



07th September 2020

To

Shri M. Ajit Kumar,

Chairman

Central Board of Indirect Taxes & Customs

North Block, Central Secretariat,

New Delhi – 110001

Email – chmn-cbic@gov.in

Respected Sir,

Sub: Representation on Goods and Service Tax ('GST') issues and hardships faced by taxpayers on certain issues

ABOUT C.V.O. CHARTERED & COST ACCOUNTANTS' ASSOCIATION (CVOCA)

C.V.O. Chartered and Cost Accountants' Association is a four decade old, non-profit professional organization established in 1973. It has acclaimed a premier position in society. Its objective is to disseminate knowledge in the field of Taxation, Accounting, Finance and Allied laws. It has membership strength of more than 1850 members. Members of the Association have acclaimed respectable position in the CA practice and industry where they serve. It also organizes general public awareness program. One of the flagship programs is on Union Budget, which is organized in Gujarati Language for general public. The Association also publishes monthly Newsletter which is called 'CVO CA News & Views'. Besides these activities Association also supports students who are pursuing CA, CS & CWA by providing them financial assistance in the form of scholarships and interest free loans.

BACKGROUND:

Whole world is going through unprecedented times in facing the pandemic of Covid-19. During the lockdown, commercial activities of most of the sectors had come to a standstill except those covered under essential categories. Now with opening up of lockdown, slowly economic activities are resuming and business are trying their best to ensure revival of animal spirit. However, during these testing times the businesses are grappling with various business issues which inter-alia includes the following: -

- Revival and survival of business;
- Burden of fixed overheads including Wages, salaries, rent etc.;
- Delay in collection of receivables including possibilities of Bad debts;
- Shortage of Labour leading to production delays;
- Non availability / Shortage of transport and logistics;
- Short to medium term inflation;
- Liquidity pressure including working capital issue.

CVOCA sincerely appreciates the efforts of the Government in taking pro-active steps for giving stimulus package to MSME sector and Corporates at large. The Government has always been co-operative and responsive to the problems faced by the businesses once brought to their attention.

We humbly appreciate the GST Council for accepting our earlier representation and extending the due dates for GST Returns for February 2020 to July 2020 till September 2020 in their 40th Council meeting.

In continuation to the reliefs provided earlier under the GST law and further to our earlier representation dated **14th August 2020** (Summary of issues raised earlier is Annexed as “**Annexure A**” to this representation), we would like to make further suggestions for the changes to be made in GST law, which are as follows:

Issues	Suggestions
Suspending applicability of Second proviso to section 16(2) of CGST Act	Second proviso to section 16(2) of CGST Act should be suspended for FY 2019-2020 and FY 2020-2021.
Extension in due dates for filing GST Annual Return (GSTR 9) and GST Audit Report (GSTR-9C)	Fees for late filing of GSTR9 and GSTR9C should be waived for filing till 31 st March 2021
Additional details in GSTR-4 return should be suspended for FY 2019-20	Annual returns for composition scheme should ask only for details entered while filing GSTR-4
Extension in due dates for claiming input tax credits, issuance of credit notes, etc.	Should be extended till 31 st March 2021
Further unconditional extension of due dates for filing GST Returns for the period February 2020 to July 2020 instead of conditional extensions for MSMEs	Extension up to 31 st December 2020
Simplifying the procedure of assessment	Suitable timelines must be issued for disposal of cases selected in audit, investigation, adjudication and first appeals
Providing procedural relief to exporters	Suitable relaxations must be given in timeline for recovery of export proceeds for F.Y. 2020-21

ISSUES & SUGGESTIONS:

1. Suspending applicability of Second *proviso* to section 16(2) of CGST Act

Issue: The industry all over India are facing huge liquidity crisis due to negligible business for almost five months. In such a scenario, the tax payers will be burdened with additional GST liability due to **Second proviso to section 16(2) of CGST Act:** Where a recipient *fails to pay* to the supplier of goods or/and services (other than the supplies on which tax is payable on reverse charge basis), the amount towards the value of supply *along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon.*



The offices were closed due from March to June 2020 due to which many small businesses, who do not have access to Internet banking, will have missed payments for invoices from October 2019. Such tax payers will be penalized by way of GST reversal without any fault on their part.

Suggestions:

Second proviso to section 16(2) of CGST Act should be suspended for FY 2019-2020 and FY 2020-2021.

Alternatively, reversal under Rule 37 of CGST Rules may be kept in abeyance for FY 2020-2021

2. Extension in due dates for filing GST Annual Return (GSTR 9) and GST Audit Report (GSTR-9C)

Issue: The due date for filing GSTR 9/9C for the F.Y. 2017-18 was extended till September 2020. The trade and Chartered Accountants required almost one year for filing of GSTR 9/9C for F.Y. 2017-18. Thereafter, within a period of one month, the entire nation was under lockdown. Thus, there was hardly any time available for working on GSTR 9/9C of F.Y. 2018-19.

