospective effect for which an amendment to Section 50 of The CGST Act, 2017 was made on 01.08.2019 but no notification has been issued yet. We represent that Notification for levy of interest on net

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liability with retrospective effect be issued at the earliest to put an end to the unwanted litigation.

4. Appeals - Whether the proper officer can pass a single order levying Central tax, State tax, CGST Interest, SGST interest, CGST penalty & SGST penalty or whether he has to pass six separate orders. In a scenario where the proper officer has passed six separate orders for Central tax, State tax, CGST Interest, SGST interest, CGST penalty & SGST penalty, will it be sufficient to file single appeal covering all the six orders or is there requirement to file six separate appeals. May kindly be decided in terms of compliance burden and cost on the taxpayer.

5. AAR should be centralized – Advance Ruling Authorities in different states are giving different ruling even in case of same taxpayer having registration in different states. Clear guidelines should be given that ruling favorable to taxpayer will be applicable for all states.

6. Relaxation in payment facility – If inadvertently tax is paid under wrong head (CGST in place of IGST or vice-versa), the GST law requires the taxpayer to pay tax under correct head and apply for refund of the tax paid under the wrong head. This is a great hardship for the taxpayer as inadvertent clerical errors are always possible. We, therefore, represent that the facility/utility of adjustment from one head to the other be available with the proper officer at the back end on the request from the tax payer as was permissible under VAT Laws of different states and the taxpayer should not be forced to apply for refund which is always a cumbersome process.



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7. Waiver of late fee for Composition Dealers - We appreciate the decision taken in 40th GST Council meeting to waive late fee on delayed filing of GSTR-3B followed by notification No.52/2020 dt.24.06.2020 but no such relief has been considered for Composition Dealers, who could not file their quarterly returns in Form GSTR-4 for the F.Y. 2017-18 and 2018-19 in time due to various reasons but now are not in a position to file the same due to heavy late fee applicable, of up to Rs. 10,000/- (5,000 CGST + 5,000 SGST) every quarter, although tax liability in many cases is less than Rs.1,000/- per quarter. Since composition dealers are small businesses, this late-fee waiver concession should be allowed to them as well, so that they can comply with the law by filing of GSTR 4, at par with non-composition dealers without any late fee burden.

8. Waiver of late fee for final Return GSTR -10 - As per section 45 of CGST Act, 2017 the taxpayers who applied for cancellation of registration and were granted cancellation need to file GSTR-10 (Final Return) within 3 months of the date of cancellation or date of order of cancellation, whichever is later.

In the initial stage of implementation of GST Law, the utility of GSTR-10 was not available on GSTN Portal, and therefore, the said return could not be filed by many taxpayers. Later on, when utility was made available, many taxpayers could not file the same either due to lack of knowledge (being new law) or due to clerical inadvertent oversight on part of the staff of the taxpayers or of their professionals.

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Date.....

Now, late filing of GSTR-10 attracts late fee of up to Rs.10,000/- in each case. Since the business of the taxpayers is already closed or their turnover is less than the threshold

limit, payment of late fee of up to Rs.10,000/- is a heavy burden on such dealers.

We therefore, represent that late fee in such cases be waived as has been done in the case of GSTR-3B filing for the period July, 2017 - Jan, 2020, there being no loss to the revenue

9. Waiver of Late Fee on filing of GSTR-9 FY 2017-18 –

Due to many technical glitches in making the final utility of Form GSTR-9 available on GSTN Portal, the due date for filing of GSTR-9 was extended, by revenue, to 5th Feb. 2020 vide Notification No. 6/2020 CT dated 3rd Feb. 2020.

However, in many cases GSTR-9 could not be filed by 05th Feb, 2020 due to many reasons. This being the 1st year of introduction of GST Law, we request for the waiver of late fee on delayed filing of GSTR-9.

Further, while calculating the period of delay, lockdown period from 15.03.2020 to 31.07.2020 should not be counted if at all late fee is to be levied in view of Hon'ble Supreme Court's order in suo moto W.P. (Civil) No. 3/2020 dated 23.03.2020 relating to time barring issues.





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(Indirect Tax (GST) Representation Committee)

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

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Date.....

10. Waiver of late fee in filing of ITC-03, ITC-01 etc. - The late fee for delayed filing of declaration in form ITC-03 or ITC-01 should be waived as the same is only a technical requirement, there being no loss to the revenue, as has been allowed in delayed filing of GSTR-3B for the period July 2017 – July 2020.

11. Constitution of GST Tribunal - GST Tribunal should be immediately constituted in the larger interest of Taxpayer.

12. Extension of due dates for all compliances by one time notification – Dates of all the compliances falling due during the lockdown period, commencing 18.03.2020, be extended by issuing a onetime notification stating revised due date which may be 30 days following the end date of the lockdown period, which is yet to be notified.

This will save time and energy of the Govt in issuing multiple notifications for extensions from time to time.

We humbly request you to please consider the above issues in the interest of public at large.

With highest regards

For All India Federation of Tax Practitioners

CA H. L. Madan

(CHAIRMAN)

(Indirect Tax Representation Committee)



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