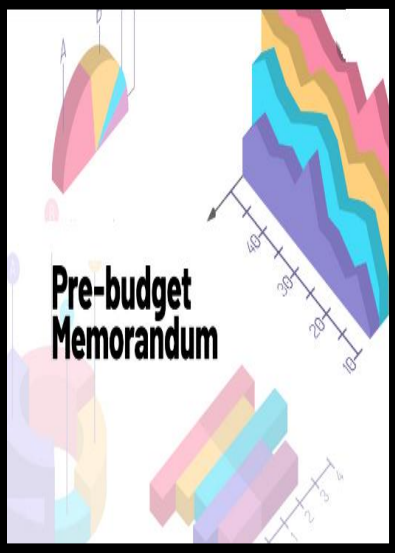
PRE BUDGET MEMORANDUM 2021-2022



INDIRECT TAX

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)

Behind Every Successful Business Decision, There Is Always A CMA

ABOUT THE INSTITUTE

The Institute of Cost Accountants of India (ICAI) is a premier professional body of Management Accountants in the country established on 28th May, 1959 under the Cost and Works Accountants Act, 1959 enacted by the Act of Parliament to regulate the profession of Cost and Management Accountancy in India.

The curriculum of the Institute is designed to impart professional knowledge of Cost and Management Accountancy, taxation and related subject to make the qualified CMA industry ready. The expertise of the students qualifying in the Institutes Examinations are suited to render effective services to Industries, Financial bodies, etc. The Institute is a member of the International Federation of Accountants (IFAC), The Confederation of Asian and Pacific Accountants (CAPA),The South Asian Federation of Accountants (SAFA), National Foundation for Corporate Governance (NFCG),Federation of Indian Chambers of Commerce and Industry(FICCI), Confederation of Indian Industry (CII) and The Associated Chambers of Commerce and Industry of India(ASSOCHAM).The Institute, as a leader in the field of accountancy in the South Asian Region ,is also imparting training to accountants from overseas countries.

Cost and Management Accountants provide services in investment planning, profit planning, project management and overall managerial decision making process. Many members of the Institute are holding management positions, viz., Chairman, CEO/CFO, Managing Director, Finance Director, Financial Controller, Chief Accountant, Cost Controller, Marketing Manager, Chief Internal Auditor etc. Central Government has constituted an all India cadre known as Indian Cost Accounting Service (ICAS)at par with Class-I services for framing fiscal and tax policies. The Specialized knowledge and skill of the professional members of the Institute are being given due recognition for different Audit or Certification work under different statutes. CMAs are also recognized as auditor in GST rules.

In our submission of this Pre-Budget Memorandum we would like to extend our gratitude to Hon'ble Finance Minister Smt. Nirmala Sitharaman for giving an opportunity to the Institute to submit the Pre–Budget Memorandum 2021-22.It includes **Suggestions on Indirect Tax** under separate heads. As for the suggestions, they were called from our members for incorporating the same in Pre Budget Memorandum 2021-22. We thereafter compiled the suggestions received from the members and incorporated the same in the final suggestion which we submit for kind consideration.

Thank You.

The Institute of Cost Accountants of India

SUGGESTIONS

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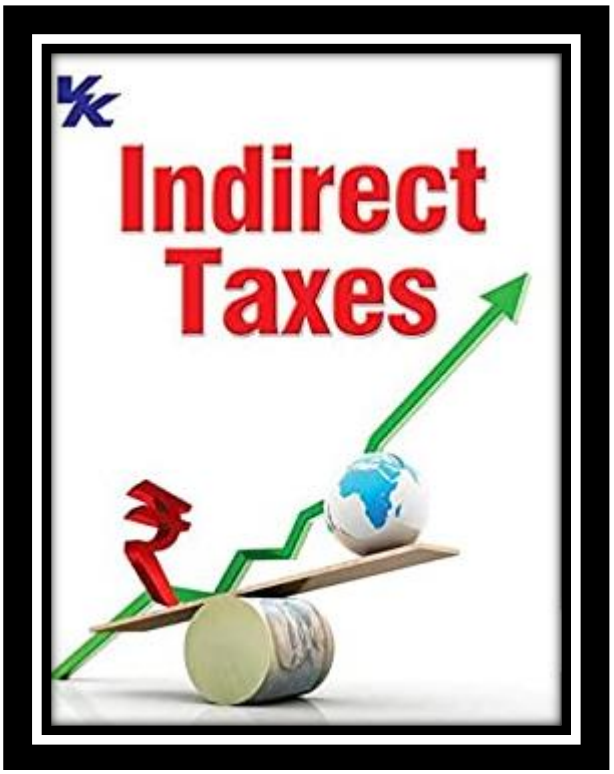
INDIRECT TAX



CONTENTS

SUGGESSTIONS

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GOODS AND SERVICES TAX

Sl No.	Area of Challenge	Issue	Recommendation
1	Refund of ITC on inverted duty structure	ITC refund relating to input services is not allowed while claiming refund of inverted duty structure. Currently, while claiming refund of ITC due to inverted duty structure, net ITC excludes input services. Hence, ITC of input services is become cost. Moreover, tax authorities are taking considerable time in processing refund i.e. beyond sixty days of maximum time limit specified in section 54(7) of CGST Act, 2017. Delay in receipt of refund severely impacting the working capital management.	Input services should be included in net ITC for claiming refund of inverted duty structure. It is further suggested to introduce similar provision like section 54(6) of the CGST Act, to grant provisional refund in respect of refund claims received against inverted tax rate structure to the extent of ninety percent of the total claim within seven days of filing such refund claims. This would also require incorporating necessary changes in Rule 91(1) &(2)
2	Undue delay in processing refund under inverted tax rate structure	Tax authorities are taking considerable time in processing refund i.e. beyond sixty days of maximum time limit specified in section 54(7) of CGST Act, 2017. Delay in receipt of refund severely impacting the working capital management.	Suggested to introduce similar provision like section 54(6) of the CGST Act, to grant provisional refund in respect of refund claims received against inverted tax rate structure to the extent of ninety percent of the total claim within seven days of filing such refund claims. This would also require incorporating necessary changes in Rule 91(1) & (2) of CGST Rules. The authorities could sanction the balance amount post verification process.
3	Deemed supplies between distinct establishments of exempt sector	Distinct establishments of an entity are related person as per Section 25(4) of the CGST Act, 2017. All the transactions, even without consideration with related person is deemed to be a supply chargeable to GST as per Schedule I of the CSGT Act 2017. The same stand was taken in the AAR in the case of Columbia Asia Hospitals Pvt. Ltd. wherein it was held that activities performed by the employees at the corporate office in relation to units located in the other states shall be treated as supply as per entry 2 of Schedule I of the CGST Act.	It is suggested that the concept of deemed supplies should not be made applicable on the exempt sector, as the exempt entities are not eligible to avail ITC of the tax paid on such deemed supplies.
4	Use of Group name/ Logo without consideration	Revenue had initiated few investigations on the use of 'Group Name' and 'Logo' by Indian Companies of its overseas head office. Revenue contends that use of logo or group name constitutes supply of services by global office to Indian subsidiary whether or not consideration is charged. Accordingly, Indian subsidiary should pay GST under reverse charge mechanism for import of services. In light of above we understand that use of 'logo' or 'group name' is general business practice and no value can be assigned to it. Accordingly, no GST shall be levied on such services	GST council to provide clarification stating that use of "logo" or "Group Name of overseas head office should not be liable to GST as no value is assigned to it.

5	Mechanism / rules for determining the quantum of benefits to be passed on under anti-profiteering provisions	No clear guidelines/mechanism prescribed for determining the benefits to be passed on under anti-profiteering provisions. The mechanism should be provided / incorporated in the GST law itself by way of clear guidelines/rules to be followed for determining the amount of benefits	Mechanism / detailed rules to be provided by Government for determining the benefits and the manner in which the benefits need to be passed on under anti-profiteering provisions
6	Non reversal of ITC on dividend income	Dividend income requires ITC reversal resulting in increase in costs for the business. Dividend income is exempt supply under GST. As per Section 17 of the CGST Act, exempted supplies are liable for proportionate ITC reversal.	Dividend income should be excluded from exempted supplies, for alignment with the rules of excluding interest income for proportionate reversal for input credit, since interest and dividend both are financial income.
7	Section 17(3) of the Central Goods and Services Act, 2017 (CGST Act) requires transactions in securities to be treated as exempt supplies only for the purpose of reversal of input tax credit. Thereby provisions for reversal of input tax credit under GST are similar to the provisions under erstwhile CENVAT Credit Rules. This discourages the investors from investing in mutual funds.	The benefit of non-reversal of input tax credit available for interest on fixed deposits should be granted to the gains from investment in mutual funds. Purpose of reversal of CENVAT credit/input tax credit is to disallow credit attributable to an output, which is not liable to tax.	ST is applicable on supply of goods or services. Both 'goods' and 'services' are defined to specifically exclude 'securities' under GST law. The definitions are reproduced below for ready reference: Goods - means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of Given the above, it is clear that securities are neither 'goods' nor 'services'. Because the money in mutual funds is professionally managed by expert fund managers after extensive market research for the benefit of investors. The investors have no role to play in determining the value of investments. They do not incur any expense in order to increase the Net Asset Value(NAV)of the units, and consequently their income. In fact, the fund managers are responsible for studying and channelising the funds in most profitable manner. Given the above, it can be said that the investors do not avail any services with respect to investment in mutual fund units other than the charges charged by the mutual fund. Since no substantial services are availed by the investors in relation to investment in mutual fund units, reversal of credit should not be warranted. We would like to mention that an explanation was added to Rule 43 of the Central Goods and Services Tax Rules,2017videnotification3/2018–Central Tax dated 23 January 2018, to exclude interest on fixed deposits from the valuation of exempt service for the

			purpose of input tax credit reversal. We submit that fixed deposits and mutual funds are alternative investment options available to investors. Hence, we humbly request and pray that a similar benefit of non-reversal of input tax credit available for interest on fixed deposits should be granted to the income earned from sale of mutual fund units. This will allow mutual fund industry to have a level playing field with other investment alternatives.
8	Challenges in complying with the provisions of sub-section (6) of section 18 of the CGST Act, 2017	Sub-section (6) of section 18 of the CGST Act reads as under: "In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher: Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15." As per the said provision, the taxpayers need to pay tax on the plant and machinery and capital goods being supplied to the extent of higher of: 1. tax on transaction value determined under section15oftheCGSTAct,or 2. input tax credit reduced by certain percentage points in the manner prescribed. Difficulties are being faced in complying with the provisions of sub-section(6)ofsection18of the CGST Act on account of the following reasons - 1. the intent of sub-section (6) of section 18of the CGST Act is to ensure that the tax is paid on the open market value of capital goods. The manner prescribed for reversal of ITC assumes the useful life of all capital goods as 5 years. However, to provide for the payment of tax based on a fixed assumption of considering the life of all the capital goods as 5 years is restrictive and derogatory. 2. The useful life of the assets capitalized in the books of account is determined in accordance with Schedule II of the Companies Act, 2013. The said Schedule provides for the determination of the useful life depending on the estimation of the period for which the management expects to derive economic benefit from the usage of capital goods. 3. Some capital goods such as Information Technology ("IT") assets have a very less useful life. Such assets generally become obsolete within 2-3 years from the date of acquisition. Similarly,	We, therefore, request that the tax payer should be required to pay tax only on the amount that would be realized on the sale of capital goods. Hence, only the transaction value as declared on the invoice should be considered for the determination of tax on supply of capital goods. Since the Company is operating in the telecommunication sector, there is an intensive investment made in the capital goods. Further, owing to the nature of business, there are many capital goods which need to be relocated frequently to another State. Since the date of capitalization of goods accounted for in the books of account shows the first date of installation of such goods, it is not possible to keep a record of the duration for which such goods have been installed later where such goods are subsequently relocated to a different State. Therefore, it is not possible to calculate the amount of ITC to be reversed owing to the unavailability of the period for which the capital goods have been used in the last location.