Further, GSTR 9/9C of F.Y. 2018-19 would include transactions of 3 years i.e. (a) transactions for the year, (b) transactions of F.Y. 2018-19 but reported in F.Y. 2019-20 and (c) transactions of F.Y. 2017-18 but reported in F.Y. 2018-19. Thus, the taxpayer and auditor will have to deal with new set of challenges pertaining to almost 3 financial years. Consequently, this would require much more time for completing the entire exercise.

Needless to say, the primary focus of the trade at this time would be business revival and tax compliances may take a back-seat. Hence, the exercise of filing of GSTR 9/9C in a short time frame would be burdening for the taxpayers.

Further, lockdown has also resulted in complete disruption of activities for the taxpayers as well as Chartered Accountants. Once economic activities return to normalcy, Chartered Accountants would be burdened with the pressure of routine GST and other compliances, Statutory Audit under Companies Act and Income Tax due dates for A.Y. 2020-21.

Extension in due date of filing GSTR 9/9C of F.Y. 2018-19 would provide Chartered Accountants certain time to play a crucial role in guiding and advising the businesses in navigating through the economic crisis. Chartered Accountants would act as catalyst in dissemination of the benefits extended by the Government for the economic revival.

Suggestions:

Fees for late filing of GSTR9 and GSTR9C should be waived for filing till 31st March 2021



3. Additional details in GSTR-4 return should be suspended for FY 2019-20

Issue: The recent annual return for composition dealers has asked for purchases details.

The taxpayers who were filing GSTR-4 on quarterly basis paid tax on basis of sales effected during the quarter. All taxpayers opting for composition scheme are small tax payers with limited resources dedicated to accounting and return filings. The composition scheme was introduced by the GST Council for small taxpayers precisely for this reason that they do not have all details available with them.

Such details were also not initially asked while filing GSTR-4 quarterly. These taxpayers will find it extremely difficult to collect and collate purchases details for full year in such a short span. When the main objective of the businesses after lockdown is survival and revival, asking for additional details puts additional pressure on tax payers.

Suggestions:

The annual returns for composition scheme should ask only for details entered while filing GSTR-4 and any additional details should be kept in abeyance for FY 2019-20.

4. Extension in due dates for claiming input tax credits, issuance of credit notes, etc.

Issue: The last date for claiming input tax credits, issuance of credit/debit notes, reporting pending transactions in GST returns, amendments in GSTR 1, etc. for F.Y. 2019-20 is 30th September, 2020. This, effectively gave the taxpayers around six months from end of the F.Y. for the above mentioned actions.

However, the current extended lockdown up to 31st August, 2020 has resulted in loss of 5 months for the taxpayers for taking the required above mentioned actions.

Even after the lifting of the lockdown, business activities will take some time for resumption and attain normalcy. Thus, the above mentioned time limit of 30th September, 2020 would be too short and would restrict the taxpayers from availing the genuine benefits.

Suggestions:

The due date for claiming the above mentioned activities including claim of input tax credits, issuance of credit/debit notes, etc. for F.Y. 2019-20 should be extended till 31st March 2021.

5. Further unconditional extension of due dates for filing GST Returns for the period February 2020 to July 2020 instead of conditional extensions for MSMEs

Issue: As discussed above, businesses are facing unprecedented and uncertain times. The relief notifications issued in April 2020 had provided conditional exemptions from levy of interest and late fees in delayed filing of GST returns for the taxpayers. However, the due dates have not been extended unconditionally. This has resulted in various complications (incl. computation of previous year turnovers, identification of due dates, etc.) and resulted in chaos and confusions in the mind of taxpayers.

These conditional exemptions would also be troublesome for the Tax Authorities to administer. At the macro-level they may not be effective, considering the potential revenue involved vis-a-vis the efforts and man-hours required.

Without prejudice to the above, attention is drawn to the turnover based condition attached to the compliance reliefs provided. The present turnover based conditional exemption is arbitrary and hap-hazard. It does not take into consideration the period of lockdown in the state/district of the taxpayer or availability of adequate resources and infrastructure to work remotely during the lockdown period.

For the taxpayers having turnover above INR 5 Cr in the P.Y., no extension has been provided for returns for period June 2020 onwards. This is highly unjust towards such taxpayers since majority of the country has been in lockdown up to 31st August 2020.

Further, all taxpayers having turnover of above INR 5 Cr. cannot be presumed to be having adequate resources and infrastructure to work remotely. They may still be Micro, Small or Medium enterprises having limited or no resources. The above has been acknowledged by the Hon'ble Finance Minister in the recent press release by revising the turnover threshold for the MSME Sector.

Additionally, the current notified reliefs may have been provided in April 2020 based on the first lockdown period. However, considering the lockdown has been extended for almost 5 months, the said reliefs ought to be revisited.

