

Five current issues in Goods and Services Tax

1) Availability of Transitional credit for Traders:

It is seen that based on the concerns raised by various exporters, government has immediately acted upon and created a mechanism in GST portal enabling exporters to claim refund of the taxes paid. This step has been widely appreciated and exporters are at ease as their issue of working capital has been now resolved.

We urge government to immediately address the similar issue in case of traders wherein as per transitional provision, traders are eligible to get standard input tax credit of 40%/ 60% based on the output rate of tax. Further, this credit was promised to be given upon payment of output tax. It is noted that traders have already made the payment of GST output tax for the months of July 2017 to October 2017 but still there is no mechanism enabled in the GST portal for availing the standard Input Taxes credit.

This leading to high cash outflow of taxes blocking the funds required for day to day business operations. Therefore, we urge to enable the mechanism for availing transitional credit for traders.

2) GST on advances for service sector:

In the recently held GST council meeting, Government has taken some bold decisions, one among them is the waiver for supplier of goods to pay GST on the advances. This is a big booster for manufacturing and trading community wherein the compliance burden would come down.

We urge government to enable this provision even for service sector so that there is complete uniformity in the GST law. This shall not have any impact on revenues for government as taxes would continued to be paid upon raising of the invoice.

However, not enabling this provision for service sector would have high legal and practical issues. Firstly, it would lead to rising of the old disputes as to whether a supply is that of 'goods' or 'services'. Further, the very essence of GST i.e. to not have any distinction between goods and services will be lost. Also, since service sector contribute to approximately 60% of the country's GDP, therefore the sector needs to be boosted and must not be given a different and complicated tax treatment.

3) Mandatory Registration for Inter-state supply of Goods

As per section 24 of the GST law, it is stated that a person need to mandatorily take registration if he makes even one transaction of inter-state supply and the basic threshold exemption limit of Rs. 20 lakhs would not be applicable. This provision is very harsh for small businesses and restricting such persons from making inter-state supplies defeats the basic agenda of GST i.e. 'One Nation One Tax'.

Earlier, government has extended this benefit to job-workers and handicraft goods suppliers and also to supplier of services. However, the similar benefit is not extended to supplier of goods. Therefore, we urge government to extend this requirement to everyone i.e. Mandatory GST registration must not be required even for inter-state supply of goods even though the persons turnover is below the basic exemption threshold limit.

4) Clarity on filing of GSTR 2 & 3 and matching principle:

As per the outcome of the recently held GST council meeting, it is stated that ***“The time period for filing GSTR-2 and GSTR-3 for the months of July, 2017 to March 2018 would be worked out by a Committee of Officers.”***

Presently, there is no clarity among the industry, trade and professionals whether filing of GSTR 2 and 3 for financial year 2017-18 is merely postponed or whether it needs to be submitted at bulk for the entire financial year or whether the same is fully suspended for FY 2017-18.

Everyone is interpreting the above wordings of the press release in their own manner and multiple views are being expressed in this regard. Therefore, we urge government to immediately clarify their stand in respect of filing of GSTR 2 and GSTR 3 for the financial year 2017-18.

Since, businesses also needs to plan their workings accordingly i.e. manner of organizing organizing of data, changes in existing software, procuring new software, training/ strengthening the in-house team, hiring of consultants/ outsourcing of GST work etc.

5) Guideline for Anti-Profiteering

It is noted that many advertisements, messages are being published in newspapers, social media etc. that benefit of GST needs to be passed on and stern action will be taken if the same is not complied with. It is noted that the present law in respect of anti-profiteering is very vague and open for multiple interpretations. Government has not provided any mechanism or guideline as to when one can say that there is anti-profiteering and how to compute the same.

It is also important to note that pricing in any business is very dynamic feature and its impact cannot be trimmed down only on the basis of taxation. Also, there is a competition act in place to take care of this situation, therefore how a taxation law can restrict businesses pricing especially when the purpose of tax law is not to regulate pricing as per the Constitution of India.

Such loosely drafted provisions can only have high litigation with no any real benefits to the government. Therefore, we urge government to immediately provide guideline as to situations in which one can be said to have been making additional profiteering out of GST and how to compute the same.

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(This article is written on 21.11.2017. For feedback or queries, you can reach at ravikumar@hiregange.com)