



मा.क्र./मंत्री/वि.वि.व बने/नोट/की.आय.पी./  
जनरल/49/2018/सि.क्र.

**Sudhir Mungantiwar**

Minister  
Finance & Planning, Forest

January 11, 2018

**Sub** ⇒ Necessity to change the system of filing returns under GST.

Respected Sir,

The Goods & Service Tax Practitioners' Association of Maharashtra, Mumbai has submitted its representation stating the need to change the system of filing returns under GST and accordingly the Association has given some suggestions.

I am submitting herewith the above said representation for necessary action.

Thanking you, with warm regards.

Yours sincerely,

( Sudhir Mungantiwar )

**Shri. Arunji Jaitley,**  
Hon. Minister, Finance,  
Ministry of Finance,  
Government of India,  
New Delhi.

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# THE GOODS AND SERVICES TAX PRACTITIONERS' ASSOCIATION OF MAHARASHTRA

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14<sup>th</sup> December 2017

To,

Finance Secretary

Ministry of Finance,

New Delhi

**Hon'ble Sir,****Sub: Necessity to change the system of filing returns under GST**

The Goods & Services Tax Practitioners' Association of Maharashtra (formerly known as The Sales Tax Practitioners' Association of Maharashtra / STPAM) is a State-level body of Sales Tax Practitioners' established in the year 1951. The Association has its membership spread all over the State of Maharashtra comprising of Tax Practitioners and other professionals such as Chartered Accountants, Cost Accountants, Company Secretaries and Advocates practicing in GST, VAT, Service tax and allied laws. The Association has Regional Centres at district places to cater to the needs of members practicing in various districts of Maharashtra.

The STPAM now renamed as GSTPAM is governed by its own constitution and is registered with the Charity Commissioner and also under the Societies Act. The elected President, Officer Bearers and 15 members of the Managing Committee conduct the activities of the Association.

Implementation of GST and subsuming almost all indirect taxes all over India in 'one tax' is really appreciable huge reform in indirect tax system brought in by



the Indian Government. If the system of filing of returns under GST is kept simplified, no one can deny that it is a great relief to the business community from compliance of various indirect tax laws. Therefore, for success of GST, it was utmost necessary that the simplified system of compliance of returns must have been brought in. However, it is very unfortunate that, every person in the Country who is concern with compliance of GST return has become panic because of complicated and long procedure for compliance of returns. Your Honour would appreciate, day in day out trade and practitioners are bringing to the notice of the Departmental Authorities and GSTN, various shortfalls in the online system. It is also unfortunate to note that even the Departmental Authorities are helpless and cannot give solution for technical defaults of online system.

The system of compliance of return is very long which involves several steps as explained below:

- (i) **Step 1** – 10<sup>th</sup> day of every month: - Filing of invoice wise sales register in Form GSTR-1.
- (ii) **Step 2** – 11<sup>th</sup> to 15<sup>th</sup> day of every month: - Purchase register in Form GSTR 2A is generated online on the basis of sales register in form GSTR-1 filed by seller. The invoices reflected in the said register are to be accepted or rejected or additional invoices to be entered after checking and comparing each invoice in books of account.
- (iii) **Step 3** – 15<sup>th</sup> day of every month: - Invoice wise purchase register to be filed with necessary modifications in Form GSTR 2 (i.e. either accepting or

rejecting or adding invoices in Form GSTR 2A). Kindly note, GSTR 2A is not automatically converted in GSTR 2 on GSTN portal.

- (iv) **Step 4** – 16<sup>th</sup>& 17<sup>th</sup> day of every month: - Sales Register in Form GSTR 1A would be generated online on the basis of purchases modified by the purchaser. Invoices reflected in said register are to be accepted or rejected or additional invoices to be entered after checking and comparing each invoice in books of account.
- (v) **Step 5**– 17<sup>th</sup> day of every month: - Invoices in Form GSTR 1A are to be accepted or rejected.
- (vi) **Step 6**– 20<sup>th</sup> day of every month: - Tax to be paid and actual return with computation of tax to be filed in Form GSTR 3.

Your Honour will appreciate the above explained steps and procedure of online filing of returns is very cumbersome and complicated. Further the technical glitches on the online GSTN portal make addition to the pain fulltime-consuming process.

