



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

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By email

Date: 24th July 2018

Mr. Rajiv Jalota
Commissioner SGST,
Government of Maharashtra
Mumbai

Respected Sir

Sub: Recommendations for Simplification of GST for Small and Medium Enterprises (SME).

We have read with detail the recommendations of the 28th GST Council Meeting and we are happy to note the efforts taken by the Council to simplify business processes especially for the Small and Medium Enterprises (SMEs). In particular, we appreciate the following steps, which we believe are steps in the right direction:

1. Recommendation of a new process requiring the filing of a single return
2. Increase in the Eligibility Limit for Composition Scheme upto Rs. 1.5 crores and permission to opt for composition even in cases where there are insignificant value of services rendered
3. Eligibility to issue single debit/credit note against multiple invoices
4. Reopening of the GST Migration Window in certain cases.

While the above steps clearly suggest the intent of the Government to resolve possible issues and usher in a tax-payer friendly regime, there are certain issues which continue to bother the tax payers, more particularly the small and medium enterprises (SME).

Accordingly, we would like to make the following recommendations, which, if carried out, will significantly ease the compliance burden at the SME level, bring in certainty and clarity of provisions and reduce the cost of doing business.

Our recommendations with a detailed reasoning are tabulated below for easy reference:

Sr.	Section	Recommendation in Brief	Detailed Recommendation
CGST ACT			
1.	2(5), read with 24(vii)	Compulsory Registration required for agents be clarified as being applicable only to consignment agents	Section 24(vii) requires a compulsory registration in cases where the supplies are made on behalf of other taxable persons. While on a strict legal interpretation, this can cover cases where agents stock goods on behalf of the principal and then supply on their behalf, there is substantial confusion in the trade whether simple brokers or commission agents who merely facilitate a transaction directly between two parties are eligible for threshold or are hit by Section 24(vii), specifically in view of the wide definition of agent provided under Section 2(5). It is suggested that either an amendment in Section 24(vii) be carried out to restrict the scope to cases of consignment agents stocking and supplying goods on behalf of principal or a suitable clarification be issued in this regard.
2	2(6), 2(112), read with 22	Registration Threshold should be determined not only on the basis of aggregate turnover but also on the basis of turnover in the State	<p>Section 22 requires every person to register in each of the States from where he makes a supply of his aggregate turnover exceeds the threshold of Rs. 20 lakhs. Therefore once the aggregate turnover threshold is breached at an all India level, his registration requirement is triggered not only in the States where his turnover is high, but even in States where he has negligible turnover.</p> <p>It is therefore recommended that along with the aggregate turnover criteria of Rs. 20 lakhs, another criteria of 'turnover in a State' be introduced for mandatory registration requirement. This second threshold may be kept at a lower level of Rs. 5 lakhs.</p> <p>The prescription of twin tests for registration will result in significant reduction in compliance burden and will also open up the SME Sector to undertake one-off supplies in other States, which business opportunities are foregone today by them due to multiple registration requirements</p>

3.	9(3) read with 24(iii)	Reverse Charge Mechanism in case of notified goods and services	<p>The intention of reverse charge mechanism is to shift the compliance burden from unorganised sector to the organised sector. However, in view of Section 24(iii), what happens is practically the opposite. A very small trader having turnover of outward supplies of Rs. 10 lakhs is also required to register if he pays transport charges of Rs. 5,000/-.</p> <p>Therefore, it is suggested that either Section 24(iii) be deleted in toto (thereby triggering a registration requirement only in case of exceeding of aggregate turnover of outward supplies) or an alternative threshold of Rs. 5,00,000/- be provided and only if the value of inward supplies on which reverse charge is applicable exceeds this limit, Section 24(iii) should become operational.</p>
4.	9(4)	Reverse Charge Mechanism for procurement from unregistered dealers	<p>This is one provision which resulted in lot of practical difficulties especially for the SME. The GST Council wisely suspended the said provisions and suitable amendment is proposed in the GST Act to restrict the said provisions to notified cases only.</p> <p>It is strongly suggested that the provision stays suspended in toto and no notification be issued in this regard.</p>
5.	10	Composition Scheme to be extended for service providers	<p>The current composition scheme is applicable only for manufacturers, traders and restaurant service providers. It is recommended that the scheme be made applicable to service providers as well with a lower threshold of say Rs. 50 lakhs. A concessional rate of 5% may be prescribed without any input tax credit.</p>
6	16(2), read with the Proposed Return Filing Process	Input Tax Credit should not be denied merely on the grounds of non matching of credits	<p>While the concerns of the Government in insisting on the ITC matching can be understood, the proposed return filing process denying provisional credit will hit the SME Sector very badly since large organisations may insist on retaining some money from the vendors till the credits are reflected in their returns (This can happen after 3 months since the SME sector will be filing quarterly returns). This can adversely affect the cash flow situation of SME Sector.</p>

