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Ref: A/19-20/186

Date: 11th June 2019

To

Hon'ble Union Minister of Finance

Government of India

Department of Economic Affairs, Room No. 168A,

North Block, New Delhi – 110 001

**Sub: Issues in GST Annual Return and subsequent reconciliation for
GST Audit requiring your urgent attention and corrective actions**

Respected Madam,

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 Association's main object is to educate the public in general and the members in particular on Indirect Taxes operative in the State of Maharashtra and whole of India.

We urge you to consider and clarify the following issues which are arising at the time of preparing and filing Annual Return in Form GSTR-9. Please note that this is an illustrative list of burning issues and there are many more issues being faced by the taxpayers and professionals alike.

1. Reporting of HSN-wise details (Table 17 & 18 of GSTR-9)

The instructions appended to amended Form GSTR-9 introduced w.e.f. 31st December 2018 state that summary of supplies effected and received against a particular HSN code are to be reported in Table 17 & 18. It is further stated that these details are optional for taxpayers having turnover below Rs. 1.50 crores

and mandatory at two digits and four digits for taxpayers having turnover up to Rs. 5 crores and exceeding Rs. 5 crores respectively.

1.1 For taxpayers having turnover more than Rs. 5 crores

These details may be forthcoming in cases where a taxpayer has suppliers in the same turnover category. But in the event a taxpayer having turnover more than Rs.5 crores has a supplier whose turnover is either less than Rs. 5 crores (requiring two digit HSN) or Rs. 1.5 crores (not requiring HSN), it is a near impossible task to gather itemised HSN details of goods or services. The issue gets further muddled by the fact that the taxpayers have not been able to file GSTR-2 which originally envisaged such details. This results into a huge data gathering exercise afresh.

1.2 For taxpayers having turnover less than Rs. 1.5 crores

The GST law states that taxpayers having turnover less than Rs.1.5 crores need not report HSN details. The instruction to Form GSTR-9 also states the same fact. However, it is unclear as to whether the said category of taxpayers are required to submit HSN details of inward supplies.

1.3 Reporting of HSN at 8 digit level for the first time in GSTR-9

Notification No. 12/2017-Central Tax dated 28th June 2017 clearly mandates that only up to four digit HSN details are required to be complied by all taxpayers. Therefore, it is indeed surprising that while reporting HSN details in Table 17 & 18 the system is, for the first time, requiring eight digit HSN details irrespective of the turnover of the taxpayer. Introducing such a data intensive requirement is contrary to the Notification and hence, bad in law, bereft of logic and impossible to comply with.

1.4 Requirement of reporting HSN details of inward supplies exceeding 10% in value

It has also been clarified in the aforementioned instruction that the summary details are required to be declared only for those inward supplies which in value independently account for 10% or more of the total value of inward supplies. This instruction has been touted to be a relief to the taxpayers. However, a taxpayer, in order to compute the inward supplies amounting to 10% in value, would still be required to first compute the details of 100% of

inward supplies and then recalibrate these supplies into 8 digits (apropos to Para 1.3). The net effect is that instead of providing any relief to the taxpayer this instruction is further exacerbating their woes.

2. Technical glitches of GSTN portal

2.1 Portal asking to file pending returns

The GST portal shows an error asking the taxpayer to file all pending GSTR-3B & GSTR-1 returns in order to proceed with filing of Annual Return for the F.Y. 2017-18. In fact, all such returns have been duly filed. How are the taxpayers expected to proceed with filing of the annual return when the system does not allow them to do so for no fault of theirs?

2.2 Difference in auto-populated credit balance as per GSTR-2A within the portal

Table 8A of GSTR-9 shows the auto-populated ITC as per GSTR-2A. The same amount is also visible through a consolidated table in the Returns section of the portal. It may be noted that the amount as per the two tables does not match. So much so, the auto-populated amount as per Table 8A of GSTR-9 differs on a day to day basis. Although the Press Release dated 4th June 2019 states that the amount displayed will be as on 01-05-2019, we fail to understand the reason for such fluctuations in the months of May and June 2019. This is causing huge confusion among taxpayers who are unable to gather invoice level data as per GSTR-2A due to such mismatch. Following are the screenshots of such type of error for your ready reference:

8. Other ITC related information

As per GSTR-9 as on 27/05/19

Help ⓘ

Description	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)
(A) ITC as per GSTR-2A (Table 3 & 5 thereof)	₹9,01,493.61	₹3,94,475.08	₹3,94,475.08	₹0.00
(B) ITC as per sum total of 6(B) and 6(H) above	₹0.00	₹0.00	₹0.00	₹0.00
(C) ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during 2017-18 but availed during April to September, 2018	₹0.00	₹0.00	₹0.00	₹0.00
(D) Difference [A-(B+C)]	₹9,01,493.61	₹3,94,475.08	₹3,94,475.08	₹0.00
(E) ITC available but not availed	₹0.00	₹0.00	₹0.00	₹0.00
(F) ITC available but ineligible	₹0.00	₹0.00	₹0.00	₹0.00
(G) IGST paid on import of goods (including supplies from SEZ)	₹0.00	₹0.00	₹0.00	₹0.00
(H) IGST credit availed on import of goods (as per 6(E) above)	₹0.00	₹0.00	₹0.00	₹0.00
(I) Difference (G-H)	₹0.00	₹0.00	₹0.00	₹0.00

