



Bombay Chartered Accountants' Society

7, Jolly Bhavan 2, Ground Floor, New Marine Lines, Mumbai - 400 020
Tel. : + 91 22 6137 7600 Website : www.bcasonline.org
E-Journal : www.bcajonline.org E-mail : bca@bcasonline.org
www.elearning.bcasonline.org

President
Narayan R. Pasari
Vice President
Sunil Gabhawalla
Hon. Jt. Secretaries
Manish Sampat
Abhay Mehta
Hon. Treasurer
Suhas Paranjpe

To,

Shri Hasmukh Adhia, Revenue Secretary,

September 1st 2017

The Government of India,

Ministry of Finance,

(Department of Revenue, Central Board of Excise & Customs)

New Delhi.

Dear Sir,

GST Implementation – Practical Difficulties – Need for appropriate Guidance

A. Registration:

1. Section 22 of CGST Act states “(1)Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds.....”

There is wide spread confusion about the phrase “from where he makes a taxable supply of goods or services”. Different interpretations are being given by Central authorities and State authorities. It is requested that either the terminology may kindly be defined in the Act itself or appropriate guidance may kindly be provided in this regard so that the Taxable Persons can comply with the requirements accordingly.

2. Many dealers, who were already registered under the earlier laws, have not been able to migrate due to various difficulties: one of them is difference in PAN in the records of authorities and real PAN. They should be permitted to migrate the registration with effect from 1st July 2017 by bringing in suitable amendments in the portal. The time limit for making application for migration by such persons may be provided to be 30 days from the introduction of this functionality on the portal.

3. There are certain sectors, which have come into the GST net for the first time (they were not liable for Vat or Service Tax earlier). Many of them have already applied for registration, but their applications are still pending for approval, all such applications may kindly be cleared at the earliest. And those who have not yet been able to apply due to any kind of confusion or due to non working or slow working of website or for any other reason,

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may kindly be permitted to apply for registration w.e.f. 1st July 2017. The time limit for making application by such persons may be stipulated to be 30th September 2017.

4. It may be noted that unless registration is granted to such persons, they may not be able to issue Tax Invoice. Thus, will not be able to pay tax and submit returns, etc.

5. Further, in many cases where application has been made before 30th July for new registration, certificates have been issued granting registration w.e.f. the date of granting registration, instead of date of liability. The online filing utility for GSTR-3B does not allow such dealers to submit return for the month of July. It may be necessary to issue general instruction, for all such cases that their registration should be made effective from 1st July 2017 and that the portal should accept invoices of the earlier date.

B. Submission of Returns and Payment of Taxes:

Present provisions, under the GST laws, provides filing monthly returns by all tax payers whether small or big. (Except those who have opted for composition scheme). And such returns have to be filed in three parts on three different dates. Several restrictions have been prescribed whereby if a person wishes to submit required information earlier than the due date, he cannot do so. This is creating greatest unrest among the small and medium enterprises. It may be imperative for the Government to mitigate the hardship likely to be caused to all such taxable persons.

It looks like that suggestions made by various trade associations, in this regard, have been ignored. If your good selves have a look at the provisions in GST laws worldwide, you will appreciate that all such countries who have successfully implemented GST have ensured much easier compliance by the tax payers. However, our country has chosen such a rigid time frame and in such a manner, which is practically impossible to comply with on regular basis. Kindly consider the time and energy which will be required for such kind of compliance by SMEs every month throughout the year.

It is requested, therefore, Chapter IX of the CGST Act, regarding submission of returns, etc., may kindly be revisited. (Suggestion made by various associations may kindly be considered and/or the provisions may kindly be made on the lines of similar provisions under the laws of various other countries who have successfully implemented VAT such as EU Vat, Australian Vat or Singapore Vat, etc.)

It is also observed that many functionalities on the portal are still not operational. The trade and industry will need at least 30 days to understand the nuances of the portal since it is the

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first time of operation. Therefore, it is suggested that the due dates of filing of various returns be decided at least 30 days after the respective functionalities are opened on the portal

Further, the offline/online utility should be provided in such a manner that GSTR-3 is simultaneously generated from information contained in GSTR-1 and GSTR-2.