		there may be many capital goods havingusefullifenotequalto5years.Providing that the useful life of such capital goods shall also be 5 years would be detrimental to the business. Moreover, where the capital goods are disposed of, the value is negotiated with the scrap dealer. The value so negotiated is the open market value. The tax is, accordingly, payable on such value. It is would be prejudicial to the taxpayer to require him to pay tax in excess of the tax payable on the consideration which the capital goods being disposed of would fetch from the market. The additional tax payable would become a cost to the taxpayer as the same is not being recovered.	
9	ITC admissibility in GST in case of expenses booked towards CSR activities	As per Section 135 of Companies Act, 2013, a company is required to spend at least 2% of its average net profit for the immediately preceding 3 financial years on Corporate Social Responsibility (CSR) activities subject to its turnover /net worth/ net profit crossing prescribed limits. Accordingly, company incurs expenses for procurement of goods and services while under taking CSR activities. Since such supplies are procured in course of business activities and as mandated by Statute, availment of ITC of GST charged on such supplies under Section 16(1) should not be in dispute However, there is lack of clarity as to whether company will be called upon to reverse the ITC on the ground that the company has provided such goods and services to the recipient of such CSR activity without charging any consideration and thereby, using such goods and services in undertaking non-taxable supplies, which will be subject to provisions contained in Section 17(2) of CGST Act.	Given that CSR is mandated under Statute and also, in order to encourage CSR spends in excess of mandated limits, it would be appropriate if the taxpayers are not burdened with additional cost of input taxes while undertaking CSR activities. A suitable clarification in this regard and /or an amendment in the CGST Act, may be carried out as it may deem fit.
10	Input tax credit on samples, marketing material, brand reminders, POS etc	GSTActSection17interaliacontainsasfollows "Apportionment of Credit and Blocked Credit 17. (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business. …….. (5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:— …… (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;" In Pharmaceutical Industry, it is a common practice to give very limited quantity of physician's samples which are marked "Physician's Samples Not for Sale" to en able the doctors to gain confidence in the efficacy of a particular product. This enables the doctor to personally check the efficacy of the product for his patients, get their feedback and then gives him the confidence to prescribe for others.	GST council should modify its earlier circular of March 2019 and extend benefit to all goods provided as promotion or under a scheme

		This expenditure is clearly incurred in furtherance of business. Hence, just as input credit for GST included in other expenses are allowed, it is logical that GST on inputs used in Physician's samples should also be allowed. Further, the company run many schemes so that if distributor if achieves certain target is eligible for excess stock or some product for example if a Distributor buys 10 phones in a month he is eligible to get 2 free similarly instead of phone he may get water cooler. This is not gift but promotion expenses Also Companies do provide pen/ paper weight to channels which are brand reminders and not gifts. Hence such credit should be available. However recently authorities have issued AAR which has denied credit on the ground that there is no output on those products. We understand that the above expenditures are done in the furtherance of business and are normal business expenditure incurred without which the several Industry can't function.	
11	Availment of input tax credit on Advance Payments	CGST Act, 2017 provides for liability of GST on advance payments received by the supplier of services under Section 12 (2) (b). However, the aforesaid legislation restricts the periodicity of availment of credits to receipt of services, which would be at a later date as mandated under Section 16(2)(b). This restriction would cause operational difficulties to capital intensive assessees on account of projects with along gestation period involving advance payments.	A relaxation is sought to allow the recipient of services, the input tax credit on payment of advances. Alternatively, the liability of making payment of GST on advances received for supply of services may be removed as in line with the exemption given from payment of GST on advance received for supply of goods.
12	Input Tax Credit	Section16(2)of Central Goods and Services Tax Act requires levy of Interest on input tax credit availed in case of non-payment of consideration to the vendor with-in 180 days	GST council had proposed to not levy interest on such levy, however the same was not part of the GST amendment bill passed. The same needs to be re-considered
13	Availability of GST Input Credit to buyer	Availability of GST Credit to buyer where buyer procures material/services on payment of the entire material value + GST, irrespective of default on the part of supplier	In cases where buyer procures material/services on payment of the entire material value + GST, the buyer should not be barred from availing ITC On such input purchases for non-compliance, if any (which may include non-deposit of the collected GST amount and non-filing of GSTR – 3B) by the seller, as presently Sec 16(c) of the CGST Act requires reversal of such ITC credit availed by the buyer.
14	Availment of input tax credit on Retention Money, payment by LC & extended credit period	As per the second proviso to the Section 16(2) of the CGST Act, 2017, where the recipient fails to (emphasis added) pay to the supplier the amount towards the value of supply along with tax payable thereon within 180 days of the invoice, the recipient is liable to pay the tax on the amount of consideration not paid to the supplier. The credit can thereafter be availed on payment made to the supplier for the value of supply along with the tax payable thereon. There are certain commonly prevailing and accepted trade practices regarding	Necessary proviso may be inserted in Section16(2)oftheCGSTAct,2017tostate thatpayment would be deemed to have been made in such circumstances.

		payment of the consideration for the supply and which are incorporated in the supply contract mutually agreed by the contracting parties. Some of these are as follows– (i) Part of the consideration amount by way of Retention Money towards performance guarantee is paid at a later date on complying with the stipulated conditions. (ii) Credit period in excess of 180 days from the date of raising invoice is provided by the supplier to the recipient. (iii) Payment is guaranteed by way of Sight Letter of Credit (LC), in which case the supplier receives the payment immediately from the recipient's bank, but the same is debited to the recipient's account at a much later date. (iv) Payment is guaranteed by banks by way of Usance LC, in which case the supplier receives the payment on a deferred date as per the agreed terms, but again the same is debited to the recipient's account at a much later date. In all the above situations, even though the payment is not expressly made by the recipient within 180 days, it cannot be said that he has failed to make payment within the said period. Input tax credit should be allowed in such circumstances	
15	ITC eligibility for non-resident taxpayer	ITC is eligible to be claimed only of import of goods	ITC should be allowed on procurements for non- resident taxpayers, to promote ease of doing business
16	Place of supply in case of transportation services and admissibility of ITC	Clarification on ITC on services by way of transportation of goods outside India, if the place of supply is 'Other territory' i.e. different from the State in which the recipient is registered. Effective from 01 February 2019, a provision has been inserted to section 12 (8) of the IGST Act, 2017 specifying place of supply in case of services by way of transportation of goods to a place of India as the destination of such goods. Post above amendments, the suppliers providing such services are charging IGST mentioning place of supply as "other territory".	It should be clarified if a registered person is eligible to avail ITC of GST charged on services by way of transportation of goods outside India if the place of supply is 'Other territory' i.e. different from the state in which the recipient is registered
17	Option of ITC Reversal/ tax payment	Currently, ITC reversal or Tax payment can be done only during the time of filing GSTR 3B in GSTN portal. There is no option in GSTN portal for reversal of ITC as and when ITC reversed in the books of account. Similarly, Tax payers can make payment through GSTN portal at any time during the month but facility of offsetting against tax liability is possible once in a month at the time of GSTR 3B filing. Due to non-availability flexibility of tax payment and ITC reversal in GSTN portal , tax payers have been compelled to pay interest till the date GSTR 3B filed	Flexibility should be provided in GSTN portal to reverse ITC and pay liability to avoid unwarranted interest cost burden on tax payers

18	Apportionment of input tax credit in the ratio of value of assets	The proviso to sub-rule (1) of rule 41 of the CGST Rules provides that in case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Sub-rule (1) of rule 41 of the CGST Rules reads as under. "(1) A registered person shall, in the event of sale, merger, demerger, amalgamation ,lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, demerger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee: Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme." Whereas the proviso to sub-rule(1)ofrule41of the CGST Rules provides that the value of assets needs to be considered for allocating the input tax credit, it does not clarify the manner of computation of value of assets. There is an anomaly as to whether the value of assets need to be considered at State level or at entity level. Moreover, where the transferor is registered in more than one State, it is not possible to identify the ratio of value of assets State-wise. Further, there may be huge variations in the value of assets from one State to another. It is also not possible to allocate common assets such as investments, bank and such other cash and cash equivalents. The schemes of business reorganization take into consideration the value of assets at the entity level under the Company Law as well as Income Tax Law. Therefore, we request that the computation of the ratio in which the input tax credit is to be allocated should be done at the entity level and the same ratio may be applied for distributing the input tax credit at each concerned registration level of the tax payer. Also, the allocation based on the value of assets has been provided only with respect to demergers. It is not clear as to whether the allocation needs to be adopted for other forms of business reorganizations where part of the Business is of such as slump sale or where the business is transferred as a going concern.	We request that the ratio of value of assets should be considered at entity level and such ratio of assets should be allowed for all forms of business reorganization in which a part of the existing business is transferred.
19	Place of supply of services by an Intermediary	As per sub-section (8) of section 13 of the IGST law, the place of supply of 'intermediary services' shall be the location of supplier of service. The 'intermediary' is defined as under: "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;	It is therefore suggested that the place of supply of service provided by Intermediary should be considered as the location of recipient of service

		There are several intermediaries who provide services to overseas principal supplier/customers, however, as the supplier of services (i.e. the intermediary) is located in India, the services provided by them do not qualify as export and becomes liable to GST at the rate of 18 per cent. Generally, this additional GST liability on intermediary is not reimbursed by the foreign principal and it significantly reduces the margins as well as competitiveness of the Indian intermediaries in the global market. We would like to urge that such Indenting Agents provide valuable services to the country by virtue of their expertise in procurement from overseas market by acting as agent of reputed/reliable overseas manufacturers/suppliers. They facilitate supply of quality raw material and other goods as required by Indian manufacturers/customers. The services are ultimately provided outside India to a foreign principal, bringing in valuable foreign exchange. However, as per the aforesaid place of supply, such services does not qualify as export and is liable to GST in India. The levy of GST on such services negatively impacts the said sector by making these services more expensive due to GST of 18% on such services. The Indenting Agents, who are working on a very thin commission margin have to absorb GST @ 18% making their business unviable. Also, the service consideration charged by Indian Intermediary is included in principal supply of goods or services by foreign supplier on which applicable customs duty/GST shall be payable. Levy of GST on intermediary services would lead to double taxation for the foreign principal as in certain countries recipient of service is required to pay tax in their home county on reverse charge basis.	
20	Place of supply for intermediary services	As per Section 13 of the IGST act, the place of supply for 'intermediary services' is prescribed to be the location of supplier of service This effectively creates a situation where intermediary services will never be treated as export which militates against the default rule of place of supply being the location of the recipient of services particularly with respect to the kind of services that apparently are sought to be covered under the ambit of 'intermediary services'. The IGST Act on this subject is inconsistent with the fundamental VAT principles practiced and prevalent in VAT regimes of European Union, Canada, Australia, New Zealand, Singapore, South Africa and Malaysia.	We request you to have the provision in respect of intermediary service under the IGST Act be urgently re-examined. A bare perusal, basis first principles of VAT would make it evident that the provision defeats the construct of GST as a tax on final consumption
21	Place of supply in case of Research and Development services	Recently place of supply in case of R&D services provided by pharmaceutical sector was amended, to treat such supplies as export of services, subject to fulfillment of certain conditions. The amendment specifically had intended to provide relief to Pharma sector. However, similar are also being provided by	Suitableamendmenttobemadeundersection13 of the IGST Act to extend relief to other sectors providing R&D services.

