

BIHAR CHAMBER OF COMMERCE & INDUSTRIES

MEMORANDUM TO DY CHIEF MINISTER OF BIHAR, SHRI SUSHIL KUMAR MODI **SUGGESTIONS ON NEW RETURN FORMAT**

In pursuant to the original GST law & rules, taxpayers were required to file Outward Supply Statement GSTR-1, Inward Supply Statement GSTR-2 & on the basis thereof the Final Return (summary of the liability & input) GSTR-3.

In view of the technical glitches on the portal in filing GSTR-1 of the first month return of GST for the month of July'2017, GST council introduced GSTR-3B to be filed every month to discharge the tax liability.

Later on, considering the various representations received throughout the country making request to simplify the stringent compliance under GST regime, a committee on simplification of return was formed under the chairmanship of Dy CM of Bihar, Hon'ble Shri Sushil Kumar Modi ji, which was highly commendable.

In its last meeting, GST council approved New Return Format and was put on public domain for the feedback & comments.

Having gone through the New Return Format, it is observed that by and large, New Format is on the same line as it was in original format except feature of enabling continues uploading of Outward Supply Invoice. Still, taxpayers are required to file Outward supply annexure by 10th , matching of uploaded Invoices by the supplier into same month and to Final Main return.

For the large taxpayers still it involves the whole month right from 1st to 20th of the month till filing of Main Return.

In the New Return Format, even for the small taxpayers, there are three type of return forms namely SAHAJ, SUGAM & Quarterly, which is again complex. Small taxpayers are also required to upload Outward Supply Invoice.

But, in our views, the compliance could be made simplified only when the operational procedure of the small taxpayers are taken care.

There may have annexure attachments, as many as required in the Main Return but there should be One single date for filing only One GST return of a tax period and then only it would be said simplification of return or otherwise not.

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That's easily possible, if the government agree to allow provisional ITC credit of the previous month to the taxpayers and matching of Invoice is to be done through an annexure of the Main Return.

Any ITC provisionally availed should be matched Invoice wise through a separate form of the Main Return of the subsequent month and ITC amount availed for a tax period, if remains unmatched up to six subsequent tax period, should be added back as liability in the Main Return along with delayed interest thereon.

It is pertinent to mention here that section 41 of GST law state on the same line of allowing provisional ITC and Rule 69 about matching of Invoice after filing of GSTR-3

***Section 41.** (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.*

Rule 69. Matching of claim of input tax credit .-The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section 41, shall be matched under section 42 after the due date for furnishing the return in FORM GSTR-3-

(a) Goods and Services Tax Identification Number of the supplier;

(b) Goods and Services Tax Identification Number of the recipient;

(c) invoice or debit note number;

(d) invoice or debit note date; and

(e) tax amount:

Provided that where the time limit for furnishing FORM GSTR-1 specified under section 37 and FORM GSTR-2 specified under section 38 has been extended, the date of matching relating to claim of input tax credit shall also be extended accordingly

As about the New Simplified Return Format with Monthly Return, Sahaj, Sugam & Quarterly, we beg to submit few points before you for your kind consideration and the same are as under:-

Classification of taxpayers:-

It's suggested that a self declaration form should be taken from the taxpayers about their falling category into small taxpayers or otherwise. It's because their previous year turnover as per the records on the portal may not be the correct figure due to error occurred in filing GSTR-3B

Clarification of Turnover:-

It is believed that total value of outward supply under one GSTIN would be considered as turnover of the respective taxpayer irrespective of the fact that the same legal person may have another registration on the same PAN (distinct registered person)

Frequency of Return:-

Quarterly option should be extended only to such person making only B2C supply or otherwise a person filing monthly return make any inward supplies from a person opting quarterly option shall always have Missing Invoice.

Return filing Date

Uniform last date of 20th for all taxpayers may be changed into different slot starting from 20th to 30th of the month to manage pressure on the portal.

Uploading of Invoice and cutoff date for a tax period:-

Keeping in to consideration the practical difficulties of the small taxpayers as it's not possible for them to upload Outward Invoices on continues basis, for such small taxpayer person, 20th should be last date for uploading Invoices.