Suggestions:

- The notified exemptions from levy of interest and late fees may be replaced with an unconditional extension in due dates for filing of GST returns (including payment by composition taxpayers). Extension in due dates up to 31st December, 2020 would also provide a relief to taxpayers by providing them the required financial, administrative and moral support.

- Without prejudice to the above, the conditions for grant of exemption from levy of late fees and interest may be prescribed based on the following:
 - ✓ The state/district wise where the taxpayer is registered (viz. taxpayers in Maharashtra may be given additional time); and
 - ✓ Turnover based classification– as per revised definition prescribed for MSME Sector.
- Additionally, the turnover limits for benefits should be linked to limits set as per revised MSME definition.
- Thus, it is suggested that the due dates to file GSTR-1, GSTR-3B, CMP-08, GSTR-4, ITC-01, ITC-02, ITC-03, ITC-04, GSTR-7, GSTR-7 should also be suitably extended.

6. Simplifying the procedure of assessment:

Issue: Completion/disposal of audit, investigation, adjudication and first appeals are taking unreasonably long period of time. It hampers not only the rights of the taxpayers and ease of doing business, but also impacts heavily on revenue collection. The taxpayers are already bearing the brunt of economic slowdown. The delay in decision from side of department shall further increase the stress of the taxpayers in such uncertain times.

Suggestions:

- Suitable timelines must be issued for disposal of cases selected in audit, investigation, adjudication and first appeals.
- While issuing necessary timelines, the time limits set should be specific and not left to the discretion of authorities. In essence, adding terms like “wherever possible” to timelines impact the decision making period of the officers. Such discretion should be allowed only with prior approval of Honourable Commissioner or higher authority.

7. Providing procedural relief to exporters:

Issue: As per “Notification No. 16/2020 – Central Tax” dated 23rd March 2020, the Rule 96B has been added which states that if any refund of an Input tax credit granted to an applicant on account of export of goods or of any Integrated tax paid on such goods, against which realization is not made in India in full, or in part then the applicant shall deposit the amount so refunded along with the applicable interest under section 50 to the extent of unrealized export revenue.

Further timeline for the realization from the export will be applicable as given in the Foreign Exchange Management Act 1999.

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CA Ameet Chheda
CA Jeenal Savla
CA Vinit Gada



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CVO Chartered & Cost Accountants' Association

The situation in the global economy has been unprecedented till now. The future outlook also seems bleak with recoveries for exports done also likely delayed for many exporters. In such scenario, it is possible that exporters may face double blow, first due to delay in supply recovery and secondly due to recovery of refund of GST.

Suggestions:

- Suitable relaxations must be given in timeline for recovery of export proceeds for F.Y. 2020-21.

CONCLUSION

The current pandemic crisis has added to the economic crisis of the businesses which were already struggling due to economic slowdown prior to the lockdown. The above mentioned issues are some of the major and important issues faced by the businesses in the current times. As mentioned above, these issues, pose various difficulties and hardships for the taxpayers and tax professionals.

We wish to humbly present the same for your kind attention and immediate consideration.

We request your good office to provide your immediate consideration to the above mentioned issues and hardships faced by taxpayers at large.

We sincerely hope that the Government under the dynamic leadership of Hon'ble PM Shri Narendra Modi and Hon'ble FM Smt. Nirmala Sitharaman would provide the requisite reliefs to the businesses and taxpayers.

Thanking you,

Yours sincerely,

CA Jigar Gogri
President
CVO Chartered & Cost Accountant Association

CA Sanjay Chheda **CA Gautam Mota**
Chairman Convenor
Publication & Representation Committee

CC To

1. **Ms. Nirmala Sitharaman**
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2. **Honourable Revenue Secretary**
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Annexure A – Summary of Issues represented vide our representation dated 14th August, 2020

Issues	Suggestions
Returns should be allowed to be filed without payment of tax.	The portal should allow furnishing of returns without debiting of net liability from Cash ledger.
GST should be allowed to be paid on receipt basis	Tax payers with annual turnover less than Rs. 5 crores should be allowed to pay tax on cash basis for FY 2020-21
GST paid on sales which later became bad debts to be allowed to be reversed	The Council should allow to reverse GST already paid on bad debts
Simplification of revocation of cancellation of GSTIN for all taxpayers	Allow applications rejected after 12 th June 2020 to reapply for revocation
Extension in due date for Amnesty Scheme and including other returns in the Scheme	The Amnesty Scheme should be extended till 31 st December 2020
Suspending Section 16(4) for returns filed in Amnesty Scheme	Suspend section 16(4) for all returns filed till date from July 2017 to March 2021
Clarity on classification and taxability of Hand Sanitizers and reduction of tax rate	A detailed circular maybe issued addressing the aforesaid issue and clarify the classification and tax rate applicable on the hand sanitizers