The whole objective behind employing the above stated long procedure of filing returns is to stop ineligible claim of Input Tax Credit (ITC), the tax in respect of which would not have been actually paid in to Government Treasury by seller. The said objective of the Government may be absolutely logical and necessary to be achieved when the seamless ITC is offered under the GST Law. However, every month matching of each invoice of seller with each invoice of purchaser is



herculean task made to perform by way of above stated lengthy process of return. Prior to GST the tax payer had to access the Government's web-site only once for uploading return once it is prepared. However, for GST return one has to access web-site thousand times because filing of GST return does not involve simply uploading return. It involves uploading invoice wise registers and thereafter matching each invoice etc as stated above. This has created huge burden and panic amongst the Trade and practitioners.

The objective of the Government of matching seller's sales with purchaser's purchases can be achieved even by asking to file party wise sales and purchases annexures instead matching each invoice. This will reduce the burden on the Trade and Practitioners as well as the burden on the online system. The said party wise annexures used to be filed under Maharashtra VAT Act up to 31<sup>st</sup> March, 2016, which was the most successful system of returns implemented by the Maharashtra Government in VAT era. The Maharashtra Government had achieved satisfactory success when the system of party wise annexure of sales and purchases was implemented. It could successfully identify the mismatched in the sales of seller and purchases of purchaser. It is necessary to note that the said system was accepted and welcomed even by Trade and Practitioners all over Maharashtra. Therefore, for success of GST, such system of party wise annexures of sales and purchases which was adopted by the Maharashtra Government up to 31<sup>st</sup> March, 2016 should be adopted all over India.

After implementation of GST, huge revenue has been received in the Government Treasury as published by the Government. This situation of receipt

of satisfactory revenue in the Government Treasury has been witnessed by the Government even though system of return filing is collapsed and not yet properly and fully available. Utility of filing actual return in form GSTR – 3 is yet to be made available even for the month of July,2017, still people have paid legitimate tax. This is a proof that almost whole business community and Trade in India are law compliant, barring may be few. Therefore, it is necessary that Government should realise that it would have had more increased revenue, if it would have timely implemented simplified return system instead of making it complicated for matching invoice level transactions. Therefore, we hereby suggest Hon'ble Sir the following:

1. The whole lengthy procedure of filing GST returns as explained above should be discarded.
2. Return Form GSTR 3B should made final return under GST.
3. The taxable persons should be made to file party wise annexures of sales and purchases in addition to the return in Form GSTR 3B.
4. Online matching of Sales and Purchases should be automatic and mismatch report should be generated.
5. Once the mismatch report is generated on the web-site, the necessary recovery action should be taken against the defaulting seller who would not have paid tax into Government Treasury.
6. The tax should be recovered from the purchaser by disallowing input tax credit only after exhausting all the machineries of recovery against the defaulting seller and only when the collusion between seller and buyer is proved.



Hon'ble Sir, it is utmost necessary that the above suggestions should be implemented for success of GST and to avoid panic amongst Trade and Practitioners.

Apart from above procedural problems, certain technical issues have to be addressed immediately which are as under:

### **1. Merchant Exporters:**

It is really appreciable steps taken for the benefit of merchant exporters by exempting taxes in excess of the amount calculated at the rate of 0.05% or 1.0% when such goods are procured from registered persons under GST by issuance of Notification No. 40/2017 – CT (Rate) – Dated 23-10-2017.

When registered supplier supplies goods to such merchant exporters, they will supply by levying 1.0% tax on output side whereas on input side they may have paid taxes and resultantly there would be excess input tax credit. Pursuant to Section 54 of CGST Act, 2017, such excess input tax credits are not eligible to refund as refund is eligible only under a situation when supplies are (i) zero rated – Section 16 of IGST Act, 2017, made without payment of tax and (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than Nil rated or fully exempt supplies)

Section 54 has not taken in to consideration such scenario wherein excess input tax credit is on account of such a situation wherein supplier had supplied goods to merchant exporters. Hence, it would be difficult for the suppliers to claim the un-utilized input tax credit arises when supplies to merchant exporters which leads to blockage of credits and hence supplier

would not like to pass on the benefit of input tax credit at the time of supplying to merchant exporters.

Accordingly, it is suggested to amend the Section 54 and includes circumstances mentioned above. Meantime, it is also expected to provide clarification pursuant to Section 172 of CGST Act, 2017 that such suppliers would be eligible to claim the refund of such un-utilized input tax credits just like other tax payers supplies to exporters.

