

President CA Sanjay Visanji Chheda  
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Treasurer CA Jeenal Kenil Savla



Established 1973

**CVO Chartered & Cost Accountants' Association**

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8<sup>th</sup> June, 2020

To

**Shri M. Ajit Kumar,**

**Chairman**

**Central Board of Indirect Taxes & Customs**

North Block, Central Secretariat,

New Delhi – 110001

Email – chmn-cbic@gov.in

Respected Sir,

**Sub : Representation on Goods and Service Tax ('GST') issues and hardships faced by taxpayers due to lockdown conditions in the country**

**ABOUT C.V.O. CHARTERED & COST ACCOUNTANTS' ASSOCIATION (CVOCA)**

C.V.O. Chartered and Cost Accountants' Association is a four decade old, non-profit professional organization established in 1973. It has acclaimed a premier position in society. Its objective is to disseminate knowledge in the field of Taxation, Accounting, Finance and Allied laws. It has membership strength of more than 1600 members. Members of the Association have acclaimed respectable position in the CA practice and industry where they serve. It also organizes general public awareness program. One of the flagship programs is on Union Budget, which is organized in Gujarati Language for general public. The Association also publishes monthly Newsletter which is called 'CVO CA News & Views'. Besides these activities Association also supports students who are pursuing CA, CS & CWA by providing them financial assistance in the form of scholarships and interest free loans.

**BACKGROUND:**

Whole world is going through unprecedented times in facing the pandemic of Covid-19. In response to the situation our country has been put under complete lockdown since 25<sup>th</sup> March, 2020. During the lockdown, commercial activities of most of the sectors have come to a standstill except those covered under essential categories. Further, we anticipate that either partial or full lockdown may continue for some more time across the nation. During these testing times the businesses are grappling various issues which inter-alia includes the following: -

- Revival and survival of business;
- Burden of fixed overheads including Wages, salaries, rent etc.;
- Delay in collection of receivables including possibilities of Bad debts;
- Shortage of Labour leading to production delays.;
- Non availability / Shortage of transport and logistics;
- Short to medium term inflation;
- Liquidity pressure including working capital issue.

Needless to say, the routine accounting had also been impacted since mid-March, making it impractical for the taxpayers to undertake GST compliances.

CVOCA sincerely appreciates the efforts of the Government in taking pro-active steps for giving stimulus package to MSME sector and Corporates at large. The Government has always been co-operative and responsive to the problems faced by the businesses once brought to their attention.

In continuation to the reliefs provided earlier under the GST law, we would like to make further suggestions for the changes to be made in GST law.



**ISSUES & SUGGESTIONS:**

**1. Unconditional extension of due dates for filing GST Returns for the period February 2020 to July 2020 instead of conditional exemptions**

**Issue:** As discussed above, businesses are facing unprecedented and uncertain times. The relief notifications issued in April 2020 had provided conditional exemptions from levy of interest and late fees in delayed filing of GST returns for the taxpayers. However, the due dates have not been extended unconditionally. This has resulted in various complications (incl. computation of previous year turnovers, identification of due dates, etc.) and resulted in chaos and confusions in the mind of taxpayers.

These conditional exemptions would also be troublesome for the Tax Authorities to administer. At the macro-level they may not be effective, considering the potential revenue involved vis-a-vis the efforts and man-hours required.

Without prejudice to the above, attention is drawn to the turnover based condition attached to the compliance reliefs provided. The present turnover based conditional exemption is arbitrary and haphazard. It does not take into consideration the period of lockdown in the state/district of the taxpayer or availability of adequate resources and infrastructure to work remotely during the lockdown period.

For the taxpayers having turnover above INR 5 Cr in the P.Y., late fees and interest has been exempted if the returns are filed within 15 days. The said relief would turn-out to be impractical, futile and pointless for the tax periods February - April 2020, since majority of the country has been in lockdown up to 31<sup>st</sup> May 2020.

Further, all taxpayers having turnover of above INR 5 Cr. cannot be presumed to be having adequate resources and infrastructure to work remotely. They may still be Micro, Small or Medium enterprises having limited or no resources. The above has been acknowledged by the Hon'ble Finance Minister in the recent press release by revising the turnover threshold for the MSME Sector.

Additionally, the current notified reliefs may have been provided in April 2020 based on the first lockdown period. However, considering the lockdown has been extended for almost 3 months, the said reliefs ought to be revisited.