		various other sectors such as FMCG, automobiles etc. Extension of similar benefit will help other stress sectors as well.	
22	Relationship between employer and employee	Employer and employee are related person as per the explanation given vide Section 15 of the CGST Act 2017. All the transactions, even without consideration with related person is deemed to be a supply chargeable to GST as per Schedule I of the CSGT Act 2017	It is suggested that the transaction between employer and employee should be removed from Schedule1.
23	GST on recovery of canteen expenses from the employees	Dual taxation on the same transaction. Services provided by employer (e.g. canteen services etc.) are already taxed on which GST is discharged by the company along with payment to the 3rd party vendors. Taxing such services again results in dual taxation on such services. The same stand was taken in the AAR in the case of M/s. Caltech Polymers Pvt. Ltd, where in it was held that reimbursement of food expenses from employees for the canteen provided by the company was taxable under GST Act.	Employer recovers amount from the employees towards canteen expenses, which is chargeable to GST @5% vide Notification No. 48/2017 – IGST (Rate) dated November 14, 2017. However, employer is not eligible to claim input credit on the inputs, which should be allowed
24	IGST refund on export of goods	Challenges in reconciling the refund received details vs refund eligible details	ExportofgoodsasperGSTR-1 is already mapped with ICEGATE portal, however GST portal should provide data/track status on real time basis of refund provided vs pending
25	Companies who are exporting their services from India are not eligible to claim the refund of GST paid on capital goods used for providing export service.	It is recommended that refund of GST paid on capital goods should be allowed to companies who are exporting their services without payment of GST on such export of services.	Non-grant of refund of GST paid on capital goods to such companies hampers the working capital of such companies. This is against the principle of indirect taxes wherein set-off of taxes paid for input services or capital goods is allowed while paying taxes on output services.
26	Easier GST refund process for Export Oriented units	Taxpayers should be granted provisional refund for input GST based on matching of transactions on GSTN portal without any further formalities	Presently, for claiming the refund from the government there are a list of documents which are scrutinized by the tax officer (copy of invoices, copy of return evidencing payment of duty, document providing that the burden of paying tax has not be passed on, any other documents as required by the government). Thus, while the Government has permitted 90% of tax refund on a provisional basis, practically due to physical verification of the transaction level details by the tax officer, there is a significant delay in the sanction of the refund orders from the government. Blocked refunds results in higher working capital requirements and hurts business. In view of this and a robust mechanism to match the vendor transactions and input credit claims on GSTN portal, provisional refund should be granted based on matching on GSTN portal. If the reareany concerns in regard to

			verification of documentation, Government may consider a lower threshold of say 75% of releasing interim refund. Documentation could be verified before releasing the balance amount
27	Time Limit prescribed under CGST Rule 96A for exporting goods under Letter of Undertaking	Pay GST along with interest, if export not manifested within 90 days or within extended period as allowed by Commissioner. - Authorities can withdraw the LUT in case registered person fail to pay tax	Under pre-GST regime, time limit of 6 months was given. Similar time limit should be retained in the GST regime.
28	Request to make payment of GST on collection basis for Micro, Small & Medium Enterprises (MSMEs) and other professional services firm under the GST law	As low capital is the USP of MSMEs, any blockage of fund adversely impact the MSME segment. However, under the GST regime, the liability to pay tax generally arises/determined at the date of issuance of invoice or receipt of payment whichever is earlier. Since GST is required to be discharged after issuance of invoice, i.e. even before receipt of consideration in most of the cases, this results into blockage of working capital. Considering that the general rate of GST is 18%, it become a huge chunk of working capital, for MSMEs especially the professional services firms like Architects, Engineers, Chartered Accountants, Company Secretaries, management consultants, etc. The MSMEs sector has emerged as a highly vibrant and dynamic sector of the Indian economy over the last five decades. According to the recent data published by the Government, there over 63 million MSMEs in the country engaged in manufacturing, services and trade more than half of which are in rural areas. Further, MSMES account for about 45% of the manufacturing output and around 90% of the total export of the country. This sector employs an estimated 59.7 million persons. The major advantage of this sector is its employment potential at low capital cost. This move will help mitigate the working capital blockage issue and will ensure correct taxability of transaction so as to create ease of doing business. The Government has taken various measures for the benefits of MSME in past two plus years of GST and this move will be in the right direction to further strengthen the growth of the MSME sector.	To address the working capital crunch faced by the MSMEs and professional services firm, it is recommended that the time of supply in case of MSMEs and professional services firms be shifted from current billing system to collection or receipt basis.
29	Time of supply of service-Reverse Charge MechanismSec.13(3)	RCM Invoices may not get processed within60 days, which is resulting into additional interest burden. Invoices may not get processed within 60 days as it has to pass through various clearance process.	To address the genuine difficulties faced by recipient of service and not to burden them with additional interest cost for no fault at their end, it is suggested to provide time of supply for such services as date of payment or alternatively, to make it 6 months from the date of invoice.
30	GST on issue of voucher	Challenges in determining the time and place of supply on issue of voucher. As per Section 12(4) of the CGST Act 2017, GST liability is to be discharged on issue of voucher. However, there is uncertainty in respect of redemption of such vouchers towards goods, services and place of redemption. Therefore, there are challenges in determining and discharging	Initially when these provisions were made, advance receipt against supply of goods were taxable. Hence, it was decided that when voucher can be identified with the goods it would become taxable. However, now the advance receipt against the supply of goods are not

		GST liability while issuing such vouchers.	taxable and tax on goods are levied only at the time of supply. Considering this it would be in line with the provisions for levy of GST on goods if time of supply in case of voucher is kept at its redemption only
31	Time limit of input tax credit and issuance of credit note	As per Section 16(4) of the CGST Act, ITC cannot be availed on invoices or debit notes of previous financial year after the due date of furnishing the return for the month of Sept. following the financial year. Similarly, as per Section 34(2), it is not allowed to issue credit notes related to previous financial year's supply invoices/ Debit notes. It is a deterrent provision. Some of the invoices or debit/credit notes may not get processed within such short span of time due to practical challenges. Denying ITC for such will be cost to business	Allow to ITC within one year from the date of Invoice. In erstwhile tax regime in Excise and Service Tax, one year time limit was provided. Also provide similar time limit for issue of Credit Note linking with the original supply invoice.
32	IGST on ocean freight taxed twice	Ocean freight incurred in the transportation of goods imported into India, including such services provided by a person located in a non- taxable territory to a person in a non-taxable territory, is liable to GST @ 5% as a supply of service (as per sr. no. 9(ii) of IGST Notification No. 8/2017) and the same would be payable by the Indian importer on reverse charge basis(as per sr. no. 10 of IGST Notification No. 10/2017). The same would include all types of contracts viz. CIF, CFR or FOB. Such ocean freight is also included in the value of imported goods for the purposes of computing Customs duties. In this case, the component of ocean freight suffers IGST twice during the same import transaction–once as a stand-alone service and again when the value of the supply is added to the cost of the imported goods as a duty of Customs.	It is suggested that such ocean freight may be exempted from levy of GST as a supply of service when the same is in relation to transportation of imported goods.
33	Computation of interest under section 50(1) of CGST Act	The proviso inserted after sub-section (1) of section 50 provides for calculation of interest on net liability (total tax liability less admissible input tax credit) only in case where the liability (say of April,2020)is declared in the return(of April, 2020) for the same tax period to which the liability pertains and the return is filed after due date (say filed in July,2020). This proviso does not contemplate a situation wherein the tax liability (say of April, 2020) is declared in a subsequent period's (say of May, 2020) return. In that case interest needs to be paid on the whole tax payable without reducing the admissible ITC.	The provision needs to be redrafted to allow the tax payer TO ADJUST the unutilized ITC at the end of the tax period to which the tax liability pertains (say, April, 2020) even in cases where the tax liability is declared in a subsequent period's return (say in July,2020).
34	Widening the ambit of cases eligible for settlement under Sabka Vishwas Legacy Dispute Resolution Scheme (SVLDR)	SVLDR scheme 2019, does not provide for settlement of– Cases related to Customs Act, 1962 Cases where only demand of interest is under dispute	Since Govt's endeavor is to reduce the current litigation, SVLDR should be more comprehensive. In this direction, as a one-time measure, Govt. should also include cases of duty demand related to Customs. SVLDR should also cover cases where only interest liability is under dispute.

35	Inclusion of Petroleum products and Electricity under Goods & Services Tax	Petroleum products such as petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel are now covered under both Union List & State List (except in the course of inter- state trade) enabling them to be subsumed under GST, however, the same is proposed to be deferred to a later date. GST Council has been empowered to decide the date from which said goods would be leviable to GST. However, tax on consumption and sale of electricity which is covered in the State List(sr. no. 53) will not be subsumed under GST. Since the above taxes would presently not be subsumed under GST, CENVAT credit of the same would not be available and the taxes paid thereon would remain a cost. Considering the huge amount of taxes involved, it would increase the cost of doing business while at the same time breaking the seamless chain of CENVAT credit thereby defeating the purpose and principle of input credit scheme .In the new regime, it will break the chain of input tax credit and substantially increase the cost of doing business.	What is important is that Natural gas and bio- diesel which are under VAT regime right now and rate varies from States to States and becoming uncompetitive be brought under GST Regime to make India a gas-based economy.
36	GST Compensation Cess (earlier Clean Energy Cess) on Coal should be subsumed into GST	Due to increasing cost of raw materials and transportation cost and subdued demand Indian steel industry has suffered a huge set back. Levy of GST compensation cess @400 PMT on coal further adds to the stress.	With a view to accomplish the desire of "one nation one tax", it is proposed that the levy of compensation cess on import of coal be subsumed under GST and input tax credit be allowed on such compensation cess for set off against output GST liability. Alternatively, GST compensation cess may be reduced from Rs 400/- per metric tonne to Rs 200/- per metric tonne and then gradually to nil in a phased manner.
37	Mandi Tax / Market Fee on Wood should be subsumed under GST	Wood is a primary raw material for Pulp & Paper Industry. The high cost of raw material in India as compared to other competing Paper manufacturing countries is a major reason for Paper Mills in India not being cost competitive. In many States of the country, in addition to GST, Mandi Tax / Market Fee is also levied on pulp wood procured by Paper Mills. This adds to the cost burden of the Paper Mills.	The Government should consider subsuming Mandi Tax / Market Fee on wood under GST.
38	Provision for mechanism in the GSTN portal for availing input tax credit of eligible duties of customs (CVD & SAD) paid in GST period on account of finalization of provisional assessments of imports made in pre-GST period	It is relevant to mention that the finalization of provisional assessments of imports made prior to 01st July 2017 on compliance of requirements and procedures are being done belatedly by the Customs officials after the introduction of GST even though compliance on the part of importer was made much before the appointed day by submitting the documents. Also, for the provisional assessments made in themonthofJune2017closertotheappointed day it was not possible to fulfill the compliance in the short span of time before the appointed day nor it was possible to compel the officers of Customs to finalize the assessment before the appointed day to avail the credit on or before that day in the books of accounts to carry it forward to Tran-1. It is a fact that provisional	It is suggested that a suitable provision may be created in the GST acts allowing the credit of such differential duties of customs paid in GST period for import of goods made in Pre-GST period. Alternatively, a suitable provision may be inserted amending the Rule 7 of CENVAT Credit Rules, 2017 with corresponding change in Section 54 of the CGST, Act allowing the refund of such duties paid.

		duty paid inputs were received in the factory much before the appointed day and credit of such provisional duty paid was availed. But it is the statutory procedures or delay on the part of department which delayed and prevented the finalization, payment of consequential differential duties and availment of its credit in the books of account before the appointed day of 01st July2017. It is settled law, that for departmental delays the benefits accruing to the beneficiary assessee cannot be denied. Here, it is also pertinent to point out that the express bar under the provisions of sub-section 8(a) of Section 142 also does not apply to such duties of Customs as it is obvious from its plain reading as also from the clarification issued by CBIC Circular no. 42/2018 dated 13/6/2018, [para 3(iii)], clarifying its application only to the differential demand of duties of Central Excise or Service Tax payable under Central Excise Act or Chapter V of Finance Act 1994 which are repealed. It follows that denial of input tax credit of such differential duties of customs paid in post GST is not mandated by law and therefore the credit is legally admissible. But while the credit of eligible duties of inputs available on record as on the appointed day and even the unavailed credit of capital goods on that day we reallowed to be carried forward to the electronic credit ledger of the registered persons under the transitional provisions of Sec. 140, similar provisions for availment and carry forward of similar unavailed input credit of legacy duties of Customs paid subsequently for imported inputs already received as on the appointed day were not made explicitly either under Section 140 or Section 142 of the GST Act to enable the importers to smoothly avail the credit in the electronic credit ledger of GSTN nor any alternative mechanism of claiming refund of such credit of duties paid in cash and availed as per the existing credit rules was laid down in the Act. As a result, we, like many others placed in similar situations, are notable to take and utilize the lawful credit of such duties to the detriment of our business interests.	
39	Disallowance of Credit for Krishi Kalyan Cess (KKC)	Disallowance of credit for KKC under GST, is a substantial credit loss for the taxpayers due to the transition from earlier legislation to GST regime	The carried forward credit on KKC should be allowed to be adjusted under GST regime as CENVAT Credit on KKC was allowed for set off under erstwhile service tax regime. The similar issue was contended in Madras High Court in the case of Sutherland Global Services Pvt. Ltd and it was held in the favour of the Assessee that KKC Credit cannot be denied. Accordingly amendment is recommended to be brought in GST Law.

