



# TAX CONSULTANTS' ASSOCIATION, JAIPUR

B-145-B, Kalyan Path, Mangal Marg, Bapu Nagar, Jaipur-302015

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Dated: 24.10.2017

To,  
The Commissioner,  
State Tax Rajasthan,  
Jaipur.

### Sub: Representation for anomalies faced with regard to GST.

Respected Sir,

At the very outset, on behalf of the Members of Tax Consultants' Association, Jaipur, we wish you a very happy and prosperous Diwali.

Sir, there are some issue which are being faced by our members related to filling of returns and late fees being imposed even though before the due date. It is unnecessarily giving mental trauma to the trade & industry and also is not legal. It is due to technical glitch in the system which needs immediate correction in order to protect the return filers from undue hardship of paying the illegitimate penalty/ late fees.

It has been 4 months since the date GST has been implemented. Assessee and Tax practitioners are trying hard to cope-up with a very complex environment and need an elbow space to understand the law, compliance and its structures. Instead of helping them in this crunch situation, GSTN system, Govt and Govt Machinery is adding to the problems faced by them. We Tax Consultant's Association, Jaipur are hereby putting some grave problems faced by practitioners, assessee and Common public in this GST environment and request you to kindly take some swift action to help us.

### 1. Levy of Late fee for GSTR 3B of August, 2017

The GSTN portal is levying late fee for GSTR 3B for the month of August 2017 while filing the return GSTR 3B for the month of September, 2017. The portal was charging such late fee for the month of August 2017 initially, however later it stopped doing so creating an impression in the minds of tax practitioners that the same was not charged due to the reason of various representations made to the tax authorities, GST Council and State officials. Because to this, taxpayers delayed returns in order to rectify some mistakes or collecting certain details. However, the GSTN portal started charging the same while filing GSTR-3B for the month of September, 2017. The assessee and tax practitioners were deceived by such action of GSTN.



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The CBEC in its press note released on 18th June, 2017 (Copy attached), which was headed as "Relaxation in return filing procedure for first two months of GST Implementation" declared that "**NO LATE FEES AND LEVIED FOR THE INTERIM PERIOD**". The Govt./CBEC should not take **U turn** from its own stands.

This is also against the order of the Hon'ble Rajasthan High Court given in the matter of Rajasthan Tax Consultants' Association Vs. Union of India and Ors. Wherein it was ordered that no coercive actions should be taken till the time system is stabilized.

In this regard, we would request as follows:-

- Late fee should be waived immediately for August and September, 2017
- Late fee for October, 2017 onwards should not be levied upto December, 2017 i.e. till the time GSTR 3B is filed.
- Late fee already deposited should be refunded in the CGST and SGST tax ledgers of the assessee.

## 2. Problems in filing GSTR 3B at the portal

Assessees are filing GSTR 3B and facing various problems. These problems should be solved immediately in order to help them:-

- Offsetting taxes should be allowed before submission of GSTR 3B, since due to this only various mistakes happen as tax is deposited correctly but at the time of filling data in various tabs at the portal mistakes happen.
- There should be options to rectify or reverse GSTR 3B as many a times it happen that due to filling incorrect data, assessee had to deposit excessive taxes. This creates immense burden on the assessee as a single clerical mistake costs them huge. Their funds get blocked in the Govt. Machinery, which takes its time to liquidate again.



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## 3. Problems related to Transition forms

Transition forms are very important in order to carry forward the credits of taxes from previous regime. This measure was to help and facilitate the taxpayers. However, this it turns has added to the problems of the taxpayers. Some issues have been reflected below:

