



The Institute of Cost Accountants of India
(Statutory Body under an Act of Parliament)

Annexure - A

Points of discussion with the Group of Ministers on 17th April 2018 on
" Return filing under GST-Issues and Challenges"

A) Jurisdiction of Tax Payer.

1. Distribution of Taxpayers between Central and State is not being informed to many tax payers who migrated from Service Tax. The Website is not showing the correct Jurisdictional Authority.
2. Since there is a confusion about jurisdiction, neither Central nor State GST department accept any correspondence including Refund Claim of such Tax Payers who have claimed refund for excess cash balance available in Electronic Cash Ledger. Same is the case with Export Refund Claims and submission of Undertaking.

B) Payments

1. Debit Note/Credit Note for Unregistered Taxpayers (Box No. 7 of GSTR-1) is taking only for B2B Taxpayers. The "Type of Supply" is confined to "Inter-state" supply only. Though a Tax Payer can adjust Credit Note by showing it as negative balance in B2C-Others, details of Debit Note/Credit Note are not captured in GSTR-1 for Unregistered Taxpayers which creates difficulty in reconciliation with accounts.
2. Though there is provision to pay tax by using Debit Card or Credit Card it is yet to be allowed.

C) Input Tax Credit Matching

1. Currently there are only two returns in place one is GSTR - 1 and another on self-assessment for payment of taxes and availing ITC on provisional basis- GSTR3B. Matching of ITC is on hold . Following are few suggestions in this regards.
2. The scope of Reverse Charge may be enhanced to services and goods covered in Sec 17 of the CGST Act 2017 (Blocked Credit) received from unregistered suppliers so that the registered tax payers will pay GST on the services availed from unregistered suppliers, shall not avail Input Tax Credit and Government revenue will be protected.
3. GSTR 2 may be modified to incorporate details of payment of GST under reverse charge and IGST on import of goods and services. This will help the revenue department to have complete details of GST paid by tax payers. Matching of ITC will be easier with minimum data uploading. This will certainly provide relief to tax payers.
4. As per Section 41 of the CGST Act 2017, the ITC taken is on provisional basis till matching is done, there should be a process for matching immediately or the relevant provisions should be changed accordingly. Else it will be a challenge for the taxpayers to furnish their financial statements for 31st March 2018.

D) Returns

1. Provision in GSTR 3B needs to be made for reversal of credit wrongly taken. Presently once an entry is made in the column of CGST, the Return format automatically displays SGST liability of the equal amount.
2. Some of the exporters carried forward unutilized balances of Cenvat Credit through TRANS 1but now they cannot claim the refund of old credit and also they cannot revise the TRANS -1 Hence it advisable to give some option. Suitable modifications are required in TRANS 1.
3. Eventhough Returns are filed in time, many taxpayers received notices for not filing Returns and invoking penal provisions. Proper training should be given to Tax Officers to co relate the Returns and avoid sending unwarranted notices to tax payers.
4. The GSTN system has by default considered quarterly filing of GSTR1 filing inspite of the Companies having turnover of more than 3-5 crores per month. Now the users are having no option to change the filing from Quarterly to Monthly even if request is made

to GSTN. Immediate action is required to provide option to change from quarterly to monthly filing of returns where the turnover is more than Rs. 1.5 crores per annum.

Three Instances which can only be made by revising 3B are:

- ❖ Assessee by mistake instead of availing the credit, deposited the tax under Reverse Charge Mechanism. In this case credit has been foregone, as it was not availed, also refund cannot be claimed, as there is no such provision.
- ❖ Assessee claimed less credit in GSTR-3B, as invoices are received later on from different branches. The credit is showing under GSTR 2A, but it is not confirmed whether the balance credit will be accumulated in total Credit or not after filing of GSTR -2.
- ❖ Certain amount as output tax has been shown under GSTR - 3B, but while filing GSTR-1, output tax liability increased. The assessee cannot adjust this liability from credit as it is not possible in GSTR -1. Only way is to pay the extra liability by cash to avoid interest & penalty. Even then any one cannot adjust it, only payment has been made, but the balance will remain in cash ledger and assessee have to keep account of it.

5. Interest is payable for delayed payment of taxes. Interest should be applicable only to the extent on which the taxpayer is paying taxes by cash and not on the utilization of the ITC for payment of cash. Due to this condition, the taxpayers are forced to pay tax on the ITC portion which can be used by them for payment of taxes. Suitable clarification may be issued in this regards.
6. IN case of delay in filing Returns the late fee amount is not being computed correctly. Late fee is being computed by the system and users do not have any control on it. Whatever is the amount computed, the same should be explained with breakup or assessee should be allowed to compute late fee and pay .
7. Filling of Trans-1 should be allowed once again for the assesses who has not filed it. Deemed credit was allowed to specified assesses, with certain conditions, only. There are cases where batch number , product code, packing date etc can be verified but no benefit of deemed credit is given. For instance: Fertilizer, Pharma etc. It is suggested to allow them also due credit based upon Credit Transfer Document (CTD) to do justice for such class in line with the spirit of the law.

8. If return for previous month is not filed then portal does not provide an option for filing the return of next month, it may so happen that the earlier period return could not be filed due to technical issues or otherwise but assessee should not be deprived from filing Returns for the subsequent months .
9. Return once submitted, then changes cannot be made to the same at a later point of time. Provision for filing revised returns may be made.

E) Construction related Services.

1. In the case of Transfer of Development rights and Redevelopment activities, the valuation of the reconstructed property is required to be done as per the open market rate or the selling price of the property in the same scheme. This does not seem to be proper because in the redevelopment activities the existing flat owner gets only construction services. He holds the portion of share of the undivided land, which is given for redevelopment. If the present provision continues, the existing flat-owners will have to pay exorbitant undue taxes on the value of the new flats.
2. The deduction of one third part from the rate of tax towards land cost seems to be incorrect as the land prices in the cities like Mumbai, Pune, Bangalore, Hyderabad, Ahmedabad etc the land prices are much more than construction cost. (on reconstructed property , GST is payable @ 12 % as per the explanation to Notification No. 11/2017-Central Tax (rate)). It is suggested that in the case of redevelopment activities, the GST should be charged only on the 110% of the cost of construction cost. A suitable clarification may be issued to this effect.

F) Refunds

1. Refund for excess Cash balance available in Electronic Cash Ledger should be made on-line and manual process to be avoided at least for this refund.

G) Others

1. To avail the concessional rate of tax (0.1 %) in the case of merchant exporter, exporter has to sell the goods within three months. The time period appears to be less and may be extended upto 6 months.

2. There is considerable delay in updating of the details in the GSTN portal , even after entering the data in the GSTN portal either through manual entry or using the offline tools provided by GSTN. It is persistent problem that the details of HSN summary and Document details updated in the GSTN tool is not uploaded in the GSTN portal in majority of the cases.
3. If assesses have deposited cash in Electronic Cash ledger, he should be allowed to utilize the same for any purpose i.e CGST, SGST, IGST, Late fee, Penalty etc. No separate Electronic Cash ledger for each account should be maintained. Only one or common Electronic Cash ledger should be permitted.