ITC credit claimed and due

As per report generated through returns window on 27/05/19 at 13:30

Tax Period	ITC claimed in GSTR-3B during the month [as per table 4A(3)+4A(4)+4A(5)+4D(1)+4D(2)-4B(1)-4B(2)]				ITC auto-populated in GSTR-2A during the month [as per Part-A, PART-B]				Shortfall (-)/ Excess (+) in GSTR2A	
	IGST (₹)	CGST (₹)	SGST/UT (₹)	CESS (₹)	IGST (₹)	CGST (₹)	SGST/UT (₹)	CESS (₹)	IGST (₹)	CGST (₹)
1	2	3	4	5	6	7	8	9	10	11
July-17	89,918.00	2,138.00	2,138.00	0.00	89,917.89	209.22	209.22	0.00	0.11	1,928.78
August-17	1,32,436.01	1,763.80	1,763.80	0.00	80,573.19	36,448.30	36,448.30	0.00	51,862.82	-34,684.50
September-17	1,09,879.22	3,607.90	3,607.90	0.00	1,58,585.99	1,606.37	1,606.37	0.00	-48,706.77	2,001.53
October-17	1,10,586.40	3,712.32	3,712.32	0.00	69,509.29	683.31	683.31	0.00	41,077.11	3,029.01
November-17	1,09,387.01	502.46	502.46	0.00	45,650.47	1,722.61	1,722.61	0.00	63,736.54	-1,220.15
December-17	98,386.93	1,749.04	1,749.04	0.00	2,01,114.06	5,474.52	5,474.52	0.00	-1,02,727.13	-3,725.48
January-18	70,383.01	465.42	465.42	0.00	63,291.14	781.17	781.17	0.00	7,091.87	-315.75
February-18	1,01,955.28	1,585.21	1,585.21	0.00	90,444.20	71,748.35	71,748.35	0.00	11,511.08	-70,163.14
March-18	81,433.42	2,74,339.88	2,74,339.88	0.00	1,02,407.38	2,74,855.38	2,74,855.38	0.00	-20,973.96	-515.50
Total(till date)	9,04,365.28	2,89,864.03	2,89,864.03	0.00	9,01,493.61	3,93,529.23	3,93,529.23	0.00	2,871.67	-1,03,665.20

3. ITC related issues

3.1 Impact where ITC as per GSTR-3B is greater than GSTR-2A

Although the amended Form GSTR-9 now allows a negative figure in Table 8(D) whereby the ITC claimed in GSTR-3B is greater than ITC appearing in GSTR-2A, the impact of such reporting is still uncertain.

Such a mismatch has created anxiety among a wide section of taxpayers, who are worried of any future implications of such reporting. In our humble opinion, in the absence of the facility to file the returns of inward supplies in Form GSTR-2, as long as the taxpayer has complied with the conditions and restrictions of sec. 16 of the CGST Act, ITC cannot be disallowed merely on the fact that the same is not appearing in GSTR-2A. If there is an alternate interpretation by the Revenue, the same should be clarified forthwith.

3.2 Bifurcation of ITC

It is a known fact that the GST Council had to suspend GSTR-2 and 3 indefinitely due to the inability of the GSTN portal to handle the huge amount of data and the fact that it was an extremely complex and impossible data gathering exercise for the taxpayers on a monthly basis. Therefore, GSTR-9 ought not to enforce reporting of the details as per GSTR-2 and 3. For example, Table 6 requires bifurcation of ITC into inputs, input services and capital goods for the first time. This is an extremely time-consuming exercise.

3.3 Implications of difference in ITC claimed in GSTR-3B vs. ITC as per books

This can be explained by way of an example:

ITC claimed in GSTR-3B filed during July 2017 to March 2019: Rs. 1,00,000

ITC as per books of account determined during GST audit: Rs. 80,000

Table 6(A) of GSTR-9 auto-populates ITC claimed as per GSTR-3B i.e. Rs. 1,00,000. The same is then required to be bifurcated as stated in Para 3.2. What is the implication where a taxpayer can only report the details of Rs.80,000 being his actual ITC in Table 6(B) to 6(O)? It has been brought to our notice that a validation error is occurring in Table 13 of GSTR-9C where ITC as finally reported in Table 7(J) of GSTR-9 is different than ITC reported in GSTR-3B.

4. RCM related issue

Tax payable on inward supplies under reverse charge relating F.Y. 2017-18 and paid in F.Y. 2018-19 when reported in Table 10 is leading to increase in turnover

of outward supplies. This will lead to incorrect reporting of turnover. You are, therefore, requested to clarify as to how such details are to be reported.