A suggestive timeline may be as under:

Turn Over	Uploading of Invoice / Outward Supply Annexure (Both Monthly & Quarterly)	Main Return / Quarterly Return
Above 50 Cr	upto 10th of month	20th - 25th of the month
5 Cr- 50 Cr	11th - 15th of the month	25th - 30th of the month
Upto 5 Cr	16th - 20th of the month	

Amendment of locked Invoice by Supplier (Inc case wrong credit claimed by the recipient):-

There may have such circumstances, where recipient has locked the Invoice wrongly reflected into his a/c and so there must be a mechanism either allowing making amendments by the supplier at any point of time or else any other way out for such a situation.

Provisional ITC credit against Missing Tax Invoice:-

It has been mentioned that credit against missing Invoice (where supplier do not upload Invoice) would be allowed only for the transition phase of six month.

It would be regular phenomena that the supplier may not upload Invoice/s and in turn recipient has Missing Invoices for availing input credit.

It is therefore suggested that provisional credit against Missing Invoice should always be allowed on the regular basis.

Reporting period (T+2) for Missing Invoice/s by the supplier:-

As per the draft format, taxpayers shall have two month time to get Missing Invoices uploaded by the respective supplier/s or otherwise shall be required to pay against credit availed in respect of Missing Invoice/s after two months, which is quite low and should be kept for 6 months.

It may please be noted that monthly filers will not have the Invoice of Suppliers filing quarterly for first two tax period always.

Offline IT Tool:

Trade Name of the supplier should also be there in Offline IT Tool format/s

Credit against Goods Received Till Filing of Return

In order to allow input credit for such Invoices, which goods are received by the recipient even till filing of return is contravention to the GST law and need amendments of the present provision.

Deemed Locking of Invoices:-

In such a case, where Invoices uploaded by the supplier are not locked by the recipient, all such Invoices should be kept in Pending Invoices status so as to avoid any complications. The recipient would not be able to avail any input credit in such situation.

There must be a feature to lock all Invoices in single click option.

Higher Late Fee For Amendment Return

It's not justified as supplier also suffer applicability of delay interest. More than two amendments may attract nominal fees.

HSN Code particulars in 4 digit & that too Rate wise:-

In the new return format, all taxpayers are required to furnish HSN code on 4 digits and that too tax rate wise, which is really a cumbersome task for them. It's also against the earlier notification and announcement as well.

For the smooth compliance, it's suggested to follow the earlier guidelines. It's suggested to ask HSN wise summary in annual return so as to ease out the task.

Linking Of Debit Note & Credit Note with Invoice

Making linking of debit notes & credit Notes with invoices is tedious job. It should be removed.

Amendments to GST Returns

The amendment return appears only for monthly returns filers and not for small taxpayers opting quarterly return. It is equally required for quarterly return filers.

Switching From Quarterly to Monthly return and vice versa

The tax payer's option to choose from monthly or quarterly return at the beginning of the year is quite justified and during the year, it should switch from quarterly to monthly on auto basis, if the turnover exceeds the limit for the quarterly filer.

SUGGESTIONS RELATING TO ANNEXTURE OF OUTWARD SUPPLY TO MAIN RETURN (MONTHLY)

Only B2B Transactions:

The said annexure is a sort of liability statement, while it should be frame out only in respect of transactions taking place between B2B supplier and the buyer has to avail input against the same. It would make it easier for the supplier to fill in the same avoiding delay in filing and in turn minimizing Missing Invoices.

The other related information's like Table 3A, 3C, 3D, 3H, 3I, 3J, 3L and Table 5 should be shifted to Main return.

Tax rate wise reporting in Annexure of Outward Supplies to Main Return

In such a case, where there are multiple tax rate items in a particular invoice, then it will be difficult to fill in tax rate wise details. It is suggested to make it one column of Total taxable value (Incl. all tax rate)

If not possible to do so, tax rate wise column should be inserted so that single line/row entry is required even for Invoice having multiple tax rate goods.

HSN wise summary in Annexure of supplies to main Return:

In the HSN code wise summary, UQC & Quantity column should be removed for the easy compliance

SUGGESTIONS RELATING TO MAIN RETURN (MONTHLY)

Table 3D-2

Information in respect of Non GST supplies should not be asked in GST return. Non GST goods are not defined in the Act.

