



# All India Federation of Tax Practitioners

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

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**Bhaskar B. Patel**  
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January 27, 2025

To  
Smt. Nirmala Sitaraman  
Chairperson, GST Council  
Government of India  
5th Floor, Tower II,  
Jeevan Bharti Building,  
Janpath Road, Connaught Place,  
New Delhi - 110 001.

Subject: **Submission of Representation for Addressing Key Challenges in GST Framework**

Respected Madam,

On behalf of the **All India Federation of Tax Practitioners (AIFTA)**, we are pleased to submit this representation for your kind consideration. The representation highlights critical challenges faced by taxpayers under the GST framework and proposes actionable solutions to enhance fairness, efficiency, and alignment with broader legal and operational requirements.

The challenges outlined in the document range from operational issues, such as vehicle seizures and restrictive compliance timelines, to policy gaps in areas like CSR-related Input Tax Credit (ITC) disallowance and penalty structures. Each issue has been carefully analysed, and recommendations have been provided to address them in a manner that balances tax compliance with taxpayer convenience.

We particularly emphasize the need for:

1. Procedural reforms to reduce administrative burdens and delays, such as aligning GST provisions with other laws in force and improving the GST portal's functionality.



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2. Policy amendments to address practical and operational challenges faced by businesses, including the release of detained vehicles, ITC-related timelines, and the GST refund mechanism.
3. Streamlined processes that ensure fairness and equity for taxpayers while maintaining the integrity of the GST framework.

We are confident that these recommendations, if implemented, will significantly contribute to creating a more efficient and taxpayer-friendly GST regime, fostering a conducive environment for businesses to thrive.

We would be honoured to have the opportunity to discuss these recommendations further at your convenience. Please feel free to reach out to us for any clarifications or additional information.

Thank you for considering our representation. We sincerely appreciate the efforts of the GST Council in continually improving the GST framework, and we remain committed to supporting this process.

Yours sincerely,

**(Samir S Jani)**

**National President**

**All India Federation of Tax Practitioners (AIFTP)**



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## **REPRESENTATION TO THE GST COUNCIL**

### **Preliminary Note**

This representation addresses key challenges in the GST framework and proposes specific solutions with relevant legal references. All references to sections and rules pertain to the CGST / SGST/ UTGST Acts, 2017, and CGST/ SGST/ UTGST Rules, 2017 unless otherwise specified.

## **1. REGISTRATION CANCELLATION PROCESS**

### **Current Challenges**

The registration cancellation process under Section 29 presents significant operational difficulties, particularly in cases involving the death of a proprietor. Applications are frequently rejected even after valid death certificates and required documents are submitted. This adds unnecessary bureaucratic challenges for successors or family members attempting to legally close the business.

The GST inflexible 30-day deadline under Rule 20 aggravates the issue, as it disallows backdated entries, forcing applicants to input incorrect information. This not only compromises the integrity of declarations but also exposes successors to potential legal and compliance risks in the future.

### **Suggested Solutions**

We suggest that Rule 20 of CGST Rules be amended to introduce flexibility for genuine cases, such as the death of a proprietor, by explicitly allowing applications beyond the 30-day deadline. This should be aligned with Section 5 of the Limitation Act, 1963, to specifically allow for condonation of delay due to unforeseen circumstances or genuine hardships faced by taxpayers.

We suggest updating the GST portal to enable the acceptance of backdated applications with valid reasons, ensuring accurate data entry.



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## 2. APPEALS

### **Challenge 1: Inadequate Condonation Period for Appeals**

The one-month condonation period for filing appeals u/s 107 proves insufficient, particularly in cases involving force majeure events. Taxpayers, particularly small businesses and individuals dealing with emergencies such as medical issues, natural disasters, or technical glitches, law & order situations, frequently find it challenging to adhere to this short timeframe, leading to denial of their right to appeal. Such strict deadlines undermine principles of natural justice, including audi alteram partem (no person should be judged without a fair hearing), by depriving taxpayers of sufficient opportunity to present their case in situations of genuine hardship.

### **Suggested Solutions**

We suggest that Section 107(4) of the CGST Act be amended to allow for condonation of delay beyond the current one-month period, aligning it with Section 5 of the Limitation Act, 1963, to ensure fair treatment of taxpayers facing force majeure or other genuine difficulties. Corresponding amendment u/s 112(6) for the Tribunal may also be considered.