Form GSTR-3B requires a taxable person to report “supplies made to composition dealer”. As the compliance of such a requirement looks almost impossible, the Form may kindly be amended accordingly.

The due date for payment of tax may remain same i.e. within 20 days from the end of month.

C. Reverse Charge Mechanism:

Another major area of concern to all the tax payers (whether big or small) is provisions contained in section 9(4) of the CGST Act (supplies received from un-registered persons), coupled with section 31(3)(f) and the condition that the liability under reverse charge has to be first paid in cash and the credit thereof (if eligible) can be claimed thereafter.

Section 9 “(4) The central tax in respect of the supply of taxable goods or services or both, by a supplier who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Section 31(3) “(f) a registered person who is liable to pay tax under sub-section(3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;”

Respected Sirs, there is an urgent need to kindly have a look into the provision once again. How much revenue does the Government expect from such a provision? It will be the most cumbersome job for the tax payers. Calculating liability on account of all such supplies received from ‘un-registered persons’, issuing an invoice for all such supplies, calculation of tax for each item at respective rate, payment thereof and thereafter again claiming credit of the same amount as ITC. It may be the most time-consuming exercise for all taxable persons

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throughout the country, resulting into almost no additional revenue to the Government and undue burden of cash outflow on the Tax Payer. It may also result into a tool of harassment at assessment and audit proceedings. It is requested that such provisions must be avoided.

Till necessary amendment is done in the Act, the applicability of section 9(4) may kindly be kept in abeyance, or, permission may kindly be granted to discharge the liability through the Electronic Credit Ledger to the extent credit is available in respect of such supplies received from un-registered suppliers in the same tax period.

D. Time of Supply:

Section 12(2) of CGST Act may need appropriate amendment to provide ease of compliance.

E. Place of Supply:

Considering the complexities involved in the provisions, it is requested that a Guidance Note may kindly be issued for appropriate compliance by Taxable Persons. It may be noted that there are different views expressed by the concerned authorities and leading consultants in respect of various kinds of transactions of supply of goods as well as in respect of supply of services.

F. Composition Schemes:

World over composition schemes are being encouraged for easier compliance by all those who are generally supplying goods/services to consumers, but, the Composition Schemes as provided under our laws contain too many conditions and restrictions whereby all those who really want to opt for composition cannot do so. It is suggested that:

1. The turnover limit of Composition scheme for manufacturers and retailers may kindly be raised to Rupees 150 lakhs (from present limit of Rs. 75/50 lakhs).
2. The Composition Scheme for hotels (restaurants, eating houses and caterers) should be permitted to all such establishments without any limit of turnover. It will provide a great relief to all those people who are dependent on such eating houses for their daily meals. As the rate of composition under this scheme is kept at 5%, which is much higher than other composition schemes, the suggestion may kindly be considered in the interest of people in general.

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G. HSN Codes and Rates of Tax:

1. Although, the Government has not made it clear to the people that why it is necessary to mention HSN code in respect of each and every supply of goods and why HSN code wise summary of intra state and interstate supplies is required to be reported in GSTR-1 and GSTR-2. In this connection, kindly have a look at the rates of tax prescribed through various rate schedules, items falling under same HSN code (2 digits and 4 digits) may be liable to tax under 2 or 3 different rate schedules. The registered tax payers are maintaining rate wise bifurcation of each outward supply as well as inward supply. Further bifurcation thereof into HSN codes and service accounting codes may result into a much-complicated accounting and the same may lead to various kinds of errors in reporting. It is requested that HSN codes wise reporting may kindly kept in abeyance for the time being (at least during first two years of implementation).

2. The Rate Schedules may have to be thoroughly reviewed. In the present set up it is likely to raise a large number of classification disputes, which must be avoided for having it to be a just and fair law.

H. FAQs and Replies through Twitter:

It should be made clear to all those concerns that whether replies given through Twitter can be considered as official reply of the Department and if someone has followed the same whether he will be protected from levy of additional tax, fine and penalties.

Thanking you,

Yours sincerely,

For Bombay Chartered Accountants' Society

Narayan Pasari
President

Deepak Shah
Chairman, Indirect Taxation Committee