40	Stuffing of Export Consignment at Port located outside State	Under the GST law, exports of goods are zero- rated. However, difficulties arise when the goods to be exported are stuffed into containers at Customs Freight Stations and not at the premises of the exporter. In such scenarios, it is not possible for the exporter to draw up accurate tax Invoices at the time of the goods leaving his premises since the exact, container- wise details of goods is not known.	It is suggested that under the GST law the following procedure be permitted in respect of export consignments that are despatched from exporters premises to Customs Freight Station and containerized thereat: a) Exporter to issue a Delivery Challan at the time of despatch of goods from his premises to the Container Freight Station (CFS), including CFS located outside the State from where the goods meant for export are despatched. b) Such Delivery Challan to contain full details of the goods including date and number of the delivery challan, name, address and GSTIN of the consigner, name, address and GSTIN or UIN of the consignee, HSN code and description of goods, taxable value, quantity, etc. c) On stuffing of goods into containers, the CFS to have the responsibility of sending full particulars of containerization to the exporter, in prescribed format, duly countersigned by Customs Exporter to draw up appropriate GST Invoice along with other export documentation including Bill of Lading, Packing List, etc. on basis of the information received from the CFS and send the same to the CFS for the actual export of goods. In view of the fact that, at times, it may not be possible to containerize the entire consignment of goods received at the CFS, the exporter should be permitted to issue a fresh GST invoice along with other requisite export documentation as and when the remnant goods are containerized.
41	Import of rigs and capital goods for rendering services to upstream operations	Upstream companies procure services for rigs/vessels/high value capital equipment from foreign contractors wherein compensation is paid on rental basis or based on services provided. Taxes applied on import of goods, then the tax should be only on the rental/service value and not the full value of goods irrespective whether goods are imported on lease or not. Further, recently changes were made in the Input Credit provisions to deny credit of such GST paid at the time of imports – Section 17(5)(aa). This is resulting in double taxation leading to increase in cost for upstream service providers/ upstream companies.	A clarification should be issued to confirm that temporary import of capital equipment for providing services should be exempt from import duties. GST should be applied on the service value only. Further, in case import duties are levied credit for the same should be provided to the service provider to avoid double taxation.

42	Nil duty on bunker supplied to foreign going vessel	In the Excise regime, export includes shipment of goods as provision or stores for use on board a ship proceeding to a foreign port or supplied to a foreign going aircraft. However, similar provisions are not laid down in GST. It is resulting in higher freight cost for the Indian exporter, as bunker cost is substantial component of freight cost.	An explanation on the lines of Excise regime also needs be inserted into GST laws so that trade can be benefited with lower input cost and remain competitive in the highly price sensitive international market.
43	Remove GST @ 0.1% on Exports	To promote exports, the rate of GST has been reducedfrom18%to0.1%forsuppliesofgoods by manufacturers to merchant exporters for onward exports.	To avoid cumber some process of claiming refund of this 0.1%, it is proposed to remove this 0.1% GST also and keep it at par with direct exports and so as to avoid blockage of working capital. Further, the Input Tax Credit on services utilized in relation to the export of goods should be allowed as refund under the new export benefit scheme, which is presently not allowed
44	Amendment to notification 96(10) disallowing export oriented unit (EOU)filing IGST rebate.	IGST associated with EOU and the import of capital goods is currently exempt from IGST. Recentamendmentonthe4thSeptember2018 disallows an EOU from filing a rebate claim retrospectively provided where exemption of customs duty and IGST is claimed at the time of import. This restriction also applies to the purchase of domestic capital goods. Once the exemption from IGST is removed there appears to be an unintended cost associated with the IGST paid on the purchase of capital goods. It is noted – IGST is not a cost within the Domestic Tariff Area and any IGST is reclaimed as an input tax credit or rebate.	Re-instate the IGST exemption or provide additional clarification to avoid the unintended IGST cost to EOU.
45	Centralized Registration &Assessments	Service tax regime allowed centralized registration of tax payers having multiple places of business but centralized accounting and administration system. Through centralized registration, all the assessments and audits could be conducted seamlessly. It also alleviated the compliance and administrative cost of maintaining accounts and records separately at different locations. Under GST, the Company has been compelled to take a separate registration in all the States on account of its pan India business operations. This has led to separate audit and assessments with respect to each registration being conducted by the local tax officers. Further, the law mandates maintenance of separate books of account, records and documents at each registered location. Requirement for separate registration under GST in each State has led to drastic increase in the administrative burden and compliance cost on the Company. With multiple tax officers proceeding against the company coupled with widespread disparity in the understanding of the provisions of GST law, the Company is helpless at the whims of the tax officers and is forced to bear the unwanted harassment by such tax officers. It is an unwelcome un-favourable departure from the objective of centralized registration under service tax and incongruous to the Government's policy for ease of	It is proposed that for certain large tax payers, say having pan India turnover of more than Rs. 500 crores, the registrations should be centralized and the monthly return should contain state-wise allocation of input tax credit and output tax liabilities. The need to maintain accounts and records at various locations must be dispensed with to ease out the administrative burden. Also, the assessments by the tax authorities must be centralized to allow the Company to efficiently and effectively cater to their requests and have the assessments concluded in time.

		doing business. The telecom sector is already adversely impacted. Such requirements have worsened the situation.	
46	No legal applicability of FAQs and tweets issued by CBIC	All the clarifications provided by CBIC by way of issuing FAQs and tweets has no legal validity and cannot be submitted as legal document in case of litigation	Since tweets and FAQs are for educational purpose and do not have underlying legal sanctity, accordingly FAQs and tweets should be converted into circulars to provide legal sanctity to tweets and FAQs.
47	Rationalization of tax rate slabs	Presently, mainly four tax rate slabs are provided under GST regime i.e. 5%, 12%, 18% and 28%. Multiple tax rate slabs defeat the purpose of introduction of GST	12% and 18% tax rate slab should be merged and a single average tax rate slab of 15% should be introduced
48	GST Credits restricted under 17(5) on employee related expenses and immovable properties	Both the expenses are incurred for carrying out of business and operations for providing output goods/services.	GST Credits blocked under 17(5) should be allowed on employee related expenses and immovable properties
49	Mechanism for payment of GST under reverse charge	Currently, GST under reverse charge is required to be discharged in cash and not by utilization of available input credit. The restriction adversely impacts the cash flow and is not in line with global practice.	GST payable under reverse charge should be allowed to be discharged by utilizing input credit in line with global practice.
50	GST applicability on Caffeinated Beverages	The rate of Caffeinated Beverages as per HSN code22029990is28%GSTand12%Cessw.e.f. 01 October 2019. However, no explanation is being provided for the term "caffeinated beverages", thus, creating a wider scope. There are ambiguities on classification of common beverages, as an example: "Cold Coffee" would be classified under HSN 22029930 (i.e. beverages containing milk)taxable @ GST 12% or under HSN 22029990 taxable at GST 28% and 12% cess	GST Council should clarify the coverage of term "caffeinated beverages".
51	Extension of GST exemption benefit provided to Government borne training services across the supply chain	Per Notification No. 12/2017 Serial Number72 – Union Territory Tax (Rate) dated June 28th, 2017 services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, or union territory administration are treated as GST exempt. The notification provides that the benefit of the exemption is available only to the main contracting party with the Government and not to the entire supply chain down the line (sub- contractors etc.) As result – this appears to inadvertently – disallow input tax credits within the supply chain, resulting into cascading of taxes.	It is recommended that the GST exemption benefit provided to Government borne training services is extended across the supply chain and should not be restricted only to the main contractor level.
52	Introduction of GST Exemption for the construction of military and commercial Airports	Exemption in relation to the construction of Airports which existed under the Service tax law has not been applied within the GST legislation	Re-instatement of blanket exemption for the construction of both defence and commercial airports should be re-introduced under the GST regime
53	The import of specified goods by the Ministry of Defence have been exempted from customs duty and	A statement by the Indian finance ministry on 20 September 2019 said that "imports of specified defence goods not being manufactured indigenously" will be exempt from goods and services tax (GST)	Support a GST zero rate on imports of ALL types of defence goods or harmonization of rate irrespective of classification

	import GST.	and Integrated GST until 2024	
54	IGST on import of Aircraft parts, accessories and components	Currently the Government provides for a 5% lower GST rate on import of aircraft parts covered under Chapter Heading 8803. However, recently the tax Authorities have alleged wrong classification of accessories, parts, components etc of aircraft imported and cleared at 5% lower GST rate by the aerospace and defence firms, IAF etc. The Authorities have issued demand notices to allege higher GST rate basis classification of such goods.	Harmonization of the 5% lowers GST rate entry to include all parts, components and accessories of aircrafts.
55	Maintenance, Repair and Overhaul (MRO) services provided by Indian Companies	The MRO services under GST (being treated as composite supply of services) are chargeable at 18% GST rate – Even when such service includes material etc. which may be chargeable at a lower rate of 5%/12%	Zero Rate or Standard rate of 5% on MRO services to make it comparable with foreign MRO companies
56	Refund of unutilized Input tax credit under GST in case of Closure of Business / Unit	As per Section 54(3) of the CGST Act, 2017, a registered person is allowed to claim refund of unutilized input tax credit only in the following scenarios: a) Zero rated supplies made without payment of tax: b) Inverted duty structure In any other cases, refund of unutilized input tax credit is not allowed.	Refund of unutilized input tax credit should also be allowed in case of closure of a Business/ Unit
57	Non receipt of promised Industrial Promotion Subsidy (Incentives) under GST	In view of introduction of GST, GOM issued modalities for sanction and disbursement of Industrial Promotion Subsidy (IPS) under GST regime to Mega Projects covered under PSI 2007. Under the new IPS disbursement modalities, IPS benefits available to companies would become redundant/Nil because of the following: The refund under the new provision will be granted on Net SGST paid through cash ledger (after adjustment of set off or any other credits available for the tax period) Earlier only VAT paid on eligible procurements could be set off, whereas under GST regime ambit of credit admissibility has been widened, and SGST liability under the GST regime is being paid by utilizing available credit i.e. SGST and IGST. As Companies does not have any SGST liability to be paid in cash at the end of each month, companies will not be able to claim Incentives (IPS) under new modalities. This has created an uncertainty for the companies, who have invested in India (Maharashtra) considering incentives promised under the Industrial Policy of Government of Maharashtra and this move throws their business case off track.	The step taken by the Government of Maharashtra is not in the spirit of 'Ease of Doing Business' and we request the IPS benefit on 'Net SGST payable 'basis instead of existing 'Net SGST paid through cash ledger' so that we are able to receive Incentives that were promised to us.
58	Refund of Integrated tax paid on export of goods or services under bond or Letter of undertaking	Rule 96(10) of the Central Goods and Services Tax Rules, 2017 prohibits claiming of refund of Integrated Tax paid on export of goods/services where the exporters have received supplies on which the supplier had availed the benefit of specified notifications viz. notification 48/2017-Central Tax, 40/2017-Central Tax (Rate), 41/2017-	Provision needs to be amended to allow refund of IGST even where purchases are received from suppliers who have availed the benefits granted under prescribed notifications