Table 4A-2

It would be auto populated on the basis of Table 3A+3B & 3C of annexure of inward supply to Main Return (Monthly)

Table 4B-3

The effect of credit note issued by the supplier should reflect into annexure of inward supply to Main Return (Monthly) on the basis of annexure of outward supply filed by the supplier. No need there in main return

SUGGESTIONS RELATING TO ANNEXTURE OF INWARD SUPPLY TO MAIN RETURN (MONTHLY)

Tax rate wise reporting in Annexure of Inward Supplies to Main Return & Claimed Amt

Alike outward supplies, only one column of Total taxable value (Incl. all tax rate) should be there in inward supply and the total taxes paid should be credited as input. Unclaimed ITC should be accounted through reversal / adjustment column in Main return.

If not possible for one column of Total taxable value, tax rate wise column should be inserted so that single line/row entry is required even for Invoice having multiple tax rate goods.

SUGGESTIONS RELATING TO PAYMENT OF SELF ASSESSED TAX (MONTHLY) (FOR QUARTERLY FILERS)

Option to Pay lump sump Amount

There should be an option to pay lump sump admitted tax remain payable after adjustment of ITC for the easier compliance.

The summary of monthly break up of Output liability & Input tax may be asked in the quarterly return.

No Late Fee for PMT

If there is no amount is to be paid in cash and if one does not file PMT, no late fee should be there for the non filing.

SUGGESTIONS RELATING TO SAHAJ (FOR QUARTERLY FILERS)

Options of pending and missing invoices is not available in SAHAJ quarterly return:-

It would be common phenomena that the supplier does not upload any Invoice and similarly not received of goods by the recipient and so this feature should be provided to all.

HSN Code particulars in 4 digit & that too Rate wise:-

All taxpayers are required to furnish HSN code on 4 digits and that too tax rate wise, which is really a cumbersome task for them. It's also against the earlier notification and announcement as well.

For the smooth compliance, its suggested to follow the earlier guidelines.

SUGGESTIONS RELATING TO OUTWARD SUPPLY TO SUGAM (FOR QUARTERLY FILERS)

Only B2B Transactions:

The said annexure is a sort of liability statement while it should be frame out only in respect of transaction taking place between B2B supplier and the buyer has to avail input against the same. It would make it easier for the supplier to fill in avoiding delay in filing and in turn minimizing Missing Invoice.

The other related information's like Table 3A, 3C and Table 4 should be shifted to SUGAM return.

Tax rate wise reporting in Annexure of Outward Supplies to SUGAM

In such a case, where there are multiple tax rate items in a particular invoice, then it will be difficult to fill in tax rate wise details. It is suggested to make it one column of Total taxable value (Incl. all tax rate)

If not possible to do so, tax rate wise column should be inserted so that single line/row entry is required even for Invoice having multiple tax rate goods.

SUGGESTIONS RELATING TO SUGAM (FOR QUARTERLY FILERS)

Non-reporting of inward supplies on which tax paid under RCM

A line to claim input against taxes paid under RCM (Table 3C of annexure) has missed in the return, which is required to be inserted.

Options of pending and missing invoices is not available in SUGAM quarterly return:-

It would be common phenomena that the supplier does not upload any Invoice and similarly not received of goods by the recipient and so this feature should be provided to all.

Details Of Reversal / Rejection / Pendency / Adjustment In SUGAM

Table 4B of Main return should also be there in SUGAM along with Table 4A-7

In one line, it is suggested to have Same Return Form for all taxpayers with the option to activate/open different table as per need.

Dated : 13.9.2018

SUGGESTION ON GST LAW & RULES

1. RETURN

Revision of GSTR-3B for the period up to 30.06.2018

Presently, every registered person (other than ISD & Composition person) has to file two returns namely GSTR-1 & GSTR-3B. GSTR-3B is a consolidated monthly return meant for calculating the tax liability. It is suggested that facilities should be provided for making revision of monthly return GSTR-3B so as to rectify the mistake occurred. It will help taxpayers to make their return in accordance with the books of account.

Furthermore, in view of the fact that GSTR-2 has been temporarily withdrawn, which essentially means that the details uploaded by the supplier which in turn appear in GSTR2A of the recipient has little meaning as Invoice matching is not being done. It is therefore suggested that the revision in GSTR-1 should also be allowed in order to rectify any mistakes and to make GSTR-1 figures in accordance with the outward supply figure appearing in GSTR-3B. The revision in GSTR-1 is not going to effect the buyer and therefore, revision facility should be given to all for all the returns filed pertaining up to the period 30th June'18.

