

सीए. नवीन एन. डी. गुप्ता
अध्यक्ष
CA. Naveen N.D. Gupta
President



दी इन्स्टीट्यूट ऑफ चार्टर्ड
एकाउन्टेन्ट्स ऑफ इन्डिया
(संसदीय अधिनियम द्वारा स्थापित)
THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

ICAI/IDTC/2018-19/Rep/ 3

23rd March, 2018

Shri Arun Jaitley
Hon'ble Union Minister of Finance
and Chairman, Goods & Services Tax Council
Ministry of Finance,
Government of India, North Block
New Delhi - 110001

Respected Sir,

Subject: ICAI suggests the SUF Model (Simplified User Friendly Model) on return filing & enabling of credit

The Institute of Chartered Accountants of India (ICAI) is a statutory body established under the Chartered Accountants Act, 1949 which regulates the profession of Chartered Accountancy in India. The ICAI has been actively supporting the Government in the evolution of the GST Laws till date by making suggestions for simplification, transparency and ease of doing business etc from early 2016, even before the Draft Model law was in place.

We also supported the Government and trade & industry by bringing out the background material of GST first in June 2016 and thereafter continued to bring out the amended versions from time to time with the last version in January 2018. We are working on this background material, once again, we will bring out the latest version shortly after the issues relating to returns filing are clear. We have effectively trained more than 1,50,000 trade and industry professionals in GST. We wish to place on record that we have trained more than 25,000 professionals and practitioners in depth in GST in the past 2 years. We are grateful to the Government of India for providing us this opportunity to serve the country.

In our involvement and study of the GST and VAT laws of other countries till date we have learnt the following:

Page 1 of 8

1. **Trust begets trust** and therefore, there is a need to start to fill up this trust deficit by someone. The Government of India, is moving up in the ease of doing business ladder and this reflects the great forward looking attitude. Looking at the courage displayed by the Government in several initiatives and measures, in GST till date it appears that this “trust” is somewhat lacking.
2. The undue focus on what can be evaded would lead to the evolution of a complex law (as it was prior to GST) and no law can be made for the habitual evader. We need only, to concentrate on the B2B transactions at this stage.
3. SMEs must be cajoled and encouraged to enter the system rather than keeping them out of it by complex procedures. Making GST laws simple should be the primary objective. “Trust” but identify and act against the errant could be the best way forward.
4. The focus must be to put checks and balances in place, definite action on the suspicious trends indicated by using technology etc. Mandatory audit and rewarding the honest (less intrusion) should be the preferred course. Further speedy identification of the errant and closure of demands / disputes should be the preferred course in our considered view.
5. The concept of introducing matching of credits (which has incidentally not worked well in the few countries it has been implemented) for India may be premature at this stage is our considered view. System matching has not worked anywhere in the world, including in a VAT regime in India. The term ‘matching of credit’ is actually a misnomer in the current simplified proposals with the Govt., since the ‘buyer’ only ‘accepts’ the credit – therefore sanctifying that it is genuine.

ICAI Suggests the **SUF Model (Simplified User-Friendly Model)** on return filing & enabling of credit

The model could be follows:

1. Supplier will upload summary information from B2B invoices on real time basis up to 10th of the following month. The summary information will be limited to those relevant for purposes of allowing credit, namely:
 - a) Invoice number & date
 - b) GSTIN of Supplier
 - c) GSTIN of Recipient
 - d) GST Amount involved in each invoice (rate-wise)

2. Supplier will upload in one-line, details of supplies made to unregistered persons (B2C) also. Both details so-uploaded would be rate-wise.
3. No edit feature would be available and it will be deemed concluded or locked by system on 10th of the following of month at 00.00 for the previous month supplies made. During the year 2018-19 system may need time to stabilize, therefore, if required, we may consider uploading of supplies details in two tranches i.e 10th & 12th of the following month for assesseees whose turnovers exceed Rs.1.5 crore and above & below the said turnover category respectively
4. GST Amount uploaded (B2B) will appear at 'total maximum credit available' to the Recipient and upon utilization of this credit, it would be deemed acceptance of the invoice (similar to methodology in Form 26AS under the provisions of Income Tax Act, 1961). Recipient is welcome to utilize less than or equal to the total maximum of credit available subject to rejection of credits that does not relate to him.
5. Requiring 'acceptance' by the Recipient increases data traffic but more importantly forces fait-accompli on the part of Recipient on all other aspects in the Tax Invoice, which may yet need to be kept pending for further discussions with Supplier. For allowing credit, Recipient is not to be compelled to accept other matters such as HSN, rate of tax, etc., and forego right to dispute them.
6. If for whatever reason, the facts stated in para 5 supra, is not acceptable the only other alternative would be, is that the buyer actually 'accepts' the credit - so that it is 'affirmed as genuine transaction by the buyer'. This will allow further analysis of habitually offending buyers without their taking recourse that they were 'innocent victims'
7. As this is SUF Model is for a short/medium term solution, notification under section 168 of CGST Act, 2017 may be issued to authorize this model without any amendment to the law. Provisions of the law can be remain but suspended until the long-term solution is rolled out.
8. Alternatively, amendment to the provisions relating to availability of provisional credit in terms of section 41 of CGST Act, 2017 would now be