		Integrated Tax (Rate), 78/2017-Customs and 78/2017-Customs. The restriction laid is genuine hardship to exporter. Apart from procurements on which exemption has been availed the exporter also procure supplies on which benefits have not being claimed. This leads to undue hardship as even if exporter have procured a single consignment on which exemption benefit has been availed, he exporter is devoid of the refund.	
59	Exemption of GST on inputs, input services and capital goods used in providing electricity, education and health care services	These services being exempt, Input tax credit (ITC) accumulation in these sectors is resulting in cost for businesses	It is suggested that the inputs, input services and capital goods used in providing the said services be exempted from GST
60	Reversing the proportionate GST credit on transfer of movable fixed assets before 5years	The ceiling of 5 years is artificial considering the requirement of upgrades due to new technology/ modernization required to carry out business more efficiently and be competitive in the global marketplace.	It is suggested that use of reversing the proportionate GST credit on transfer of movable fixed assets before 5 years should be reviewed
61	**Input Tax Credit** Rule 42 of the CGST Rules, 2017: Manner of determination of input tax credit in respect of inputs or input services and reversal thereof (Rule 42)	It is observed that, in Rule 42 of the CGST Rules, 2017 (as amended from time to time), may at times calculate reversal of more than 100% of input tax credit amount. This is explained by the help of following illustration: Input tax credit, attributable to common credit, be denoted as 'C2'. ITC (C2): Rs 100 Exempted Turnover (E): Rs. 98 Total Turnover (F): Rs. 100 The ITC has been used for both business and non-business purpose. Reversal of ITC: the amount of input tax credit attributable towards exempt supplies, be denoted as 'D1' and calculated as - D1: 100x98/100 = 98 The amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', and shall be equal to five per cent of C2. Thus, D2: 5% of C2 = 5 Total Reversal = D1 + D2 = 98 +5 = 103, whereas total ITC, available for reversal, is Rs. 100.	It is suggested to insert a proviso to Rule 42(j), so that the total reversal amount of input tax credit attributable to common credit is restricted to the value of C2. **Rationale for Amendment** To eliminate the excess reversal of credit, attributable to common credit, through the present calculation formula be rectified.
62	**Refunds** Sec 55: The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial	Unlike, normal tax payers, where the refund is based on invoices that are auto-populated in Form GSTR 2A,the UIN holders, do not have the facility of auto-population of invoices in Form GSTR 2A for inward supply of goods or services or both, to be claimed based on a statement, may at times result in claim of excess refund and later	It is recommended to enable the facility of processing of refund applications based on the invoices that have been auto-populated in Form GSTR 2A and wherever, the invoices have not been auto-populated, hard copy of invoices along with a statement may be demanded to process the refund applications.

	Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them	upon discovery, recovery is made by the revenue along with interest claimed based on a statement, may at times result in claim of excess refund and later upon discovery, recovery is made by the revenue along with interest.	Further, the facility of online submission of documents be made available on the GSTN portal along with refund application in Form GST RFD 10. **Rationale for Amendment** Grant of refund, based on the invoices in Form GSTR 2A, may restrict the ineligible claim of refunds by way of restricting the invoices not pertaining to the UIN holders. The above will also minimize the manual intervention in the entire process where the endeavour is on automation.
63	**Tax deduction at source** Sec 51 (6): Any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.	There may arise cases where TDS deductors, fail to deposit TDS amount within the due date, as prescribed, may opt not to file the return, i.e, Form GSTR-7, to avoid payment of late fees and interest. There is no provision to file 'Nil' return and such Form GSTR-7 may be shifted to the next month to save interest and late fees.	The followings are recommended: i) to make filing of Form GSTR-7 mandatory in each month, even if, there is no liability of the deductor, and ii) to insert two columns in Form GSTR-7 to incorporate tax invoice no and the date of credit by the deductor. **Rationale for Amendment** The recommendations, if implemented, would culminate into the followings: i)delay in deposit of tax by the deductor may be identified so that revenue can recover interest and late fees, ii)the monthly tax deducted and deposited reconciliation statement be made part of Form GSTR-9C and also be certified by the GST Auditor, iii)the above will safeguard the interest of the revenue, and iv)revenue can also identify the time of supply of the tax invoice raised by the deductee and a mis- match of invoices between Form GSTR-1 and Form GSTR-7, if any.
64	**GST on electricity charges collected from tenents** As per the notification No. 12/2017 (Central Rates) Dt: 28th June, 2017 as per the entry no.25 – 'Transmission or distribution of electricity by an electricity transmission or distribution utility' are taxable under GST @ 'NIL'.	Post pronouncement of judgement by Hon'ble High Court of Calcutta in the matter of Srijan Realty case, wherein conversion of high-tension electricity to low-tension electricity (step down activity) and supply to individual unit holder (occupant) was considered as a provision of service and had been subjected to service tax. The same rationale has been followed in GST regime by the developers and GST has been recovered from the electrical energy consumed which is otherwise an exempted 'Goods'.	The matter may be suitably clarified through a Circular and the confusion be put to rest. **Rationale for Amendment** There is no quid pro quo in the instant case for qualifying the mere reimbursement of expenses, based on the actual consumption of units through sub-meters, as a taxable supply. All though, for all practical purposes, a separate invoice is raised by the developers. The aspect of pure agent may be brought to clarify the transaction and or arrangements.

65	**Definitions** **Sec 2(30):** composite Supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. **Sec 8:** A composite supply comprising two or more supplies one of which is a principal supply, shall be treated as a supply of such principal supply.	Composite supply as defined in sec 8, in it's present form, is a compete departure from what has been stipulated in Section 2(30).	Clause (a) of sec 8 is recommended to be amended to be amended as, in case of a composite supply, as defined in section 2(30), the rate of tax shall be which is applicable to the principal supply out of the bundled supplies that constitutes composite supply. **Rationale for Amendment** This will bring clarity and will reduce the scope of litigation that may arise due to such ambiguity prevailing in two interconnected sections in the CGST Act, 2017.
66	**Input tax credit** **Section 16 (2)(c)** of the CGST Act, 2017 stipulates that subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and **Section 16(4)** of the CGST Act, 2017 stipulates, A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.	Returns under section 38 and section 39, being not in force currently, the recipient taxpayer of goods or services or both, having paid taxes to the supplier, has no knowledge about the payment of taxes by the supplier of taxable goods or services or both. And reversal of input tax credit (ITC) by the recipient taxpayer. Infringement of right to the taxable person, being recipient of goods or services or both.	Recovery of taxes be made from the supplier instead of recipient till matching monthly returns are brought in existence **Rationale for Amendment** The ground that denying ITC to a buyer of goods and services would tantamount to treating both the 'guilty purchasers' and the 'innocent purchasers' at par whereas they constitute two different classes, shifting the incidence of tax from the supplier to the buyer, over whom it has no control whatsoever, is arbitrary and irrational & therefore violative of the Article 14, Article 19(1)(g) and Article 300A of the Constitution of India. In Gheru Lal Bal Chand vs. State of Haryana and Delhi High court Judgement which was subsequently held by SC in the case of Arise Ltd. Court's observations:- "That no liability can be fastened on the purchasing registered dealer on account of non-payment of tax by the selling registered dealer in the treasury unless it is fraudulent, or collusion or connivance with the registered selling dealer or its predecessors with the purchasing registered dealer are established".

			Deletion of section 16(4) of the CGST Rules, 2017 with retrospective effect from 1st July, 2017. **Rationale for Amendment** • return u/s 37, 38 & 39, the cycle as originally envisaged, is not in place, • section 16(4) is a non-obstante clause and cannot be enforced on section 16(1), • ITC can be claimed on receipt of goods or services along with a copy of original tax invoice and when recorded in books of accounts, • ITC is a substantive right [eicher Motors Ltd Vs UoI – SC& daiIchi Karkaria Ltd Vs UoI] • violative of Article 300A etc.
67	**Removal of restrictions on input tax credit on construction of commercial malls, hotels, industrial warehouses, logistic hubs, etc that are leased out.** **Section 17(5)(c)** of the CGST Act, 2017 stipulates that works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input services for further supply of works contract service; Section 17(5)(d) of the CGST Act, 2017 stipulates that goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.	The restrictions as have been contemplated in the Act, culminating in increase in cost of construction, to be borne by the lessee.	Section 17(5)(c) of the CGST Act, 2017 may be amended as follows: works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input services for further supply of works contract serviceor in respect of any taxable outward supply of services with respect to the said immovable property; Section 17(5)(d) of the CGST Act, 2017 be deleted. **Rationale for Amendment** The restrictions imposed in The restrictions imposed in the Act is against the very intention of seamless flow of credit which was the fundamental basis of GST. Hon'ble HC of Orissa, in the case of M/s Safari Retreats Private Limited and another vs. Chief Commissioner of CGST and others and in several other judgements, has allowed the petitioners to avail ITC of goods/ services used for construction of immovable property meant for letting out. The High court observed that the narrow construction of interpretation of Section 17(5)(d) is to be read down as it defeats the purpose of free flow in credits as indoctrinated by the GST law.
68	**Determination of Tax not paid** **Sec 73(1)& 74(1):** Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or	As per decision of Hon'ble Patna High Court in the case of commercial engineering, if ITC has been availed but has not been utilized then upon subsequent reversal of such ITC, no interest liability shall arise and section 73/ 74 shall not be attracted.	It is suggested to amend section 73 & 74 of the CGST Act, 2017 and amend 'where input tax credit has been wrongly availed or utilised for any reason' to 'where input tax credit has been wrongly availed and utilised for any reason'.