Delay Return Late fee Waiver

It is a fact that GST, being a new law for the tax payers, most of the taxpayers were not aware of the Law & Rules. Beside most of the persons were not having required infrastructure and above all there were technical issues with portal.

Under the above circumstances, many tax payers have failed to comply to the rules and regulations of GST and also in timely filing of their returns. Though, many persons filed their returns paying applicable late fees and it has been observed that even today 30 to 35% taxpayers haven't filed their returns. Though the system has almost stabilized however all such persons are reluctant to file their return due to the applicability of late fees, which is quite high for them to pay.

In order to bring all such defaulter taxpayers into the net and to regularize their returns, it's suggested to waive off late fee applicable for the delayed period.

It's really praiseworthy that recently the government has extended the last date for filing GSTR-1 upto 31.10.2018 in turn making waiver of applicable late fee.

It may please be noted here that at the time of introduction of GST, the government had assured the taxpayers that for the 1st year, tax payers shall not be penalized for any of their fault. Though the Government had waived applicable late fees for the period upto Sep'17, it's suggested that GOI should waive the late fee at least for one year period i.e. upto June' 2018 so as to give

everyone an opportunity to file their return without any late fee charges. It would enlarge the taxpayer base and also increase revenue collection of the government.

Following principle of equity and justice, all such tax payers who have already filed their return by paying late fees, such late fees should be refunded to them. The amount so paid is not a big amount but it will give a good message among the trade & business community while creating an atmosphere of trust & co-operation.

GST Annual Return & TAR Due Date

Annual Return Form GSTR-9 has been notified recently but the same form is too complex and input data are being captured from GSTR-2A, which will lead to a lot of complications.

2. PAYMENT

Tax Payment

Presently, many taxpayers, who, due to unavoidable reasons, if are unable to file their returns, but want to pay their tax liability to avoid applicable delay interest, system does not allow them as payment made remains in cash ledgers, while the system admit once the liability is set off while submitting/filing return. This is unjustified for the genuine taxpayers.

Therefore, we request you to make the system efficient for tackling such situation and no interest should be demanded if the sufficient amount is lying in any of the cash ledger till the system is modified by the GSTN.

Delay Interest u/s 50

It has come to the notice that taxpayers are being asked to pay interest on their Gross Output Tax (before adjustment of input credit) u/s section 50 of the Act.

It's presumed that the interest would be applicable for the net payable amount, which comes after adjustment of ITC and asking interest on the Gross amount is totally unfair act. The amount paid by the supplier, which inturn be input credit goes into the government treasury and one is not liable for its refund except in some specified cases.

The said provision may please be looked upon and necessary clarification or amendment if needed may please be done. .

50(1) Every registered person, who fails is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

3 REGISTRATION

Registration Criteria - Taxable Turn In Lieu of Aggregate Turnover

As per section 22 of GST Act, every supplier whose aggregate turnover in a financial year exceed 20 Lakh is liable for registration under GST.

In view of the above fact, the aggregate turnover is being taken in to account, person making even small quantum of taxable turnover, become liable for registration. For example a medical practitioner making supply of medicine to the patient involving small amount, is liable for registration.

It is suggested to consider taxable turnover into account rather than aggregate turnover.

4 GST RATE

Rationalisation of GST Rate on Readymade Garments

Presently, readymade Garments having transaction price upto Rs 1000 are taxed @5% and above Rs 1000 are taxed @12%.

Due to the above provision, a same product at one point of time is taxed @5% which at a later stage is taxed @12% causing a lot of difficulties in doing business.

It is therefore suggested to rationalize the rate of GST on Readymade Garments at an uniform rate of 5% .

5. INCENTIVE TO MSME

Incentive/reimbursement to Micro & Small Scale Industries

In the earlier tax regime, the manufacturers were levied excise duty on sale of produced goods. In order to support Micro and Small Industries, such units having turnover up to 1.5 crore were given exemption from the levy of excise duty.

It is therefore suggested that even in the present GST regime, the government should give support to the Micro & Small units either by giving incentives or reimbursement of the amount of CGST paid, which will enable such units to prosper.

Dated : 13.9.2018