required to be replaced with the confirmed credit based on supplier invoice uploading.

9. The above proposal is in line with theme "Trust the Business". It is a relation between the supplier & recipient who will check among themselves.
10. In this SUF model, if a supplier effects an inter-State supply of goods E-way bill could be mandated to safeguard against shifting of State's revenue. Intra-State E-way bill under this model need not be resorted to as credit and stock of goods remains in that particular State and mandated within Intra-State will dilute its feature of simple user friendly model. Assuming that this suggestion is not acceptable, it could be for transaction value of Rs. 1 lakhs and above.
11. There will be no change in the provisions relating to issuance of invoice, as it will be governed by the existing provisions to cover the requirement of issuance of invoices or at the time of removal of goods.
12. The existing GSTR Form-3B could be continued with auto population of data relating to 'total maximum credit available' with edit feature for the 'extent' to which Recipient desires to utilize this credit. Input and taxes on the said automated liability generated needs to be paid by the Supplier who will then file the return.
13. In case a Supplier has uploaded a wrong or incorrect Invoice, the supplier could issue an appropriate debit / credit note to the recipient to close that transaction. As such, there is no requirement of an edit feature.
14. Restriction of the condition of receipt of Goods or Services for enabling credit under Section 16 of CGST Act, 2017 may be suspended currently and at a later point in time, based on certain conditions could be introduced (similar to Rule 37) whereby, deemed credit (along with applicable interest) would required to be reversed by the recipient of the goods or services with in 180 days if it has not received the goods or services. It will ease the unnecessary reconciliation at the Recipient's end in cases where the goods were supplied during the last week of month & receipt of such goods occurred in first week of the following month. In any case, reconciliation of receipt of services can not be verified.

15. In case a Recipient utilises the ineligible credit or credit not available to him, then he is required to reverse the same along with interest in terms of section 50 of the CGST Act, 2017. This will in anyways be carried out by the Recipient as and when he files his returns in Form GSTR 3B.
16. Option of existing quarterly return would be done away in case of small assesseees as all assesseees would be required to upload his return on monthly basis.
17. Recipient's will not be allowed to avail any credit, if the Supplier does not upload the data in the system. It may be little harsh, but in time to come, assesseees would prefer buying from established Suppliers and shall refrain from purchasing from probable defaulters/ evaders /entry operators. It will also be the responsibility of the buyers to effect purchases from the responsible suppliers.

Precautions for Simple User Friendly Model to safeguard the revenue interest:

This model is based on self-assessment and susceptible to evasion, avoidance or frauds. Therefore, if no proper steps are taken in a timely manner, the ease of this model can result in revenue leakages and credit litigations. We suggest the following steps be taken by the Government with the help of GSTN to plug the leakages and loopholes in time:

Date	Step to be taken
Upto 10 th of Month	Allow assesseees to submit outward supply
20 th of Month'0	Allow assesseees to file returns
25 th of Month'0	Allow some grace time to all defaulters to suo moto file returns
26 th of Month'0	GSTN to prepare list of persons who have not filed the monthly return / filed output return but not monthly return and share the same with the designated IT cell of CBIT/Government
30 th of Month'0	CBIT/ Government to send first set of mails to the defaulting assesseees who have not filed the returns with simple reminder to file the return
5 th of Month'1	GSTN to recompile and send data of return defaulters pending for Month 0

7 th of Month'1		Government to send second set of mails to the defaulting assesseees with reminder to file the return and consequences of not filing the return. Follow up with SMS & auto call.
25 th Month'1	of	GSTN to recompile and send data of return defaulters pending for Month 0
30 th Month'1 upload	of	Government to send final set of mails to the defaulting assesseees with reminder to upload the return clearly intimating the consequences of the fact that he shall not be able to upload at a later point in time. He shall also be intimated that any uploading at a later stage would envisage payment of tax in advance. In case, in 1 month time, if not rectified then he shall be required to get his link reopened through jurisdictional officer.
10 th Month'2	of	GSTN to recompile and send data of return defaulters pending for Month 0 and Government to take appropriate action on such defaulting assesseees including blocking their returns and output return data (Month 2 data even if uploaded shall not be available as credit to his buyers in Month 2).