	where input tax credit has been wrongly availed or utilised for any reason		**Rationale for Amendment** This decision being pronounced by regional high court, does not have a binding effect on other states. Hence, taxpayers of different states are in receipt of show cause notices by the revenue departments, although there has been no revenue loss to the Government ex-chequer. This will further remove confusion and bring clarity.
69	**Charging Section** **Sec 9(1):** Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person	In case of real estate sector, the uniform application of one-third abatement towards the value of land doesn't reflect truly the market value of land for the developer-builders, who are operating in the different cities/area. Value of land varies from one place to another, even it varies in between places of a same city.	It is recommended to consider Stamp Duty Value/ Circle rates, as the base rate, for the purpose of abetment towards value of land. **Rationale for Amendment** This would bring practicality to the issue as far as valuation is concerned and would bring much awaited relief to the construction service which in turn will benefit the end consumers.
70	**Cancellation of registration** **Sec 29 (5):** Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed.	In the case of cancellation of registration, the ITC available after settling of output tax payables, if any, is lapsed as there is no machinery provision for refund of such unutilisaed ITC. It has been observed that upon cancellation of the registration due to closure of business, the taxpayer declares that either he has no inventory as on date of cancellation of registration or may under-value the inventory and pays tax on the such under-valued inventory.	It is suggested to insert a sub-section in section 54 under the 'Refunds' chapter, to allow refund of such unutlised ITC to the erstwhile taxpayer. **Rationale for Amendment** The asset in the form of ITC, as appearing to the debit side of the balance sheet of the erstwhile taxpayer, may get liquidated in the form of refund. It is suggested to get the valuation of inventory, on closure of business, be certified by a Cost Accountant in practice. **Rationale for Amendment** The certificate, would be a reliable authenticate document to rely upon which in turn will protect the government exchequer from mis-utilisation of ITC.
71	**Refunds** **Sec 56 (1):** If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty	The rate of interest refund by the department is 6%, while the rate of interest for delay in deposit of tax is 18%.	It is suggested, to make the rate of interest at par with 18% or reduce the rate of interest on account of delay in deposit of tax to 6%. **Rationale for Amendment** Interest on refund of tax by the

	days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax		department, is calculated only after 60 days from the date of application of refund. Bringing parity in rate of tax, under both the scenarios, will uphold the principles of equity.
72	Reversal of Input Tax Credit on income of interest exempt from the levy of GST	Amendment may please be brought about in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf by substituting the following entry the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company , engaged in supplying services by way of accepting deposits, extending loans or advances by the following entry the value of services by way of extending deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company , engaged in supplying services by way of accepting deposits, extending loans or advances	Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt from the levy of CGST vide entry serial number 27 of Notification No. 12/2017 (Central Tax (Rate) dated 28.06.2017 as amended and corresponding notifications of the state governments and union territories issued in this behalf. In terms of the GST rules, governing eligibility of input tax credit, the value of exempt services by way of interest earned on extending deposits would have stood included in the aggregate turnover by way of exempt services on which proportionate input tax credit will have to be reversed in respect of common input services but for the entry vide clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf . The relevant extract of the said Explanation was inserted w.e.f. 23.01.2018 and is reproduced herein below: (b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company , engaged in supplying services by way of accepting deposits, extending loans or advances . It is submitted that when an entity accepts deposits, the question of any

			consideration arising there from by way of interest or discount does not arise since in the case of acceptance of deposits, interest is paid to the depositor and no consideration constituting any value of supply arises. It is only in the case of extending of deposits that such consideration by way of interest arises. Given the fact that services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt from the levy of GST, the entry in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf appear to be total contradistinction thereto. Here reference is made to clause (e) of Explanation 1 appended after Rule 6(3D) of the CENVAT Credit Rules, 2004. The relevant extract thereof is reproduced herein below: 'Explanation 1. - Value for the purpose of sub-rules (3) and (3A) (e) shall not include the value of services by way of extending deposits, loans or advances in so far as consideration is received by way of extending deposits, loans or advances Provided that this clause shall not apply to a banking company and a financial institution including a non-banking financial company , engaged in providing services by way of extending deposits, loans or advances.' It is submitted that the exclusion contemplated in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules and the corresponding rules of the state governments and union territories issued in this behalf is that of exclusion of the value of exempt services by way of extending deposits , loans or advances in so far as consideration is received by way of extending deposits , loans or advances and not that of value of services by way of accepting deposits which appear to be of no relevance to the relevant statutory provisions embodied in the GST law. Hence the need for bringing in the aforesaid amendment.

			Economic Impact - On Revenue generation of Government - There may be reduction in net revenue on account of larger quantum of credit being available to the registered persons engaged in the relevant line of business. On Industry/Stakeholders/Society - On account of larger quantum of credit being available to the registered person engaged in the relevant line of business, the cost of servicing loans is expected to come down

SUGGESSTIONS

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CUSTOMS

Sl No.	Area of Challenge	Issue	Recommendation
1	Clarity on pre-import condition for advance authorization for export	Notification 79/2017-Cus dated 13.10.2017was issued amending the principal notification no. 18/2015-Customs dated 01.04.2015 which provides for exemption from custom duties for import of goods to the importer against Advance Authorization, for further export of manufactured products. It amended the principal notification, extending the exemption to the importer from payment of IGST and GST Compensation Cess. However, the said exemption was subject to pre-import condition. Notification has been furtheramendedvidenotificationno.01/2019-Cus dated 10.01.2019 withdrawing pre-import condition, without making the amendment retrospective from 13.10.2017. Hence for the intervening period (from 13.10.2017 to 09.01.2019), imports under Advance Authorization were subject to pre-import condition. This has resulted into issuances of notices to the importers denying exemption availed by importers under Notification 79/2017 supra, on the ground that aforesaid condition have not been fulfilled.	The 'pre-import' condition should be withdrawn even for the period from 13.10.2017 to 09.01.2019.
2	Customs duty payment for imports made prior to introduction of GST	In case of non-fulfillment of export obligation in relation to export promotion schemes or for any reason, requiring payment of duty differential, which has a component of CVD and SAD (where imports were made prior to July1, 2017), the CVD and SAD cannot be taken as credit. The provisions of 142(6) of the CGST Act, 2017 dealing with the transaction provision are inadequate to deal with such circumstances. In such case, component of duty i.e. CVD and SAD, should be available as refund from the Central Government. Currently, there is no circular or guidance from CBIC defining the process for claim of refund of such duties i.e. CVD and SAD. In absence of clear guidelines, Format and responsibilities of the proper officer being defined, business runs the risks of such duties becoming a cost burden.	CBIC should lay out the complete procedure, formats for claim of refund of duty paid, notify proper officer for processing of the such refund.
3	Facilitation for bulk clearance of e-commerce import / export shipments	Due to increase in e-commerce segment in India a significant volume of goods are imported into and exported out of India. Currently, the importers / exporters have to submit individual clearance documents for each package to the Indian Customs. Trade is facing difficulty in filing documents for each package. Further, it is resulting in additional time and fund cost for companies.	We recommend the Government to facilitate bulk clearance for e-commerce import / export shipments (i.e. clearance off a consolidated document such as a manifest with minimal details). Simplified process for the return of e-commerce shipments is also recommended. This would facilitate cross border trade and promote e-commerce growth and investment.

4	Classification of parts of telecommunication networking equipment	Presently, basic customs duty ('BCD') on import of telecommunication networking equipment('equipment')is20%undercustoms tariff heading ('CTH') 85176290 whereas BCD on import of parts of equipment is 10% / Nil under CTH 85177010 / 85177090 respectively. Customs authorities has been asking importers to classify parts of equipment under CTH 85176290 i.e. as 'equipment' and discharge BCD at the rate of 20% instead of classifying as 'parts' under 85177010/85177090 with 10%/Nil BCD. The Customs tariff does not provide specific entries for various telecommunication networking equipment and their parts. In the absence of specific entries for various telecommunication networking equipment and their parts in Customs tariff, the authorities have been challenging the classification of parts as 'equipment' to collect higher BCD at the rate of 20% under CTH 85176290 instead of 10%/Nil under CTH 85177010/85177090.	It is recommended that the government should amend the customs tariff itself to provide specific entries for various telecommunication networking equipment that should fall under CTH 85176290 and specific entries for parts that should be covered under CTH 85177010/ 85177090.
5	Clarification on exemption from Compensation Cess on goods imported by SEZ	Goods imported by SEZ are exempted from IGST levied u/s 3(7) of the CTA, 1975 vide notification no. 64/2017-Cus dated 05.07.2017. However, similar exemption notification is not issued for compensation cess levied u/s 3(9) of CTA. In the absence of such exemption notification, even though BCD and IGST is exempt when goods are imported by SEZ, compensation cess becomes payable. In "Ice Gate portal", entire customs duty including compensation cess is shown as exemption on import by SEZ and therefore does not allow to file Bill of Entry where in exemption is claimed from payment of BCD and IGST and payment of Compensation Cess.	Notification no. 64/2017-Cus dated 05.07.2017 be amended so as to also include compensation cess charged u/s 3(9) of CTA for the purpose of exemption on goods imported by SEZ.
6	Levy of Extra Duty Deposit (EDD) under Special Valuation Branch (SVB)	By virtue of circular 5/2016-Customs, dated 9 February 2016, the levy of EDD has been discontinued. However, if an importer fails to provide the requisite documents and information within a period of three months, SVB have been given the right to levy deposit @5 per cent for a period not exceeding the following three months. The said deposits continues to be levied even beyond the period of three months, even when the requisites documents and information's are been provided. The SVB applications are not been disposed off in a timely manner.	Suitable amendments be made in the procedures to ensure the SVB procedures are completed within the prescribed time limit
7	Refund provision under Customs	Customs law prescribes immediate issuance of refund order upon receipt of refund application in proper form along with all the documents. There is no specific timelines prescribed for passing of the refund order. Though the customs law provides for refund within three days from the date of passing of the order, there is no specific timeline for issuance of	To make necessary amendments in the Customs Act to prescribe timelines for issue of refund order as is prevalent under Central Goods and Services Tax Act.

		order. This provides an undue hardship to the importers due to delay in issuance of such refund order.	
8	Customs Advance Ruling	Chapter VB of the Customs Act, 1962 was amended by Finance Act, 2018 to provide the formation of new 'Customs Authority of Advance Rulings 'for the faster decision making and to reduce the overall time period within which the Advance Ruling can be obtained by the applicant. As on date, the aforesaid 'Customs Authority of Advance Rulings' has not been formed and the applications are still being filed with the existing Authority of Advance Rulings constituted under Section 245-O of the Income Tax Act, 1961.	The existing Authority of Advance Rulings constituted under Section 245-O of the Income Tax Act, 1961 is common for both Customs and Income Tax applications and as result the average time period for obtaining advance ruling is 6 to 12 months. Hence, as a trade facilitation measure, whereby the applicant can obtain advance ruling within shorter time frame, the separate 'Customs Authority of Advance Rulings' needs to be constituted and made operational without any further delay.
9	AEO – Allowing MRP stickers pasting in applicants premises	In terms of AEO Circular No. 33/2016-Customs, dated 22/07/2017 the holders of AEO-T2 and AEO-T3 certificate will be given the facility to paste MRP stickers in the premises of the importer. The said benefit even though is specified for AEO-T2 & T3 status holders, however, at ground level the Custom authorities are not allowing to paste MRP stickers in the premises of the importer. The same is only allowed under Custom Bonded Warehouse.	It is recommended that a suitable instruction needs to be issued for allowing the holders to AEO-T2 and AEO-T3 certificate, to be able to avail the benefit of pasting MRP stickers in their premises.
10	Provision to empower proper officer to issue a supplementary notice	Section 28(7A) of the Customs Act, 1962 as inserted by Finance Act, 2018 empowers the proper officer to issue a supplementary notice which would be deemed as the SCN issued under the main provisions of Section 28. However, neither the meaning of supplementary notice has been defined under the said act nor the circumstances and manner under which supplementary notice may be issued is prescribed. There is a possibility of ambiguities arising around the scope of supplementary notice.	It should be clarified that supplementary notice would not be issued after the reply to initial SCN has already been submitted by the noticee. The objective of supplementary notice should not be to cure the defects of initial SCN as may be identified basis a perusal of the submissions made by the noticee to initial SCN. The scope of supplementary notice should be restricted to only such issues which are not covered in the initial SCN. The "supplementary notice" should be defined in the Customs Act 1962 and the circumstances and manner in which it may be issued may be prescribed expeditiously to prevent misuse of the provision by the authorities on ground
11	Scope of Customs Act, 1962 to offences committed outside India	Chapter I of Customs Act, 1962 has been expanded by Finance Act, 2018 to the offences or contravention committed under the aforementioned Act outside India by any person. The objective is to extend the scope of powers granted under the Customs law beyond the existing limits. However, the limits of such powers are not defined clearly which could lead to misuse due to ambiguities.	It is recommended that suitable clarification be issued with regard to purpose and scope of this proposed amendment to extend the applicability of Customs law. Specific aspects such as type of persons covered within the ambit of extended laws, nature of offences and specific powers that may be exercised by the field officers, etc. should be clarified. Suitable clarifications would ensure that the officer son-ground don't use the extended powers for any purposes other than those intended. It should be specifically clarified that parties who are not present in India