- a. TRAN-1 revision option not yet available:- Rule 120A was inserted vide notification no 34/2017 dated 15th September, 2017 enabling revision of TRAN-1 form wrongly submitted. However, till date i.e. 24th October, 2017, no option to revise this form was made available at the GSTN portal. Due to this various taxpayers are not able to revise their wrongly filled TRAN-1 and could not avail the genuine credit. In view of fast approaching last date i.e. 31st October, 2017, this date should be extended upto 31st Dec 2017 and this form should be made available urgently.
- b. Extension of Date of Last date of filing TRAN-1 :- Since the TRAN-1 form was not made available to assesses well in time, in fact the same was made available 51 days later then 1st of July i.e. 21st August, the last date of filing TRAN-1 should be primarily extended. So that more and more assesses could get the benefit from the scheme.
- c. TRAN-2 not available on GSTN Portal:- Tran-2 form is not yet available on the GSTN portal due to this the assessee who are eligible to avail deemed credit under proviso to Sec 140(3) of CGST and SGST Acts are not able to avail the credits. These forms should be made available immediately.
- d. Validation error where Central Excise/Service Tax number was not filled during migration:- In case of various assesses who forgot to fill Excise Registration Number or Service tax number during migration process, GSTN is now allowing them to take the Input Tax credit of CENVAT credit balance in the last return. This problem is even persisting in case where they have made amendments and added the Excise Registration Number. This problem should be resolved immediately.
- e. Details uploaded through CSV file utility of C forms is not appearing:-The data uploaded through CSV file in case of C forms is not visible to the assessee, thus they are unable to verify the data. In the absence of verification there are possibilities of mistakes.



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## **4. Other Form related problems**

There are various other forms which should be submitted as per various deadlines which have not been made available at GSTN portal. Neither their dates are extended nor is any filing mechanism provided. Clarification and extensions related to these forms should be provided at the earliest. Such forms are:-

- a. ITC-03
- b. CMP-03
- c. CMP-04
- d. GSTR-1,2,3 for August, 2017

**5.** Apart from that as per Hon'ble High Court's judgment on the writ petition filed by Rajasthan Tax Consultant's Association decision composition scheme should be made available till 30th September and that too w.e.f. 01st July, 2017. However till date no such option is made available to the assesseees.

## **6. GSTR forms related issues :-**

GSTR-1 form could not be filed after due date, it gets locked till filing of GSTR-2, which is creating a lot of problems due to the reason that any wrong GSTIN or unfiled GSTR-1 could not be submitted during that time. If somebody could not file GSTR 1 due to some emergency or any other reason he unnecessarily got delayed for 20 days instead of 1-2 days and system may impose late fees for 21 days instead of 1 day. This leads to duplication of work as the recipients have to again file the relevant details and this will lead to regular reconciliations or duplications.

**7.** Benefit of Composition scheme should be made available to small service providers also as their compliance have been increased manifold then the present service tax regime. There may also be extended the benefit of quarterly return filing. At present this benefit has been extended to only dealer of goods having place of supply u/s 12 only. This benefit should be extended at least to those service providers who are supplying only Intra state supplies.

**8.** Small Service provider making interstate supplies have been exempted from providing exempted services however, this benefit has not been provided to the dealer of goods. There are various small service providers who had to take registration only



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because of the reason that they are making very supplies of interstate goods. This benefit was extended to specific handicraft goods. To enable smooth business operation by such small dealers this benefit should be extended to all small dealers of goods like small service providers.

9. As per proviso to sec 54(3) refund of unutilized CENVAT credit will be available only if following conditions are satisfied

- i) zero rated supplies made without payment of tax;
- 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), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

As per this provision the refunds will only be available if there is inverted duty structure in case of goods. This provision does not allow the refund of Input tax credit where the rate of tax on Input services is higher than the rate of tax on output goods. There are various industries, which supply goods but avail input services for supplying such goods. The rate of taxes on such input services are very high than the rate of goods. Due to this, they are accumulating huge balances of Input tax credit. If this balance will not be refunded to them then it will ruin their profits. A very good example of these industries is mining industry.

In case of mining the process involve various services having a very high component in the cost and the rate of tax on various mining outputs are quite low. Due to this, the miners are beginning to accumulate huge balances of Input tax credit, which could not be refunded due to this provision.

Further, this provision is against the spirit of GST. The white paper and discussions on GST clearly told that wherever there is any extra input, the same shall be refunded to the assessee to avoid any cascading of taxes. If these refunds will not be available to the assessee, then it will ruin the complete profits from their businesses.



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It is requested to allow the refunds due to Inverted duty structure of services also.

You are once again requested to please look after on the above problems, We, the professionals are always had hand in hand with Govt. and department for betterment and smooth compliance of Law.

Thanking you,

Yours truly,

For Tax Consultants' Association, Jaipur,

CA G. P Gupta  
(President)

CA Vijay Kr Agrawal  
(Secretary)

Copy to:

- Ministry of Finance
- Revenue Secretary
- GSTN Council
- Secretary Finance (Rajasthan Govt)