Other appropriate steps are also suggested for larger defaulting assesseees:

- Any assessee not filing regular returns for 2 or more months and having large exposures or other substantial risk factors based on his credentials, be subject to immediate inquiry followed by special audits within 1 or 2 months.
- If an assessee's return is decided to be blocked, similar action of blocking returns should be made in respect of entities where any of the Directors or Partners or Proprietor or other Managing Personnel of such defaulting entity are holding positions as Directors or Partners or Proprietor or other Managing Personnel (related party concept). We believe that the Government would be in possession of such data (may be from CBDT/ MCA) through which they can be tracked down.
- Alternatively, supplier would have to pay GST in advance to upload the invoices till he complies. He will be forced to do this fast as ITC is not available.
- Persons who have obtained new registration and undertake large transactions but have not filed returns in any of the first three months should be subjected to early scrutiny by the department.

- Pattern indicating high risk must be subject to automatic seeking of information through a link. Assessee did not submit the information sought in time, then system suggested above in case of defaulter be followed.
- Of course compliance rating system as and when introduced can take care of the defaulting assessee including discouraging buyers to deal with lower rated vendors.

Other measures to prevent leakage, while making the law simple and allowing the trade to self police itself, with quick action in case of unhealthy trends are examined as under:

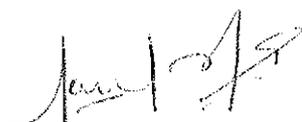
1. The concept of clubbing be introduced, for those claiming the threshold or composition scheme and for those who have multiple entities with benefits dovetailing to a person or family in due course of time. This could be prospectively made applicable after 6 months of the amendment.
2. Collection of additional information and using data mining with assistance from GSTN could indicate areas of possible leakage.
3. Fast track action in cases of possible evasion (viz., past history, unduly low margins, circular trading, spikes in supply, credit, comparison of industry margins, traditionally low compliance industries) could reduce the tax evasion.
4. Special audit in case of suspicion could be made a more frequent possible major check.
5. Yearly audit formats including ratios and major reconciliations be used to highlight error which indicate major portion of leakage.
6. Many more initiatives can be thought of for plugging the loopholes over a period of time.

The ICAI would be glad to support in the exercise of identification, obtaining the right information on suspicious transaction as well as the verification of the suspected errant assessee in a less invasive way. We could also assist in drafting of the consequential provisions as may be needed.

It may be noted that aforesaid proposal is just a concept. The aforesaid concept, if required, may at a later point in time could be changed over to tax payment and returns filing. Date of this change over may be based on various operational parameters and revenue /trade considerations of this model.

We shall be glad to provide any further input as may be required and CA. Madhukar N Hiregange, Chairman and CA. Sushil Goyal, Vice-Chairman, Indirect Taxes Committee assisted by CA. Sharad Singhal, Secretary, Indirect Taxes Committee at idthc@icai.in or 0120-3045954 will be in touch with you in case of any clarification.

Yours faithfully,



CA. Naveen N. D. Gupta
President, ICAI

Copy to:

1. **Sh. Sushil Modi**, Deputy Chief Minister & Hon'ble Finance Minister, Bihar
2. **Dr. Hasmukh Adhia**, Finance Secretary(R), Department of Revenue, Ministry of Finance, Government of India, North Block New Delhi - 110001
3. **Ms. Vanaja N. Sarna**, Chairperson, CBIT, Department of Revenue, Government of India, North Block, New Delhi - 110001
4. **Shri Prakash Kumar**, Chief Executive Officer, Goods & Services Tax Network, World mark 1, 4th Floor, Tower-B, Aero City, East wing, New Delhi - 110037
5. **CA. Upender Gupta**, Commissioner, GST, Department of Revenue, Government of India, North Block, New Delhi - 110001
6. **Sh. Arun Goyal**, Additional Secretary, Office of the Goods & Services Tax Council, Tower-II, 5th Floor, Jeevan Bharti Building, New Delhi -110001