It is also suggested that section 107(6) be amended, to increase the condition of pre-deposit of 10 % of disputed tax to 15%, where delay in filing the appeal is beyond the current one-month period limit.

### **Challenge 2: Delays in Generating FORM APL-02 Acknowledgments**

Delays in generating FORM APL-02 acknowledgments often extend beyond reasonable timeframes, sometimes until after the personal hearing, creating uncertainty for taxpayers.

### **Suggested Solutions**

We suggest amending Rule 108(3) of the CGST Rules to explicitly mandate a 7-day deadline for generating FORM APL-02 after filing an appeal, ensuring procedural efficiency and reducing uncertainty for taxpayers.



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## **Challenge 3: Impact of Delayed Appeal Outcomes on Registration Issues**

When taxpayers receive favourable orders in appeals against registration rejection, they are still required to file a fresh registration application with a new ARN. This causes significant operational delays for businesses needing immediate registration to resume operations. Moreover, under Section 18(2) of the CGST Act, taxpayers can claim ITC only for invoices issued within one year before registration. The delays caused by the appeal process and subsequent fresh applications often lead to the expiration of this timeline, resulting in financial losses on held stock.

## **Suggested Solutions**

We suggest that Section 18(2) of the CGST Act and Rule 9 of the CGST Rules be amended to allow backdated registration. This would enable taxpayers to file returns for the appeal period without penalties, ensuring legitimate ITC entitlements are not forfeited due to delays beyond their control.

Also, Amend Rule 10 of the CGST Rules to permit direct reinstatement of registrations if the appeal is decided in favour of the taxpayer, eliminating the requirement for a fresh application. This would prevent unnecessary delays and operational disruptions, allowing businesses to resume activities promptly.

## **3. RESTRICTIVE ITC CLAIM TIMELINE**

### **Current Challenges**

Section 16(4) imposes restrictive timelines for credit utilization and reconciliation, posing significant challenges for businesses operating in complex supply chains or across multiple jurisdictions. These timelines often fail to accommodate the reconciliation process required for accurate credit claims. Furthermore, force Majeure circumstances and technical glitches affecting GSTR-2B reflections frequently result in the denial of rightful credits, penalizing taxpayers for issues beyond their control.

### **Suggested Solutions**

We suggest that Section 16(4) of the CGST Act be amended to extend ITC claim deadlines to align with the due date of GSTR-9 annual returns, which is December 31st of the subsequent financial year.



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Additionally, we propose incorporating provisions of Section 5 of the Limitation Act, 1963, to account for force majeure events, ensuring businesses facing unforeseen circumstances are not penalized.

## **4. GST REFUND PROCESS**

### **Challenge 1: Documentation and Jurisdictional Variations**

The refund mechanism under Section 54 is fraught with operational challenges, particularly for exporters and businesses in sectors with an inverted duty structure. Documentation requirements often exceed statutory provisions, with variations across jurisdictions leading to delays and inconsistencies in processing. Additionally, restrictions on the refund of accumulated ITC in certain sectors exacerbate working capital shortages, hindering the financial stability of affected businesses.

### **Suggested Solutions**

We propose amending Rule 89 of the CGST Rules to standardize refund processes across states and establish uniform documentation requirements to eliminate jurisdictional discrepancies.

We suggest amending Section 54(3) of the CGST Act to explicitly permit the refund of accumulated ITC for all sectors operating under inverted duty structures. This amendment would ensure equitable treatment across industries and alleviate working capital constraints faced by taxpayers.

### **Challenge 2: Refund Delays Beyond 60 Days**

Refund applications often remain pending beyond the 60-day statutory period prescribed under Section 54(7), causing undue financial strain on businesses that rely on timely refunds for working capital.

### **Suggested Solutions**

We suggest amending Section 54(7) of the CGST Act to introduce a provision for "deemed approval" of refund applications not processed within the prescribed 60-day period. This amendment should mandate the automatic crediting of refunds to taxpayers if no response or action is taken by the authorities within the stipulated



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timeframe. This will also ensure no interest liability accrues to the exchequer on delayed refunds.