			nor have any role in compliances under Indian Customs law shall not be subjected to these powers. This is required in order to ensure that the powers conferred under the amendments are not abused or cause harassment for parties not having any presence in India.
12	Circular 38 of 2018 regarding procedure for bonded warehouse operations	CBIC has come up with a very progressive duty deferral regime through the circular dated October 18, 2018. However, the said circular does not outline the timing for compliances required to be undertaken under other regulations with other participating government agencies like FSSAI, Drug Controller, MoEF etc. Other import related compliances like FSSAI etc should also be required to be undertaken at the time of ex-bonding of the goods from the bonded premises	CBIC should come up with a non-tariff notification or suitable clarifications under Section 65 of the customs Act, requiring the timing of compliances under other acts and regulations to the time of clearance of imported goods from the bonded premises.
13	Amendment to Notification 104/94 relating to exemption to containers of durable nature	The Custom notification no. 104/94 dated March 16, 1994, forms the basis of duty free import of laden marine containers and other durable packaging material in India subject to re-export conditions. However the assessment practice between the marine containers and other durable packaging material is not aligned and is inconsistent. Marine containers are not required to be declared in the bill of entry and are not assessed to duty. For all the other types of durable packaging material practice and interpretation around compliances is open to interpretation which brings uncertainty in global supply chain which requires specialised, durable packaging material to be used for movement of specific type of goods. The compliances, disclosures and assessment practice for movement of laden, durable, packaging material should be aligned for consistency, seamless integration of India in global value chain and ease of doing business.	Customs notification 104/94 dated March 16,1994shouldbeamendedtoensurethefollowing: Laden, durable, packaging material used as instrument of international trade should not be required to be disclosed as a separate line item of assessment in the bill of entry. Post import disclosure and compliance requirement, like container cell at major ports of import, should be notified for effective control on movement of such packaging material. Separate bond should not be required to be produced for each shipment and bill of entry as it results in delay in assessment and increases the dwell time of the shipment just because of packaging material used for bringing the goods in to India.
14	Frequent tariff duty rate changes and consequent possibility of disputes	Government has notified multiple tariff duty rate changes in the last one and half years. Each of these duty rate changes results in a possibility of fresh focus on classification practice from the past and consequent possibility of duty demands Such tariff duty rate changes are undertaken with strategic view of the future, but they also result in avoidable disputes for the past period Where customs department and the trade has been following a particular practice which gets new attention and focus in light of the change in tariff rate	Any upward revision of duty rates should be accompanied with protection for reopening of assessment practice of the past period which can possibly participate disputes for the past period. Such protection can be considered to be granted under Section 28A of the Customs act subject to 'reasonable care' being demonstrated by the importer and any other anti-abuse provisions to safeguard the revenue interest of the government

SUGGESSTIONS

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CUSTOM TARIFF

Sl No.	Area of Challenge	Issue	Recommendation
1	Requirement of revision of duty rates	In certain cases, lower customs duty rates on finished product but higher customs duty rate on raw materials makes the import of finished products attractive, thus, discouraging domestic value addition & creating an inverted duty structure. Therefore, decrease in duty rates of raw materials is required. In contrast, lower customs duty rates on goods has adverse impact on domestic manufacturing sector, leading to unutilized capacities. This requires increase in duty rates.	List of proposed changes in Customs duty rates has also been mentioned below:

S. No.	Product	HSN Code	Existing Rate	Proposed Rate
Proposed downward revision of duty rates				
1	Steel grade limestone	2521	2.5%	NIL
2	Coking /Anthracite Coal	27011100	2.5%	NIL
3	Raw materials for manufacture of Optical Fibre Cable (OFC)	90011000	15%	NIL
4	Coal Tar Pitch	2708 10 90	5.00%	2.5%
5	Calcined Petroleum Coke	27131210 2713 12 90	10%	2.5%
6	Caustic Soda Lye	2815 12 00	7.5%	2.5%
7	Calcined Alumina	2818 20 10	5.00%	NIL
8	Aluminium Fluoride	2826 12 00	7.5%	2.5%
9	Green Anode/ Pre-Baked Carbon Anode	380190 00	7.5%	2.5%
10	Refractory material	68159990	10%	NIL
11	Raw materials for the manufacturing of Optical Fibre/ Optical Fibre Cable (OF/OFC)	90011000	15.00%	NIL
Proposed upward revision of duty rates				
1	Optical Elements	70140020	10%	15%
2	Primary Aluminium	7601	7.5%	10%
3	Aluminium Scrap	7602	2.5%	10%

2	Customs Duty exemption to medical devices	As regards the medical devices, presently customs duty on all medical, surgical, dental and veterinary equipment's etc. is effectively taxed at 7.50 percent. Customs duty on all parts and accessories of medical, surgical, dental and veterinary equipment's etc. is also 5 percent.	Medical devices should be exempted from Custom Duty. Further presently different medical devices have partial / full exemption under various entries in different notifications. This could be rationalized so as to bring about more clarity and less disputes from a classification aspect.
3	Increase in import duty on certain steel products	Increase in the cost of product.	Import duty to be increased on certain Steel products such as hot rolled steel, cold rolled steel, galvanized steel, colour coated steel, wire rods, alloy steel bars, wire rods, stainless steel etc.

4	Exemption from customs duty for coal	Increase in the cost of final product.	Reduction in Customs duty on pet coke, anthracite coal, metallurgical coke and coking coal.
5	Customs duty on Preform of Silica for Optical Fiber manufacturing	The BCD on preform of silica was levied @ 10% in 2016 budget, but after the optical fiber industry raised concerns with regards to this, the BCD was reduced to 5% in May 2016 and subsequently eliminated in July 2017. However, in the Union Budget 2018, the custom duty on Preform was raised to 5%again. The preform of Silica is used to produce optical fiber which is currently being manufactured in India and is extremely important for the successful implementation of Digital India, Bharat Net and Smart Cities plans of the government. It should be emphasized that Preform of Silica is not a product or component, it is a raw material crucial for the manufacture of optical fiber. The duty affects the ease of doing business prospects and threatens the economic viability for telecommunication network expansion.	Removal of Customs Duty on Preform of Silica, which is a raw material used in manufacture of Optical Fiber and not a component or product in itself.

SUGGESSTIONS

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FOREIGN TRADE POLICY

Sl No.	Area of Challenge	Issue	Recommendation
1	Eligibility of Duty Credit Scrip's issued under Foreign Trade Policy for discharging GST Liability	Duty Credit Scrip's against the Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS) are provided to exporters under the Foreign Trade Policy. In the pre- GST regime these Scrip's could be utilized for discharging Basic Customs Duty and Countervailing Duties in case of import of specified goods as well as Central Excise Duties in case of domestic procurement of the specified goods. Under the GST law, MEIS and SEIS Scrip's can be used only for payment of Basic Customs Duty (BCD) and are ineligible for discharge of any liability under IGST, CGST, SGST and GST Compensation Cess in respect of imports or domestic procurements. Notwithstanding the fact that any tax paid under the GST laws is available as input tax credit, the ineligibility of utilizing Duty Credit Scrip's for discharge of these tax liabilities have impacted adversely on the utilization and tradability of the said Scrip's, thereby resulting in avoidable tie- up of working capital.	It is suggested that GST law be amended to permit utilization of Duty Credit Scrip's received under the Foreign Trade Policy for discharge of Basic Customs Duty as well as IGST/ CGST/ SGST/ GST Compensation Cess, as the case may be.
2	Budgetary Support for Export Incentives for Tobacco and Tobacco Products under the FTP	Tobacco provides livelihood, directly and indirectly to about 47 million people of whom around 75% are in the agricultural sector, with millions of farmers and farm workers directly engaged in tobacco farming. Tobacco sector exports have contributed directly to an increasingly remunerative return for the Indian tobacco farmer. As acknowledged in the 'Report on Tobacco Control in India' published by the Ministry of Health and Family Welfare, GoI, "Tobacco occupies a prime place in the Indian economy on account of its considerable contribution to the agricultural, industrial and export sectors. India is the second largest producer of tobacco in the world." Exports from the tobacco sector, comprising primarily of value added products like Flue Cured Virginia(FCV)Tobacco(about72%oftotal FCV production in the country is exported) and Indian brands of cigarettes, contribute foreign exchange of about Rs.6,000 crores (approximately USD 950 million) annually to the exchequer. The stated objective of the Foreign Trade Policy in general and the MEIS in particular, include enhancement of India's export competitiveness by offsetting infrastructural inefficiencies and associated costs involved in export of	It is strongly recommended that appropriate budgetary support be provided for reinstatement of benefits for the tobacco sector under the MEIS of the Foreign Trade Policy.

		goods and products, which are produced / manufactured in India, especially those having high export intensity and employment potential. Due to reasons stated above, extension of benefit under MEIS to the tobacco sector is eminently aligned to the objectives of MEIS and the Foreign Trade Policy.	
3	Jurisdictional Authority (RA) for filing of claims for exports benefits under Foreign Trade Policy	Para 3.06 of the Handbook of Procedures, 2015-20 (as amended vide Public Notice No. 58/2015-20 dated 10th February 2017) states that an "Applicant shall have option to choose Jurisdictional RA on the basis of Corporate Office/ Registered Office/Head Office / Branch Office address endorsed on IEC for submitting application/applications under MEIS and SEIS." Organizations that have multiple businesses and/or operate out of multiple locations across the country are, thus, unable to opt for different jurisdictional RAs on the basis of the Branch Office Code endorsed on the IEC. This causes substantial administrative inconvenience and costs and complexity in dealing with exports/imports from multiple ports and ICDs located across the country as well as delays in granting of export benefits and incentives. Presumably, the said procedure was laid down to preclude the possibility of any misuse or adoption of any unethical practice on the part of the exporter. However, it would be important to note that the export incentives are allowed only after realization of the export proceeds and on submission of Bank Realisation Certificates confirming the same. Any claim for incentives against export scan only be filed on fulfillment of all the procedural requirements.	Accordingly, it is strongly recommended that to ease the administrative complexities and avoid costs that accrue to a multi-location exporter on account of having to deal with one single RA in respect of exports from various locations across the country, appropriate clarifications are issued to the effect that exporters whose operations are geographically spread across the country can continue to opt for different jurisdictional RAs, depending on administrative and logistical convenience, on the basis the Branch Addresses and Branch Codes endorsed on the IEC. Going forward, the Handbook of Procedures may also be amended appropriately to this effect.
4	Clarification on applicability of SWS when import duties are paid through MEIS scrip's	Clause 108 of the Finance Bill, 2018 provides a duty of customs to be called Social Welfare Surcharge (SWS)@10%on the aggregate duties of customs levied at the time of import. Notification No. 16-22/2015-CUS dated April 1, 2015 exempts the goods imported into India against a duty scrip issued by Regional Authority under MEIS in accordance with Foreign Trade Policy, from – a. The whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975); and	Therefore, it can be reasonably inferred that SWS would not be required to be debited from MEIS scrip's, wherever the customs duty and additional duty thereon is exempted in lieu of debit against MEIS scrip's. Accordingly, it is recommended- - To re-credit the amount of Surcharge that has been debited in the MEIS Scrip's. - To issue a clarification prospectively clearly laying down the process to be followed for debiting of SWS for instances where Custom Duty is discharged through utilization of Scrip's.