## **2. Deemed Exporters:**

One more benevolent steps taken for the Indian Exporters is to notify supplies of goods by a registered person would be considered as Deemed Exports when supplies to (i) Export Oriented Units which also includes Electronic Hardware Technology Park Unit or Software Technology Park Unit or Bio-Technology Park Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015-20; (ii) Supply of goods by a registered person against Advance Authorisation; (iii) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.

We would require clarification / amendment in law in respect of followings –

- a. When supplier supplies to Export Oriented Units located with the same State, whether such supplies would be considered as Exports? Exports are defined under section 2(5) of IGST Act, 2017 and it means taking out of India to a place outside India. Accordingly, such supplies would not constitute exports of goods.



- b. If such supplies are considered as export of goods, whether supplier of such goods can exports by without making payment of tax and would be eligible to furnish Letter of Undertaking as provided under N. No. 37/2017 – Central Tax Dated 04-10-2017?
- c. If such supplies are not considered as export of goods, whether supplier of such goods have to charge CGST and SGST as both supplier and Export Oriented Units are located in same State or supplier have to charge IGST. At present GSTN portal consider such supplies to Export Oriented Unit under Interstate transactions.
- d. Export Oriented Units are eligible to sale their goods in local market i.e. in India subject to certain conditions. In such a scenario, when Export Oriented Units supplies goods, whether such transactions would be considered as Inter-State transactions or Intra-State transactions pursuant to Section 7 of IGST Act, 2017.

### **3. Refund to tax payers supplies goods locally as well as exporting:**

Tax payers is exporting goods outside India, such supplies are considered as zero rated supplies [S. 16 of IGST Act, 2017] and tax payers are eligible for refund of taxes paid on goods or services or both pursuant to provisions of Section 54 of CGST Act, 2017. When such tax payers supplies any goods within India (Local Sales) whether DEPB License or any other goods or services, Rule 89(4) provides for eligibility of input tax credit on proportionate basis of zero rated supplies upon Turnover in State (includes local taxable supplies). Accordingly, though majority of expenses are in relation to export of goods, since tax payers is selling very meagre amount of local sales, for availing input tax credit, tax payers needs to do the

proportion of such turnover which results in to lower amount of refund attributable to export turnover.

#### **4. Composition Scheme:**

The CGST Rules, 2017 (Registration and Composition) Rule 3(4) provided that any person who files an intimation under sub-rule 1 to pay tax under section 10 (Composition) shall furnish details of stock, including URD purchases, held by him on the day preceding the date from which he opts to pay tax under the said section in FORM GST

CMP 03. According to sub-rule 1 migrated dealer those who opts composition have to file CMP-01.

These rules are provided that if the migrated dealer those who are not opting composition under existing law have to file CMP-01 and CMP-3 if they opts to composition under the GST.

Now, see the Maharashtra Value Added Tax (Amendment) Rules 2017 dt. 30/06/2017 in Rule 53 for sub rule(5) new sub rule shall be substituted- "Rule 53(5)(c) if the dealer who has not opted to pay tax under composition scheme provided as per sec. 42 or 43 during the previous year but opts for the composition scheme provided under the GST Act, then in such cases the setoff on the purchases corresponding the goods held in stock as on the date immediately preceding the date of commencement of the GST shall be disallowed and accordingly be reduced fully".

We would like to get clarification, whether tax payers have to file revised return for the 30th June and to give effect to reduced setoff under MVAT? Whether the intimation CMP-03 without payment of GST? However fact



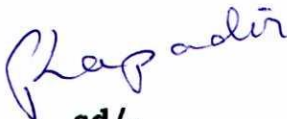
remains that tax payers are not able to file CMP-03 without making payment of taxes.

It is further observed that in case the of those tax payers who have applied composition after 16/08/17 their periodicity shown on GSTN portal for the period July to September and hence such tax payers are not able to file either monthly or quarterly return for the period July to September.

Thanking you,

Jai Hind

**For Goods and Services Tax Practitioners' Association of Maharashtra**

  
sd/-

**PranavKapadia**  
**President**

  
sd/-

**ParthBadheka/Ashit Shah**  
**Convenors – Law & Representation Committee**