



All India Federation of Tax Practitioners

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

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May 02, 2023

**The Honourable Union Minister of Finance
Government of India**

**&
Chairperson – GST Council
New Delhi**

**Sub: Suggestions / representation on various
issues under Goods and Services Tax Law**

Respected Madam,

The GST Council from time to time has been receptive to various suggestions and requests made by the trade and industry in resolving the issues / problems faced under the Goods and Services Tax Law since its inception. However, we believe that simplification of the law is a must to ensure compliance. In this direction, we would like to make the following suggestions / representations for the benefit of the trade and industry:

1. Amnesty scheme: Introduction of GST law in 2017, without adequate preparation, technical glitches of GST portal and inadequate knowledge updation to the SMEs and MSMEs, created a lot of issues leading to some incorrect payment / non-payment / short payment of taxes and short claim/ missed claim/ incorrect claim of input tax credit. Further, even the law makers were not clear of the statutory provisions which lead to several amendments to the Act, notifications, circulars. It is suggested that an amnesty scheme with 1 time settlement with waiver of 75% of interest and full waiver of penalty for 2017-18 to 2021-22 should be announced. This will also help industry in reduction of cost of litigation and also reduce the burden of the courts.



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2. Input tax credit:

- a. Denying input tax credit (for brevity, 'ITC') on the grounds of non-payment to the Supplier within 180 days of date of invoice is arbitrary and illogical. On the one hand Government collects its dues from the suppliers as per the time of supply, on the other hand there is denial credit to Recipient if he doesn't pay to supplier within 180 days. Parties settle their accounts as per their contractual commitments and there is no tax which is at stake for the Government. It is recommended to remove the condition of payment to the supplier within 180 from the date of invoice.
- b. Time limit to claim input tax credit should be removed - Presently a time limit is prescribed to claim input tax credit relating to a financial year. It is suggested that no time limit should be prescribed for claim of input tax credit since the Government collects its tax dues from the supplier and claim of input tax credit at later date in fact is beneficial to the Government considering the time value of money. There are several reasons why a registered person would delay claiming the input tax credit immediately, for instance (1) in case of EPC projects time required for inspection of work executed and clearance of invoice takes several months (2) Quality inspection / testing of some goods takes several months before the goods are to be accepted.
- c. Input tax credit on revocation of cancelled registration - When a revocation of cancelled registration is allowed by the proper officer or appellate authority or the High Court, the assessee should be allowed to avail input tax credit in respect of the



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period from the cancellation of the registration till the registration is restored. It is suggested that suitable amendment be made in Chapter V of the CGST Act, 2017 to enable availment of input tax credit for such situation.

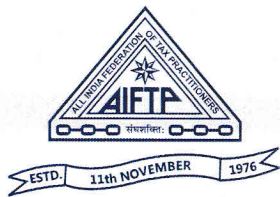
3. Time limit to file reply under Rule 88C to be increased to 30 days from 7 days:

Currently the time limit to file reply for difference in tax payable arising on account difference between statement of outward supplies furnished Form GSTR-1 and return in Form GSTR 3B is 7 days. It is suggested that the time limit to file reply should be amended to 30 days as the registered person will require time to verify the details and provided detailed information / explanation.

4. Appeal related matters:

A. Pre-deposit for appeal before First Appellate Authority relating to e-way bill:

Appeal related to dispute on issues **other than** e-way bill requires a registered person to pay 10% of the disputed tax subject to maximum of Rs. 25 crore. However, to prefer an appeal on dispute related to e-way bill, 25% of the penalty levied is required to be paid. Pre-deposit of 25% of the penalty is causing undue hardship to the registered person especially in bonafide cases where vehicles are detained for petty or minor defaults. It is suggested that the pre-deposit of 10% of the penalty levied or providing bank guarantee of 100% of the penalty levied should be considered in case of e-way bill disputes for appeal before the First Appellate Authority.



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B. Condonation of delay in filling Appeal:

Appeal before	Condonation period allowed	Section – CGST Act, 2017
First Appellate Authority	1 month from the prescribed period	107 (4)
Appellate Tribunal	3 months from the prescribed period	112(6)

Due to certain constraints, a person aggrieved by a decision or order may not be able to file an appeal even within the extended period provided in the Central Goods and Services Tax Act, 2017 ('CGST Act, 2017'). It is recommended that the extended period as prescribed under Section 5 of the Limitation Act, 1963 should be prescribed under the CGST Act, 2017 for condoning delay in filling the appeals before the First Appellate Authority and Appellate Authority.

C. Filing appeal related to the e-way bill disputes:

1. A registered person in a State may not be registered in all the States. In the case of inter-State movement of goods, if the vehicles are detained and adverse orders are issued due to e-way bill disputes, an appeal is required to be filed in the State where the conveyance is detained and order issued by the prescribed authority. This is causing undue hardship and cost to registered person if an appeal is required to be filed in a State where the GST registration / place of business is not there. It is recommended that an option should be given to file an appeal in the State where the person is registered.
2. Section 107 (6) of the CGST Act, 2017 provides for preferring an appeal against seizure of goods during transit on pre-deposit of 25% of penalty levied. However, goods



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are not released by the proper officer until 100% of penalty levied is paid, resulting in undue hardship to the registered person especially in bonafide cases where vehicles are detained for petty or minor defaults and also making the provisions Section 107(6) of the appeal redundant. It is suggested that a circular be issued on this issue stating that goods should be released on payment of 25% of penalty levied where the person would want to prefer an appeal.

5. Late Fee in filing return: Currently under Section 47 of the CGST Act, 2017, late fee for filing details of outward supplies under Section 37 or returns under Section 39, 45 or 52 of the CGST Act, 2017 is Rs. 100/- per day subject maximum of Rs. 5,000/-. However, where the tax amount involved is less than Rs. 5,000/- and where the delay is more than 50 days in filing the said details or returns, the penalty would be Rs. 5,000/-. This is causing undue hardship to SME / MSME and small-time businesses. It is recommended that the penalty should be capped to Rs. 5,000/- or tax amount whichever is less.

6. Amnesty scheme for revocation of canceled registration to be extended in cases of pending appeals: We welcome the amnesty scheme provided by the Government for revocation of cancelled registration vide Notification No. 03/2023 – Central Tax dated 31.03.2023. We recommend that the said scheme be extended to cases where an appeal has been filed but the appeal is pending before various forums by allowing such persons to withdraw the pending appeal and apply for the amnesty scheme.



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It is most humbly requested to consider the above suggestions and issue notifications, clarifications, circulars etc. in this regard.

The issues raised above have been mentioned in brief and can be explained / discussed in detail in a meeting with your goodselves and your team in person. An appointment for the same may please be granted at the earliest possible time.

Thanking You,

Yours faithfully,
For All India Federation of Tax Practitioners

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Chairman – Indirect Tax (GST)
Representation Committee