7	17(2) & 17(3)	Requirement of Proportionate Reversal attributable to exempted supplies to be done away with where exempted supplies are less than 5% of aggregate turnover	As a trade facilitation measure, it be provided that the provisions of Section 17(2) and 17(3) will not apply where the value of exempted supply is less than 5% of the aggregate turnover. While this will not result in major revenue loss, it will result in a substantial simplification where the proportion of exempted supplies is minimal
8	2(68), 19 & 143	Clarification that the provisions of job work are optional	<p>Under the Excise Regime, the taxable event was manufacture. Further, input credit was allowed only on inputs received in the factory. Therefore, the job work provisions were relevant and facilitated transactions and also provided documentary control.</p> <p>Under the GST Regime which is transaction based and credits are freely available, these provisions do not really seem relevant and create confusion. Further, the definition of job work and the prescribed procedures result in these provisions restricting transactions rather than facilitating them.</p> <p>It may therefore be clarified that the said provisions are optional in nature.</p>
9	25(8) read with Rule 10(3)	Delayed Registration to be effective from the date of liability rather than the date of application	If the person fails to apply for registration within 30 days from the date he becomes liable, the registration is granted with effect from the date of application. This results in undue hardships for the 'open period' between the date of liability and the date of application. It is recommended that in the initial phases of GST, the registration may be granted with effect from the date of liability or in the alternative, a mechanism for grant of administrative relief in genuine cases may be introduced.
10	54 read with Rules 89, 96 and 96A	Refund Process needs substantial simplification	Despite the best intentions of the Government, substantial working capital of exporters is still blocked due to refund related issues. Major simplification is required in this front. A simpler solution could be to permit an exporter full input tax credit (as is currently permitted) and a refund

			upto a particular percentage of the export proceeds (say 9% of export proceeds) by way of direct debit in the Electronic Credit Ledger (subject to balance in the said ledger) with no additional documentation or paper work. It may be noted that this would substantially benefit the SME and would not result in leakages since what is refunded is only what is lying the ECrL.
11	68 read with Rule 138	E-Way Bill Process need to be simplified and clarified	While the objective of the eWay Bill System is laudable, some simplification is required in this regard. It may be important to continue eWay Bills only for interstate movements and not insist on eWay Bills for intrastate movements. Further, in case of hand deliveries or goods carried in person in a public transport, it may be clarified that eWay Bills are not required.
12	Payment and Return Process for SMEs	For SMEs, not only filing of returns but payments also should be at quarterly frequency	Having monthly payment and quarterly returns does not ease any compliance burden on the SME. It is therefore recommended that both the processes being interlinked with each other, should be made quarterly for SMEs.

In addition to the above recommendations, we believe that there are certain pressing issues facing the SME Sector in terms of challenges on the GSTN Portal which also require immediate attention and process amendment. We shall send you a separate comprehensive representation on all such issues in due course.

In the meantime, we request you to kindly consider our representations made above favourably and oblige. If need be, we would be more than happy to meet you in person to discuss the above recommendations

Thanking You

Yours truly,

CA. Sunil Gabhawalla
President,
Bombay Chartered Accountants' Society

CA. Deepak Shah
Chairman,
Indirect Taxation Committee