**Suggestions:**

- The notified exemptions from levy of interest and late fees may be replaced with an unconditional extension in due dates for filing of GST returns (including payment by composition taxpayers). Extension in due dates up to 31<sup>st</sup> August, 2020 would also provide a relief to taxpayers by providing them the required financial, administrative and moral support.
- Without prejudice to the above, the conditions for grant of exemption from levy of late fees and interest may be prescribed based on the following:
  - ✓ The state/district wise where the taxpayer is registered (viz. taxpayers in Maharashtra may be given additional time); and
  - ✓ Turnover based classification– as per revised definition prescribed for MSME Sector.
- Additionally, change of periodicity of GSTR-3B from monthly to quarterly may be considered to provide liquidity support to taxpayers.
- Thus, it is suggested that the due dates to file GSTR-1, GSTR-3B, CMP-08, GSTR-4, ITC-01, ITC-02, ITC-03, ITC-04, GSTR-7, GSTR-7 should also be suitably extended

## 2. Exemption from generation of e-way bills

**Issue:** The lockdown is being gradually lifted by allowing economic activities at partial capacity instead of full capacity. The lockdown period has adversely impacted the logistics and supply chains. Return of migrant labourers to their home state has resulted in shortage of manpower for logistics as well as other industries. Thus, businesses are unable to obtain the desired efficiency in operations. Generation of e-way bills for administrative purposes adds on to the burden on the trade which is already struggling with resumption of business activities.

Further, any non-compliance in the e-way bills due to any reason would result in levy of penalty/seizure of consignment, etc. This would add to the cost and the trouble of the businesses which are already grappling with various other issues.

### **Suggestions:**

- The requirement of generation of e-way bills ought to be exempted until the economic activities return to normalcy and businesses resume optimal level of operations (i.e. at least up to 31<sup>st</sup> August 2020).
- Without prejudice to the above, the limit of generation of e-way bills ought to be increased to INR 10 lakhs from the current limit of INR 0.5/1 lakh.

## 3. Extension in due dates for claiming input tax credits, issuance of credit notes, etc.

**Issue:** The last date for claiming input tax credits, issuance of credit/debit notes, reporting pending transactions in GST returns, amendments in GSTR 1, etc. for F.Y. 2019-20 is 30<sup>th</sup> September, 2020. This, effectively gave the taxpayers around six months from end of the F.Y. for the above mentioned actions.

However, the current extended lockdown up to 30<sup>th</sup> June, 2020 has resulted in loss of 3 months for the taxpayers for taking the required above mentioned actions.

Even after the lifting of the lockdown, business activities will take some time for resumption and attain normalcy. Thus, the above mentioned time limit of 30<sup>th</sup> September, 2020 would be too short and would restrict the taxpayers from availing the genuine benefits.

### **Suggestions:**

The due date for claiming the above mentioned activities including claim of input tax credits, issuance of credit/debit notes, etc. for F.Y. 2019-20 should be extended till 31<sup>st</sup> March 2021.

## 4. Extension of time period for reversal of ITC due to non-payment to vendors

**Issue:** Section 16(2) of the CGST Act r.w. Rule 37 of the CGST Rules require the taxpayer to reverse input tax credit if the payment has not been made to the vendor within the period of 180 days.

During the current unprecedented times, majority of the businesses would face liquidity issues. The working capital cycle may get stretched. Thus, businesses may not be able to make payment to the vendors within 180 days. Subsequently, the ITC reversal would result in cash outflow – adding to the liquidity crisis.

### **Suggestions:**

The time period for reversal of input tax credit due to non-payment to vendors may be extended up to 365 days for invoices issued after 1<sup>st</sup> January 2020.

## 5. Extension of time period prescribed in Notification No. 35/2020-Central Tax

**Issue:** The time period for various compliances under the GST law have been extended up to 30<sup>th</sup> June, 2020 under the above mentioned notification. The due date which has been extended of various compliances in this regard can include:

- Issuance of invoices in case of goods sent on approval basis;
- Filing of reply to Show Cause Notice;
- Filing Appeal against Demand order against higher authorities;
- Inputs / Capital Goods sent to job worker to be received in specified time;
- Due date to file refund claims in Form RFD-01; etc.

The said relief may have been provided based on the first lockdown period. However, considering the lockdown has been extended for almost 3 months, the said reliefs ought to be revisited.

**Suggestions:**

The time period for various compliances as mentioned in the above mentioned notification may be extended up to 30<sup>th</sup> September 2020.

**6. Extension in due dates for filing GST Annual Return (GSTR 9) and GST Audit Report (GSTR-9C)**

**Issue:** The due date for filing GSTR 9/9C for the F.Y. 2017-18 was extended till February 2020. The trade and Chartered Accountants required almost one year for filing of GSTR 9/9C for F.Y. 2017-18. Thereafter, within a period of one month, the entire nation was under lockdown. Thus, there was hardly any time available for working on GSTR 9/9C of F.Y. 2018-19.

Further, GSTR 9/9C of F.Y. 2018-19 would include transactions of 3 years i.e. (a) transactions for the year, (b) transactions of F.Y. 2018-19 but reported in F.Y. 2019-20 and (c) transactions of F.Y. 2017-18 but reported in F.Y. 2018-19. Thus, the taxpayer and auditor will have to deal with new set of challenges pertaining to almost 3 financial years. Consequently, this would require much more time for completing the entire exercise.