		b. The whole of the additional duty leviable thereon under section 3 of the said Customs Tariff base amount i.e. custom duty is exempted	To include the stand on SWS in the new scheme of exports incentives, which will be effective from 1st January.2020.
5	Export Obligation Discharge Certificate (EODC)	In order to reduce avoidable paperwork and delays in cancellation of Bonds / LUT it is recommended that while issuing the EODC the DGFT should declare in the Certificate that export obligation is fulfilled and all bonds/LUT executed in respect of the specific Authorization(with Ministry of Finance / Ministry of Commerce) stand cancelled with immediate effect. This information can be updated in the on-line system to ensure that the corresponding records maintained by Customs Department is updated as well.	EODC is required to be submitted to the Customs Department upon fulfillment of export obligation against pre-export licences (like Advance Licence, DFIA, EPCG and so on). Without submission of the EODC to the Customs authorities the Bond / Letter of Undertaking (LUT) furnished by the exporter is not cancelled. As per current provisions of law, the EODC has to be obtained from the jurisdictional DGFT office and submitted to the Customs authorities thereafter. Only upon verification of the EODC, the Customs authorities cancel the Bond/LUT executed by exporter at the time of import. The entire process is time consuming and at times the cancellation of the Bond / LUT remains pending even after a decade of issuance of the EODC by the DGFT.
6	Import of second-hand capital goods under zero duty EPCG Scheme	Till year 2012, there was no restriction under Foreign Trade Policy (FTP) for import of second-hand capital goods. However, inPara5.1of the FTP announced in 2013 (Annual Review), a new clause (e) has been added which reads, "Secondhand capital goods shall not be permitted to be imported under EPCG Scheme". This clause has been continued in the new FTP 2015-20. This restriction has increased costs significantly for projects set-up capital intensive industries like paper/paperboards. The Indian Paper/Paperboard industry has made significant capital investments to ramp-up capacities for meeting domestic requirements. This sector is highly capital intensive with lower profit margins. During the last 15 years, many of the paper/paper board mills in India have installed imported second hand machines purchased from Western Countries such as Europe, USA, Canada and Finland and made significant capital investments to rebuild such machines to match international quality standards and for improving longevity of such machines. After these machines were rebuilt, their operating efficiencies have improved significantly. Hence, permitting import of second-hand capital goods will help this sector to lower capital investments and improve return on capital employed.	Imported second hand capital goods should be permitted under Zero duty EPCG scheme. If this cannot be done for all industry for any reason, specific permission should be given to capital intensive industries like Paper/Paperboards.

7	Remission of Duties or Taxes on Export Product (RoDTEP) Scheme for Agri Exports	The Hon'ble Finance Minister has announced a new scheme "RoDTEP" which will replace the existing MEIS scheme to boost Indian exports. The salient features of the scheme: a) RoDTEP to be effective from 1.1.2020 b) Textiles and all other sectors which currently enjoy incentives up to 2% over MEIS will transit into RoDTEP from 1.1.2020 c) Revenue foregone projected at up to Rs. 50,000 crores Currently, garment industry enjoy additional support in the form of Rebate of State and Central Taxes and Levies (RoSCTL) which was notified on 7.3.2019 to provide refund of duties/taxes at higher rates. The reading of the press release suggests that Textiles and other sectors which currently enjoy incentives up to 2% over MEIS will transit into RoDTEP.	As the announcement is silent about other exports, to give a boost to exports of Agri based products, it is recommended that the RoDTEP rates be similar to the Textile sector wherein the rates are 2% higher than the current MEIS rates as MEIS was introduced to offset infrastructural inefficiencies and the associated costs and does not address the issue of non-rebatable State and Central taxes and levies.
8	Extend Export Incentive Benefits for Exports to Nepal/Bhutan with INR Realization	As per Clause 3.04 of the Foreign Trade Policy, entitlement under MEIS would be on realized FOB value of exports in free foreign exchange. Current Duty Drawback & FTP does not provide for benefits against exports to Nepal with INR realization.	It is recommended that export to Nepal with INR realization be treated at par with exports to other countries since efforts put in by an exporter to secure orders from Nepal and fulfilling the said orders are equally complex as procuring orders from other countries. Also, pursuant to revised Treaty of Trade between Govt. of India and Govt. of Nepal exports to Nepal have been put at par with exports to other countries (except Bhutan) as per Circular no 958/1/2012-CX dated January 13, 2012. Further, for the purpose of computing fulfillment of EO under various schemes including EPCG, exports to Nepal should be taken into account.
9	Export incentive / benefit licences registration with Customs department	A number of initiatives have been taken by the Government of India in the area of automation, of various processes thereby facilitating ease of doing business. This also includes automating certain processes involved with regard to export incentives licences under FTP which have enabled expeditious issue of export incentive licences – a. Online application for licenses on the DGFT website which is then validated through the digital certificates of the exporter. b. b. While filing the application the linking of the Shipping Bills and the BRCs are also done online by the exporters. c. The licences are then issued online. However, as per current practice, after obtaining such licence from DGFT, the	As the details of licence are already getting transferred from DGFT server to Customs server, it is recommended that the formality of registration of the licence with the Customs is done away. This will eliminate the transaction cost involved in registration and also help in saving time of importers as well as Customs officials.

		licence holder is required to get the licence registered with the Customs Department which involves significant efforts and multiple follow ups.	
10	Basic Customs duty exemption on Instruments for joint Replacement and Spinal Instruments	In the Pre-GST period, exemption from Basic Customs Duty (BCD) was available for imported instruments for Joint Replacement and Spinal Instruments under S. No. 488, Entry No. 9 of List 32 of Notification 12/2012-Customs dated 17th March, 2012 S. No. 488 of Notification 12/2012 of Customs dated 17th March, 2012 reads as under: 90 or any other Chapter - Assistive devices, rehabilitation aids and other goods for disabled, specified in List 32. Further, Entry No. 9 of List 32 of Notification 12/2012 of Customs dated 17th March, 2012 reads as follows: "Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement." Post- GST implementation, the notification no. 12/2012-Customs dated 17th March, 2012 has been superseded by notification no. 50/2017- Customs dated 30th June, 2017. The notification also provides the similar exemption vide S. No. 578, Entry No. 9 of List 30. There is no material change in exemption granted to the products with regard to said Entry vide both of the abovementioned notifications. However, the customs authorities are of the view that as the products being a surgical instrument used by doctors for surgery and not by the patients seems not to be complying with exemption Notification of Nil BCD. The exemption available vide S. No. 578,Entry No. 9 of List 30 of notification no. 50/2017- Customs dated 30th June, 2017 is available to the instruments used by patients and not by Surgeons during surgery.	Suitable clarification should be issued by CBEC else customs duty may be applicable on the instruments which is being imported by doctors for surgery and ultimately it shall increase the cost for patients.

SUGGESSTIONS

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SERVICE TAX

Sl No.	Area of Challenge	Issue	Recommendation
1	Service Tax on Cost Recovery(Cost Petroleum) recovered by upstream oil and gas companies under Production Sharing Contracts(PSC)	The Government of India introduced the New Exploration & Licensing Policy (NELP), to boost the production of oil and natural gas and providing level playing field for both public and private players. Under NELP, the Government of India signed several PSC with Private & Public companies, each of these PSC's are placed in the Parliament. A PSC is a Public Private Partnership between the Government of India and the Oil & Gas Companies for exploration, development & production of petroleum resources and sharin+C16g of profits from such operations, if there is production of hydrocarbon. To provide impetus to the Oil and Gas companies, NELP/PSC provided for exemption from customs duty and excise duty. In addition, the NELP also provides for fiscal stability during the entire period of the contract. PSC is an economic sharing agreement and not a service contract. Government is a partner in the venture it is entitled to receive royalty and its share of any profit petroleum either in cash or in kind if revenue is generated from sale of hydrocarbon. Similarly, the Oil &Gas Companies are also entitled to their share of profit petroleum and a recovery of cost (cost petroleum) as agreed in the PSC. Under the PSC arrangement, the Companies spend costs relating to Petroleum Operations i.e. exploration, development & production of hydrocarbon. To manage the inherent risk of exploration, the PSC includes a provision to recover cost and capital spent in exploring and developing the field, if revenue is generated. This is just a mechanism (formula) to determine the share of petroleum which will belong to Companies and to the Government. This is not linked to any service. The CBIC has already issued a circular under the GST regime, clarifying that Cost Petroleum is not a service rendered to the Government. As this is a clarificatory circular, it should be equally applicable to the service tax regime. Despite circular in the	Clarification should be issued under the Service Tax Law (Finance Act 1994) confirming that Service Tax is not applicable on such Cost Petroleum similar to clarification issued under the GST regime.

		GST regime, the field formations are confirming levy of Service Tax on this cost recovery which is a matter of grave concern for the industry. Note that the underlying services or supplies from vendors have already suffered appropriate taxes.	

2	Service Tax on Profit Petroleum (Contractors Share)	Profit petroleum is the share in petroleum after recovery of cost which is shared between the Contractor and the Government. This is not a consideration for any service. VAT is already paid at the time of sale of the petroleum products (crude/ natural gas) by the Contractors. The Contractor's share of profit petroleum is an entrepreneur revenue from sale of Crude Oil/ Natural Gas and not a consideration for any service. To levy service tax on contractor's share (in view of notices recently issued) of profit Petroleum is resulting in unnecessary litigation.	Clarification be issued to provide that contractors share of profit petroleum is not a payment against any service and therefore not subject to service tax.
3	Service Tax on Cash Calls	One of the partners to the PSC is designated as Operator who is responsible to pool funds and incur cost for the Petroleum Operations (Exploration, Development and Production). Such pooling of funds is termed as "Cash Calls" which are funding arrangements in the nature of capital contributions by participating Companies. These Cash Calls are transaction in money and not a service. The Operator has already paid applicable taxes on the underlying transactions. Further, there is already a circular (179/5/2014-ST dated 24.09.2014) confirming that capital contributions under UJV structures are not service. Field formations have indicated their intention to issue notices seeking to levy service tax on elements of Cash calls(like Manpower, overheads etc.) which will result in unnecessary ambiguity.	A clarification specific to the upstream companies may be issued clarifying that pooling of funds by participants for petroleum operations is not a service.

4	Service Tax on Royalty	Royalty is a share of the Government revenue in the production of hydrocarbons and is success based i.e. not payable on exploration failure. It is part of overall economic share of the Government & not against any service. The CBIC in FAQ on Government services mentions that royalty paid to the government for assignment of right to use natural resources is treated as a supply of services and licensee is required to discharge tax on the royalty paid under reverse charge mechanism. There is no quid pro quo specified in this legislation under which royalty is levied that Government is required to fulfill obligation in lieu of royalty received. Treating right to use natural resources as supply of services & levying tax is a step backward & further increase the tax burden with adverse consequences on project profitability & incremental investments.	Clarification required under the Service Tax law that Royalty payments to the GOI does not constitute supply of services.

SUGGESSTIONS

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CENTRAL EXCISE

Sl No.	Area of Challenge	Issue	Recommendation
1	Demand of NCCD & Infra Cess on vehicles manufactured up to 30.06.2017, lying in stock at manufacturing locations but supplied from 01.07.2017 onwards	NCCD was introduced and levied as per Seventh Schedule to Finance Act, 2001. The Infra Structure Cess was levied as per Eleventh Schedule to the Finance Act, 2016. Both these provisions were repealed by Taxation Law (Amendment) Act, 2017. This was also communicated by Govt. vide Circular dated 07.06.2017 through its Press Information Bureau. Hence, OEMs did not pay NCCD or Infra Cess on vehicles produced and lying in stockason30.06.2017butsupplied/sold from 01.07.2017. However, the DGGSTI has issued letters to OEMs seeking information on the subject. It seems to have been triggered from Notification No. 12/2017-CE dated 30.06.2017 exempting payment of excise duty on goods which have been cleared from factory of OEMs from 01.07.2017 and on which GST has been paid. In GST, NCCD, Infra Cess etc. have been subsumed and OEMs supplied these vehicles on payment of applicable GST plus Compensation Cess.	Clarification may please be issued that NCCD and Infra Cess is not required to be paid on vehicles supplied from 01.07.2017 onwards, if GST and applicable Compensation Cess, if any, has been paid

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