5. Issues arising out of the limitations of the system

This being the first year of implementation of GST, when the highly meritorious and resourceful GST Council and GSTN had to make several course-corrections, it is obvious that the taxpayers who have been on the receiving end would have also made errors. Following are a few examples:

- a) Credit Notes raised on account of sales returns could not be reported in GSTR-3B where the value of such credit notes exceeded that of the turnover of outward supplies in a particular month. This has resulted in several taxpayers being unable to correctly report their turnover in GSTR-3B.
- b) B2B outward supplies inadvertently reported under B2C category in GSTR-1 could not be rectified on account of the system only allowing a one-time amendment to a particular Table of GSTR-1 of a particular month.
- c) Inter-state supplies shown as intra-State while filing GSTR-3B but correctly reported in GSTR-1 will result in a difference between tax paid as per GSTR-3B and taxes reported in GSTR-9.

Unfortunately, the taxpayers are now being thrust upon a Form which does not fully accommodate the errors and allow rectifications to put forth an accurate statement. You are humbly requested to provide an actual simple system to correct the many small errors and issue a suitable clarification for the benefit of the taxpayers.

6. Issue arising out of instructions to GSTR-9

It is unclear whether the instructions in GSTR-9 are binding in nature. For instance, the instructions to Table 4 state that various Tables from GSTR-1 may be used to fill up the data relating to outward supplies in GSTR-9. Considering an example where a transaction of outward supply which was duly reported in GSTR-3B but was left out of GSTR-1 filed during F.Y. 2017-18 and 2018-19, whether such a transaction can now be reported in Table 4 of GSTR-9 based on

the data of GSTR-3B instead of GSTR-1? The larger question is with regard to the impact of non-compliance with the instructions of Form GSTR-9.

The above are few of the major issues which have been reported across India by the trade and practitioners alike. Although clarification with regard to some issues was issued vide Press Release dated 4th June 2019, in our humble opinion such a clarification is not only insufficient but also extremely delayed.

The introduction of GST has led to teething troubles which have unfortunately not yet been sorted. This is evident by the fact that none of the taxpayers have actually filed a true and correct return since GSTR-2 and 3 had to be kept in abeyance for reasons best known. There is now a virtual reintroduction of the return process in the form of "Simplified GST Returns" planned to be implemented from July 2019 onwards.

The taxpayers and tax professionals have also had to contend with a tsunami of notifications, clarifications, and amendments under the garb of simplification. The result has been to the contrary. For example, one must verify whether tax under reverse charge pertaining to inward supplies from unregistered persons was correctly paid during 1st July 2017 to 13th October 2017 and also the implications and reporting where the same has been paid by a taxpayer inadvertently even beyond the notification rescinding RCM; multiple dates on which tax on advances received for supply of goods was abolished based on turnover criteria. These and more such changes has resulted into fragmented and error-prone implementation of GST in the first year. One of the simplest solutions to these existing issues would be to have a system where revision of regular return is allowed as was the case with indirect tax compliance in all States in the pre-GST era.

The industry as well as the tax professionals have shown tremendous forbearance by wholeheartedly supporting the GST law, which is evident from the fact that the GST revenues are showing an exponential upward trend. This is largely a result of voluntary compliance by the trade and the assiduous efforts of the tax practitioners. Yet, the obstinate attitude of the Revenue in insisting on GST Annual Return in its current form and within the prescribed date is causing immeasurable trauma and anxiety amongst the industry and tax professionals. There is widespread discontent brewing amongst the entire industry and the tax practising community.

In the light of the above, we strongly urge that you consider one or more of the following suggestions:

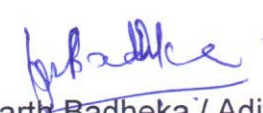
1. A radically more simplified form of Annual Return be notified after taking suggestions of the trade, practitioners as well as the States.
2. Significant extension of due date for filing GSTR-9, 9A, 9B, and 9C along with clarifications of the issues.
3. Making the annual return optional for the first year i.e. F.Y. 2017-18.
4. Scrapping the requirement to file annual return in its current form for the first year.

Kindly consider the above suggestions in the true spirit and oblige.

For The Goods & Services Tax Practitioners' Association of Maharashtra



Pradip Kapadia
President



Parth Badheka / Aditya Surte
Jt. Convenors, L & R Committee

CC:

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New Delhi – 110 001

2) Prime Minister's Office (PMO)

South Block, Raisina Hill,
New Delhi – 110 001

3) Hon'ble State Finance Minister, Maharashtra State

Mantralaya, Mumbai – 400 032

4) Chief Minister's Office (CMO), Maharashtra State


6th Floor, Mantralaya,
Madam Cama Road, Mumbai – 400 032

5) Hon'ble Commissioner of State Tax, Maharashtra State

8th Floor, GST Bhavan,
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6) Hon'ble Chief Commissioner of CGST, Mumbai Zone

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11/06/19
कर सहाय्यक,
राज्यकर आयुक्त,
वस्तु व सेवा कर विभाग,
महाराष्ट्र राज्य मुंबई.
यांचे कार्यालय.