## 5. PENALTY STRUCTURE

### Challenge

The penalty structure under Section 73/74A imposes disproportionate financial burdens, particularly on smaller taxpayers, by mandating a minimum penalty of ₹20,000, even for minor compliance defaults.

### Suggested Solutions

We suggest amending Section 126 of the CGST Act to introduce a graded penalty system that waives penalties for tax shortfalls below ₹10,000. This amendment would ensure that smaller taxpayers are not disproportionately burdened for minor compliance issues.

## 6. HIGH INTEREST RATES ON DELAYED PAYMENTS

### Challenge

The uniform interest rate of 18% under Section 50 creates excessive burdens for technical breaches. Interest is intended to compensate for delays in payments, not to punish taxpayers, and the current rate creates unnecessary compliance burdens. Deliberate delays are already provided to be punishable by way penal provisions.

### Suggested Solutions

We recommend amending Section 50 of the CGST Act to reduce the interest rate on delayed payments to 12%, aligning it with prevailing market borrowing rates.

We also suggest adding a new clause to Section 50 explicitly mandating the automatic waiver of interest in cases where delays are caused by technical glitches on the GST portal.

## 7. NOTICE PERIOD AND PROCEDURAL TIMELINES





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## **Challenge 1: Short Notice periods**

Short notice periods often result in missed deadlines, especially when taxpayers are unaware of issued notices. In some cases, appellate notices and summons provide only a 2-day notice period, requiring taxpayers to attend offices located in other cities, often more than 100 kilometres away. This creates significant logistical and compliance challenges, particularly for smaller businesses.

## **Suggested Solutions**

We suggest amending Section 169 of the CGST Act to explicitly mandate a minimum notice period of 3 weeks for all hearings. This would provide taxpayers with adequate time to prepare and ensure compliance with procedural fairness.

## **Challenge 2: Communication System Enhancements**

Reliance solely on the GST portal for issuing notices often results in taxpayers missing critical communications. Notices are frequently overlooked, especially when registered mobile numbers or email IDs belong to directors or proprietors who do not regularly check the portal. This creates a significant risk of ex-parte orders being issued.

## **Suggested Solutions**

We recommend amending Section 169 of the CGST Act to expand the communication system to include WhatsApp messages, SMS notifications and email alerts for all critical notices.

Additionally, a provision should be introduced to mandate that hard copies of notices be sent to registered business addresses to ensure no communication is missed.

## **8. COMPLIANCE DEADLINES ON PUBLIC HOLIDAYS**

### **Challenge**

Taxpayers often face challenges in meeting compliance deadlines under the GST framework when such deadlines coincide with public holidays or weekly offs mandated by labour laws. Office closures, staff unavailability, and the need to adhere to these non-working days create barriers to timely submissions. This misalignment increases the risk of inadvertent non-compliance, operational disruptions, and unnecessary penalties for taxpayers.





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## **Suggested Solutions**

We propose amending of the CGST Act to include a provision for the automatic extension of GST compliance deadlines to the next working day if they fall on a public holiday or weekly off. This amendment should align with Section 10 of the General Clauses Act, 1897, which provides for procedural adjustments when deadlines coincide with non-working days.

Additionally, we recommend modifying the GST portal to incorporate an automated system that identifies compliance deadlines falling on public holidays or weekly offs. This system should generate notifications to taxpayers providing advance notice of the extended due date.

## **9. ISSUE: FILE SIZE LIMIT FOR UPLOADING DOCUMENTS**

### **Challenge**

The GST portal imposes unreasonably low file size limits (e.g., 100 KB for consent letters), making it impractical to upload required documents. This often results in avoidable show-cause notices (SCNs) and additional compliance burdens for taxpayers.

### **Suggested Solutions**

We suggest modifying the GST portal to increase file size limits for document uploads to realistic thresholds (e.g., 5 MB for consent letters etc and 10Mb for other critical documents like contracts, agreements etc.). This enhancement would ensure smoother compliance and reduce unnecessary procedural delays.

## **10. ISSUE: RESTRICTION ON MULTIPLE AMENDMENT APPLICATIONS**

### **Challenge**

The GST portal restricts taxpayers from filing multiple amendment applications for core fields if a previous application is pending. This restriction causes unnecessary delays in compliance and impacts business operations.



