

ICAI's Suggestions on Business Process on GST



THE INSTITUTE OF CHARTERED ACCOUNTANT OF INDIA
NEW DELHI

A. Suggestions on “Report of the Joint Committee on Business Process for GST on Registration”

1. Eligibility of CENVAT Credit in case of New Registrations

It has been proposed in para 2.1 (2) of the Business Process for Registration that application for registration must be filed within 30 days from the date of the dealer’s liability for obtaining registration and effective date of registration would be the date of application. Further, it has been provided that CENVAT Credit would be admissible from the date of application for registration.

However, a dealer filing application for registration after expiry of prescribed time limit of 30 days, will be eligible for CENVAT Credit from the date of registration.

Suggestions

- (i) It is suggested that CENVAT Credit should be allowed to dealer from the date of validity of registration or when the dealer’s liability arises for payment of taxes under the GST, whichever is earlier.

For example, a dealer liability arises on 1st April and under the law it is provided that dealer may take registration within 30 days i.e. upto 30th April. If a dealer applies for registration either on 29th April or 5th may, the CENVAT credit in all cases should be allowed from 1st April instead of date of application i.e. 29th April or 5th may.

- (ii) It is suggested that the dealer voluntarily applying for GST registration should be allowed CENVAT Credit from date of application of registration.
- (iii) The dealer who was not registered in the pre-GST regime but would need to get registered in GST regime should also be allowed to take credit of input services/ inventory of inputs that has suffered appropriate tax and lying with the assessee on the date of filing of application of registration which would be used for taxable supply in GST regime. An appropriate mechanism needs to be provided for identification of such input services /inputs and transfer of the respective credit in the tax records of the assessee in GST regime. The burden of proving that such goods/services have suffered tax would be on the claimant. The invoices along with appropriate records must evidence tax paid, which must be duly certified by a Chartered Accountant.

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2. Threshold limit for registration to include exempted goods and services (including non-taxable)

It has been proposed in para 2.1 (2) read with Annexure VIII of the Business Process for Registration that the threshold should be worked out taking into account both the supply of goods and services on gross turnover basis and such turnover would include the turnover of exempted goods and services (including non-taxable) and exports.

Suggestion

Considering the definition of supply would be covering almost entire activities except a few one, a dealer dealing majorly in exempted goods and services may be providing a taxable supply of small value and therefore would be required to take registration and file returns etc. Therefore, it is suggested that turnover of exempted goods and services (including non-taxable) should not be included in the gross turnover while calculating the threshold limit for registration.

To illustrate: Assuming that agricultural produce would be exempt from tax. In this case a farmer dealing in agricultural produce having turnover more than threshold limit and enters into supply of any taxable goods or services even of Rs. 100 like charging transportation charges from customers, renting some area from his farm for shop/godown, renting tractor or equipments to co-farmers etc., then he will be liable for registration and other compliances. Similar issues can be envisaged in case of other expected exempted goods and services such as medical services, Educational Institutions, religion function etc.

It may also be mentioned that presently Notification No. 33/2012-ST dated 20th June, 2012 which provides exemption for small scale service provider also excludes the value of exempted services while calculating threshold limit.

3. Concept of Input Service Distributor (ISD) be extended to Goods as well

It has been proposed in para 2.1 (10) of the Business Process for Registration that the concept of Input Service Distributor (ISD) presently being followed in Centre's Law may continue if the GST Law so provides.

Suggestion

It is suggested that concept of Input Service Distributor (ISD) be extended to inputs and capital goods consumed/used at Head Office also. Further, it may be renamed as Credit distributor. This will facilitate seamless credit of goods, capital goods and services consumed at the Head Office or places from where no output supply of goods/services are provided, which is the theme of GST.

4. Option for Centralised registration

It has been proposed in para 2.2 of the Business Process for Registration that for each State the taxable person will have to take a separate registration, even though the taxable person may be supplying goods or services or both from more than one State as a single legal entity.

Further, para 2.3 of the Business Process proposed that multiple registration within one State to business verticals [as defined in Accounting Standard (AS) 17 issued by ICAI] of a taxable person may also be permitted, subject to all the verticals being on the same scheme of tax treatment if the GST Law so provides.

Suggestion

It is suggested that option for Centralised Registration be given to the tax payer. Otherwise it will be very difficult for Industries / Sectors like Telecom, Insurance etc. in ascertaining tax liability, where area is not constraint. For example, Delhi-NCR covers 3 States namely Delhi,

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Haryana, and Uttar Pradesh and it will be difficult to segregate user base service in between 3 States.

Presently, the option for Centralised registration is available under Service Tax and to some extent in case of LTU's in Central Excise.

Hence, it is suggested that Option for Centralised registration be allowed for goods as well as Services to facilitate ease of doing business and saved taxpayer from multiple registrations, assessments and other compliances.

5. Applicability of provision of Casual Dealer to Non-Resident Supplier

It has been proposed in Para 2.4 of the Business Process for Registration that a supplier who is not registered on regular basis, whether on mandatory or voluntary basis, in other State (s) and desires to conduct business in a particular State for a limited period, will have to obtain registration in that State for that limited period. Such suppliers are known as casual dealers and shall not be allowed to opt for composition scheme.