Needless to say, the primary focus of the trade at this time would be business revival and tax compliances may take a back-seat. Hence, the exercise of filing of GSTR 9/9C in a short time frame would be burdening for the taxpayers.

Further, lockdown has also resulted in complete disruption of activities for the taxpayers as well as Chartered Accountants. Once economic activities return to normalcy, Chartered Accountants would be burdened with the pressure of routine GST and other compliances, Statutory Audit under Companies Act and Income Tax due dates for A.Y. 2020-21.

Extension in due date of filing GSTR 9/9C of F.Y. 2018-19 would provide Chartered Accountants certain time to play a crucial role in guiding and advising the businesses in navigating through the economic crisis. Chartered Accountants would act as catalyst in dissemination of the benefits extended by the Government for the economic revival.

**Suggestions:**

The due date for filing of GSTR 9 and GSTR 9C ought to be extended till 31<sup>st</sup> March 2021.

**7. Allowing to file/verify the GST returns and other compliances through EVC option for Companies and LLP**

**Issue:** Currently, companies and LLP are required to digitally sign various returns through Digital Signature Certificate ('DSC') of authorized signatory. However, with offices shut due to the lockdown and DSC kept in the offices, businesses are unable to generate digital signature which has led to delay in

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filing returns and other compliances forms like obtaining new registration, filing ITC-04 return, amendments in registration, filing of LUT etc which has led to delay in filing returns and submitting other compliances.

**Suggestions:**

The portal should allow furnishing the returns and all other compliances forms verified through electronic verification code (EVC) till 31st August, 2020 at least. Right now, only returns in Form GSTR-1 and GST-3B are allowed to be uploaded using EVC option.

**8. Registration cancellation to be halted in case of non-filing of 3 consecutive returns for a period of 6 months post removal of lockdown restrictions.**

**Issue:-** In terms of Section 29(2)(b) and 29(2)(c) of the CGST Act,

"29(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where:-

- (b) a person paying tax under Section 10 has not furnished returns for three consecutive tax periods, or;
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months, or;
- (d) any person who has taken voluntary registration under sub-section (3) of Section 25 has not commenced business within six months from the date of registration."

This would cause great distress to businesses who would be already dealing with the impact of the lockdown and stoppage in business activity. Also, since payable returns are not allowed to be uploaded, most businesses will find it difficult to file returns due to non-availability of funds due to the lockdown.

**Suggestions:**

- Cancellation actions due to non-filing of returns should be halted for a period of 3-6 months post removal of lockdown restrictions.
- Mechanism to upload payable returns and some installment based system for payment of taxes should be allowed so that businesses may be able to get back on their feet without the immediate burden of taxes.
- Period for commencement of business for businesses who have undertaken voluntary registration should be extended for 3-6 months post removal of lockdown restrictions.

**9. Applicability and Implementation of the New GST Returns**

**Issue:** The implementation of the New GST Returns was deferred till October 2020 in the 39<sup>th</sup> GST Council Meeting.

However, the nation-wide lockdown has resulted in complete disruption of business activities including implementation of the ERP changes required for the New GST Returns. Further, post lifting of the lockdown, the business would focus on resumption of business activities and compliances would take a back seat.

Implementation of New GST Returns would also entail additional cost to the trade since various changes would be required in the ERP and additional manpower/resources would be required for undertaking reconciliation of credits, etc. Thus, adding an additional burden to the taxpayers during the current crisis would be unfair.

**Suggestions:**

- The implementation of the New GST Returns be deferred to the next Financial Year.

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- Further, a definite and phased plan for implementation and applicability of the New GST Returns ought to be issued and circulated to the tax payers. This will provide them ample time for planning of resources and transition of the systems and processes to the New System. The Government, may consider taking a liberal approach in the transition –so that the new system is adopted by the trade with open arms.

### **CONCLUSION**

The current pandemic crisis has added to the economic crisis of the businesses which were already struggling due to economic slowdown prior to the lockdown. The above mentioned issues are some of the major and important issues faced by the businesses in the current times. As mentioned above, these issues, pose various difficulties and hardships for the taxpayers and tax professionals.

We wish to humbly present the same for your kind attention and immediate consideration.

We request your good office to provide your immediate consideration to the above mentioned issues and hardships faced by taxpayers at large.

We sincerely hope that the Government under the dynamic leadership of Hon'ble PM Shri Narendra Modi and Hon'ble FM Smt. Nirmala Sitharaman would provide the requisite reliefs to the businesses and taxpayers.

Thanking you,

Yours sincerely,



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President  
**CVO Chartered & Cost Accountant Association**

CA Himanshu Talakshi Chheda  
Chairman  
**Publication & Representation Committee**

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