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## **Suggested Solutions**

We propose modifying the GST portal to allow simultaneous amendment applications for core fields, ensuring smooth and efficient compliance.

### **11. ISSUE: SUO MOTU RETROSPECTIVE CANCELLATION OF REGISTRATION**

#### **Challenge**

Registrations are often cancelled Suo motu with retrospective effect, usually from the date of registration. Such extreme measures are being taken routinely instead of in exceptional circumstances, leading to significant challenges for taxpayers.

#### **Suggested Solutions**

We recommend amending Section 29 of the CGST Act to ensure that retrospective cancellations are limited to exceptional cases where reasons are explicitly recorded by the authorities. Clear guidelines and checks should be implemented to prevent routine use of such extreme measures.

### **12. FIELD VERIFICATION OF PLACE OF BUSINESS**

#### **Challenge**

The field verification process for the place of business lacks standardization and often leads to arbitrary outcomes. Inspections are sometimes conducted during inappropriate times, such as lunch hours or non-business hours, leading to incorrect conclusions about business operations. Additionally, prior intimation for inspections is rarely provided, leaving businesses unprepared to address queries from officials.

#### **Suggested Solutions**

We suggest introducing standardized procedures under Rule 25 of the CGST Rules to ensure fairness in field verification. This includes mandatory prior intimation to taxpayers, avoiding inspections during lunch hours, and requiring multiple visits before rejecting applications to prevent unjustified outcomes.

### **13. ISSUE: SEIZURE OF VEHICLE DESPITE OWNER'S TURN UP**



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## **Challenge**

Section 129 permits authorities to detain goods and the vehicle carrying the goods until penalties for alleged defaults are paid.

This presents significant procedural and operational challenges, particularly when vehicles are intercepted in far-flung areas, often thousands of kilometres away from the place of the owner of the goods. This geographic disparity substantially increases the time required to complete the legal formalities for release by way of payment of applicable penalties, (which amount to twice the tax amount) or by way of appellate proceedings.

When the release of the vehicle is sought before the finalization of penalty proceedings, it can be done by the transporter upon payment of either the penalty imposed or ₹1,00,000, whichever is less. However, there is no provision to refund or adjust this amount of ₹1,00,000 against the final penalty imposed.

If the vehicle owner opts for early release of their vehicle, they suffer a penalty of ₹1,00,000 even in cases where no penalty is eventually imposed or where the penalty is nullified in appellate proceedings. This provision for Imposition of penalty on transporter without an underlying default on his part, is draconian in nature.

It also creates an inequitable situation providing undue leverage to seizing authorities to coerce the deposit of penalties, without allowing legal remedies to be fully explored. It also creates opportunities for corruption.

This enforcement methodology contradicts Section 129's primary objective of ensuring tax compliance. It effectively imposes vicarious liability on transporters, who become unintended subjects of tax disputes. Given that vehicle values frequently exceed prescribed penalties, transporters face economic coercion to satisfy disputed liabilities to resume operations.

## **Suggested Solutions**

We propose amending Section 129 of the CGST Act to mandate the immediate release of vehicles upon the owner of goods appearance. However, the detention/seizure of the goods may continue till the finalisation of the proceedings. This



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amendment should emphasize that seizure of the vehicle beyond this point serves no additional purpose and penalizes the transporter unjustifiably.

## 14. CSR-RELATED ITC ISSUES

### **Current Challenges**

Section 17(5) disallows ITC on goods and services procured for Corporate Social Responsibility (CSR) activities, creating a paradoxical situation for businesses. While CSR initiatives are mandated under the Companies Act, 2013, the inability to claim ITC on these expenditures effectively increases costs. This disallowance reduces the funds available for further CSR activities, thereby diminishing the potential social impact that businesses could achieve with the same financial resources.

### **Suggested Solutions**

We suggest that Section 17(5) of the CGST Act be amended to specifically include ITC eligibility for goods and services procured for CSR activities, aligning the GST framework with national CSR objectives mandated under the Companies Act, 2013.

*In conclusion, the challenges outlined above underscore the need for reform in the GST framework to address procedural inefficiencies and align with the broader legal and operational realities faced by taxpayers and businesses. The proposed amendments aim to enhance fairness, reduce administrative burdens, and ensure that compliance requirements do not inadvertently penalize businesses for circumstances beyond their control.*