



**14<sup>th</sup> August 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 1850 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. As per Unlock 3 issued by Ministry of Home Affairs dated 29<sup>th</sup> July 2020, the lockdown has further been extended till 31<sup>st</sup> August 2020. 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.

We humbly appreciate the GST Council for accepting our earlier representation and extending the due dates for GST Returns for February 2020 to July 2020 till September 2020 in their 40<sup>th</sup> Council meeting.

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.

Following is a summary of issues on hand and the suggestions: (detailed note follows)

<b>Issues</b>	<b>Suggestions</b>
Returns should be allowed to be filed without payment of tax.	The portal should allow furnishing of returns without debiting of net liability from Cash ledger.
GST should be allowed to be paid on receipt basis	Tax payers with annual turnover less than Rs. 5 crores should be allowed to pay tax on cash basis for FY 2020-21
GST paid on sales which later became bad debts to be allowed to be reversed	The Council should allow to reverse GST already paid on bad debts
Simplification of revocation of cancellation of GSTIN for all taxpayers	Allow applications rejected after 12 <sup>th</sup> June 2020 to reapply for revocation
Extension in due date for Amnesty Scheme and including other returns in the Scheme	The Amnesty Scheme should be extended till 31 <sup>st</sup> December 2020
Suspending Section 16(4) for returns filed in Amnesty Scheme	Suspend section 16(4) for all returns filed till date from July 2017 to March 2021
Clarity on classification and taxability of Hand Sanitizers and reduction of tax rate	A detailed circular maybe issued addressing the aforesaid issue and clarify the classification and tax rate applicable on the hand sanitizers

**ISSUES & SUGGESTIONS:**

**1. Returns should be allowed to be filed without payment of tax.**

**Issue:**

Currently, there is direct dependence of return filing on payment of tax. GSTR-3B and GSTR-4 get filed only after GST has been paid. The main purpose of returns should be self-assessment of tax payable on basis of books of accounts. Merging payment of tax with return filing has led to many tax payers not being able to file returns due to non-payment of tax. This leads to cascading effect of incorrect reporting with department, mismatch of Input Tax credit in buyer's records and so on.



Even in pre-GST era, Service Tax returns or VAT returns could be filed showing liability as payable and tax could be paid later with interest.

The present system will be more impacted in coming months as many businesses would want to file returns on time but won't be able to do so due to pending GST liability. This would lead to more non-compliances and maybe tax evasion also.

**Suggestions:**

The portal should allow furnishing of returns without debiting of net liability from Cash ledger. The portal should have option of debiting Electronic cash ledger as and when funds are available.

**2. GST should be allowed to be paid on receipt basis.**

**Issue:-**

Taxpayers need to pay GST on all invoices raised during the month by 20<sup>th</sup> of next month. However, they receive the GST from customers after two to three months. The situation is now further aggravated due to lockdown as many businesses may not receive their dues for six or more months.

The situation is more dire for service industry who do not have high input tax credit to offset their outward liability. This has led to severe cashflow crunch among the tax payers.

The Government's GST revenue would not be impacted much, as majority of GST revenues is from non-MSME taxpayers. However, the relief provided would benefit majority of taxpayers which are small taxpayers (turnover upto Rs. 5 crores).

**Suggestion:-**

Tax payers with annual turnover less than Rs. 5 crores should be allowed to pay tax on cash basis for FY 2020-21 and corresponding Input Tax credit should also be allowed to customer only after payment to incentivize faster recovery. Such similar arrangement was also present for small assesses in erstwhile Service tax regime.

**3. GST paid on sales which later became bad debts to be allowed to be reversed**

**Issue:**

Most business owners have paid GST on supplies. The untimely effect of Coronavirus and the lockdown has hugely effected the cash flow of supplies, which has led to many businesses to shut shop. Taxpayers who have been forced to classify some debtors as bad debts are facing double whammy of losing the supply value and also paying GST on such bad debts.

The businesses which have gone bankrupt or refused to pay their bills would anyways not be able to claim Input Tax Credit as per Section 16(2) of CGST Act 2017. This leads to a scenario where the Government is collecting GST on outward supply and also denying the same GST as input tax credit to another taxpayer, thus leading to tax being collected on same supply twice.

**Suggestions:**

The taxpayer should be allowed to reverse the GST paid on bad debts in the month in which it is recognized in books of accounts.

Further, there should be a separate option to file invoice details of GST already paid on bad debts for proper verification by officer which may be accompanied by certificate by a Chartered Accountant.

Alternatively, the department should allow option to file application for refund of GST paid on bad debts after proper verification of officer.

**4. Simplification of revocation of cancellation of GSTIN for all taxpayers**

**Issue:**

The CBIC has, by Order No.1/2020-Central Tax dated 25<sup>th</sup> June,2020, provided relief to the taxpayers whose application for revocation of cancellation has been rejected earlier. Such tax payers, whose application has been rejected before 12<sup>th</sup> June 2020, can re-apply for revocation of cancellation. There are many taxpayers whose application are being rejected after 12<sup>th</sup> June 2020 also. This can lead to considerable waste of time for filing appeal in regular procedure. With ongoing lockdown, the department is also not functioning as usual. This may lead to scenario where the Amnesty scheme will be over before the appeal is approved by Department.

The taxpayers cannot restore their GST registration until all taxes and other dues are paid. During this lockdown and subsequent liquidity crisis, it may not be possible for all taxpayers to pay all taxes in one go. Also, even if the taxpayers can pay some taxes on account, they may not be able to adjust the same against their liabilities till the GST registration is revoked.

The process of revocation doesn't serve much purpose, rather it is burden on department and taxpayers. In many cases, it is used as tool for harassment also. Such process will bring down India's ranking in ease of doing business.

**Suggestions:**

Introduce concept of provisional approval of revocation of cancellation till the duration of Amnesty Scheme so that taxpayers can pay their liabilities in part and also avail benefit of Amnesty Scheme.

Amend Order No.01/2020 dated 25<sup>th</sup> June 2020 to allow applications rejected after 12<sup>th</sup> June 2020 to reapply for revocation.

Suspend process of cancellation of registration till the law is appropriately amended for simplifying revocation of cancellation.

## 5. Extension in due date for Amnesty Scheme and including other returns in the Scheme

### Issue:

The GST Council in their 40<sup>th</sup> Council meeting had provided an opportunity to file GSTR-3B returns for period July 2017 to July 2020 with no late fees or Rs. 500 per return as a measure to clean up pendency in return filing. The Council also provided one time extension in period for seeking revocation of cancellation of registration.

The due dates for both the schemes is 30<sup>th</sup> September 2020. However, as has been the situation post the council meeting, not much has changed on the ground with respect to lockdown. The offices of professionals and taxpayers have not yet been fully operational. The small business owners who are most likely to benefit from these schemes are also facing financial crunch in their business operations.

The Amnesty Scheme does not cover GSTR-1. The taxpayers must not have filed even GSTR-1 return, which could lead to huge penalties to them as the amnesty scheme is only limited to GSTR-3B returns. This may lead such business owners to avoid amnesty scheme altogether fearing penalties for GSTR-1.

The Amnesty scheme does not cover GSTR-10, the final return to be filed by the taxpayers who have cancelled their registration. The heavy penalty of Rs. 10,000 is severe burden to small taxpayers who may have cancelled their registration because of not reaching basic exemption limit.

### Suggestions:

- The Amnesty Scheme should also cover returns other than GSTR -3B including GSTR-1, GSTR-10, ITC-04
- The Amnesty Scheme should be extended till 31<sup>st</sup> December 2020 for filing returns without penalties and revocation of cancellation of registration.

## 6. Suspending Section 16(4) for returns filed in Amnesty Scheme.

**Issue:** The taxpayers which are filing the GSTR-3B during the amnesty scheme with an incentive of saving late filing fees may be unknowingly hit, with their entire Input Tax Credit disallowed on basis of Section 16(4) of CGST Act, 2017. Section 16(4) of the CGST Act, 2017 prescribes that "A registered person shall not be entitled to take input tax credit (ITC) in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under Section 39 for the month of September following the end of Financial Year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier."

The implication of this section can lead to series of litigations, that too for small business owners, who are most likely to benefit from these schemes. This will lead to taxpayers avoiding this scheme entirely, ultimately defeating the purpose of this scheme.

The said section is also detrimental to the benefit of taxpayers who have in past filed GSTR-3B returns after the due date for claiming credit as this takes away the basic right of taxpayers to claim Input tax credit for taxes already paid by them to their suppliers. The said section is also prone to litigation, which will lead to huge loss of time and resources for both the Government and the taxpayers.

**Suggestions:**

- Section 16(4) of CGST Act,2017 should not be made applicable atleast to the returns filed during the duration of this scheme.
- Section 16(4) of CSGT Act,2017 should be suspended for all returns filed till date from July 2017 to March 2021.

**7. Clarity on classification and taxability of Hand Sanitizers and reduction of tax rate**

**Issue:**

It is a well-known fact that hand sanitizers are being used extensively to contain the spread of COVID-19. This fact has also been accepted by premier health organizations across the World, inter alia World Health Organization (WHO), Indian Council for Medical Research (ICMR), US Centre for Disease Control (USCDC).

The fact that the hand sanitizers are used to prevent the spread of COVID-19 has also been accepted by the Ministry of Health and Family Welfare, Government of India in as recently as the Notification issued by them on 27.07.2020 wherein it has been identified as a drug i.e. a medicament.

The recent press note has been issued by the Ministry of Finance regarding classification of sanitizers as a disinfectant and taxable at 18%. Disinfectants are classified under HSN 38.08 of the Customs Tariff Act, 1975. Whereas, hand sanitizers are used for preventing a disease and therefore, they have prophylactic use. Therefore, the appropriate classification of the said goods falls under Heading 3003 9090 and taxable at 12% under Notification 1/2017 – CT (Rate).

Due to the above, there is a lot of confusion among the manufacturers, distributors and retailers of the product with respect to the classification and taxability of the product.

Also, GST rates reflect the socio-economic structure of our Country and Hand Sanitizers are essential use items for all strata of the society during the ongoing pandemic.

**Suggestions:**

A detailed circular maybe issued addressing the aforesaid issue and clarify the classification and tax rate applicable on the hand sanitizers considering the various aspects surrounding the same.

Thus it is suggested that a detailed clarification maybe issued to address the concerns of the trade and industry regarding the taxability of the hand sanitizers whether as a medicament or as a disinfectant. It is further suggested that if in your wise opinion, hand sanitizers are taxable at 18% as a disinfectant, then a liberal view maybe taken considering the essential nature of the product and the tax rate be reduced to 12%.

## 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,



**CA Jigar Gogri**  
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CC To

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