Para 2.5 of Business Process provides that a Non-resident Supplier is a person who, in the course of business, makes an intra-state supply of goods or services or both, but is not a resident in the state in which he has applied for registration, but is already registered in any other state. The provisions applicable on casual dealers may apply to them except that no security deposit or advance tax collection may be made in their case.

Suggestion

It is suggested that Non-resident (domestic) supplier should be treated at equal footing as normal dealer.

It may be noted that Non-resident supplier would already have paid IGST / CGST/ SGST and to promote free trade across the Country the restriction of causal dealer should not be incorporated in case of these

suppliers. Hence, the provisions applicable on casual dealers may not be made applicable to a Non-Resident Supplier.

In the Business Process of GST Return, Non-Resident Foreign Taxpayers has been used for casual dealer. It is creating confusion with term Non-Resident (Domestic Taxpayers) used in the business process on registration for casual dealer. It is suggested that clear distinction may be spelt out between casual dealer (Non-Resident Foreign Taxpayers) and Non-Resident (Domestic Taxpayers).

6. Document required to be uploaded along with application for Registration

Para 6.3 of the Business Process for Registration provides that various documents like constitution of dealers, latest tax paid receipt, Lease Agreement, Pass Book, Letter of Authorisation, Photograph etc. are required to be uploaded along with application for registration.

Suggestions

- (i) It is suggested that the process of registration be simplified and registration be allowed with minimum document requirement in line with international practices. Registration may be allowed only on submission of PAN No./Adhaar No./CIN, photograph and details of authorised signatory. Other documents if required may be taken/ submitted within some specified period. Mandatory submission of these documents will not facilitate ease of doing business.

Further, some permissible field relating to details of taxpayer may be allowed to be updated by dealer online automatically.

- (ii) In the case of proprietorship firm, the column of filing bank details, while applying for registration, may be dispensed with, as presently banks are not opening current account without obtaining the registration no. or the RBI should relax the norms for opening

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an account in the banks. The bank Accounts details may be allowed to be submitted after registration within some specified time.

Alternatively, the taxpayers may be allowed to fill up saving account details of member/ proprietor or partners.

7. Submission of application for Registration using digital signature

Para 6.7 of the Business Process for Registration provides that tax payers would have the option to sign the submitted application using valid digital signatures (if the applicant is required to obtain DSC under any other prevalent law then he will have to submit his registration application using the same). In the absence of digital signature, taxpayers would have to send a signed copy of the summary extract of the submitted application form printed from the portal to a central processing center to be operated by GSTN.

Suggestion

It is suggested that the submission of application for registration with digital signatures be promoted. It will increase transparency, reduce administrative cost and remove the manual interference. It will also facilitate in filing of return.

Further in place of manual submission, e- sign like OTP mechanism may be considered.

8. Refusal by any of the two Authorities (Centre or State) will amount to Rejection of Application

It has been proposed in Para 6.9(3) of Business Process for Registration that granting registration or refusal to grant registration by either of the two authorities (Centre or State) will amount to granting or rejecting the registration by the other authority.

Suggestion

It is suggested that the registration process be rested with a single authority either with Central Government or State Government or any Independent Authority, to be termed as Registration Authority. This will facilitate ease of doing business and remove unnecessary dialogue with two authorities.

9. Surrendering of GSTIN by Registered Taxpayer

It has been suggested in Para 10.2 of Business Process for Registration that in case of surrender, the system will send an acknowledgment by SMS and e-mail to the applicant regarding his surrender of registration and he will be deemed to be unregistered from the date of such acknowledgement.

Suggestion

It is suggested that even after surrender of GSTIN by the taxpayer, the login id and password of the taxpayer be remain active for some period (As may be considered appropriate by the authority) so that any pending compliance/obligation can be completed. This will facilitates clearance of dues, assessment etc.

10. Cancellation of Registration by Department

It has been suggested in Para 10.4(4) of Business Process for Registration that the cancellation of registration may be preceded by system generated notice giving 7 days' time for furnishing reply by the taxpayer. Principle of natural justice to be followed before cancellation, i.e., giving an opportunity to taxpayer to be heard and passing of order.

Suggestion

It is suggested that the time period of 7 days be increased to 21 days from the date of service of notice.

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11. Blacklisting of dealers

Para 6.8(3) of Business Process for Registration read with **Annexure – X** proposed compliance rating and trigger for backlisting in the following cases:

- (i) Continuous default for 3 months in paying ITC that has been reversed.
- (ii) Continuous default of 3 months or any 3 month-period over duration of 12 months in uploading sales details leading to reversal of ITC for others. Defaulters of even a single event should also be flagged and put in public domain as being a potential black listed dealer so as to alert the buyers.
- (iii) Continuous short reporting of sales beyond a prescribed limit of 5% (of total sales) for a period of 6 months.

Further, it has been provided that blacklisted GSTINs can not be uploaded in purchase details i.e. credit would be denied to the purchasing dealer.

Suggestion

It is suggested that 3 month period be replaced with 6 month period in both the clauses [(i) & (ii) above] and before black listing the dealer, show cause notice be issued and opportunities of being heard be given to the dealer.

12. Additional column in the Form of Application for Registration

It has been proposed in Annexure-III (Point 12 & 16) of Business Process for Registration that the taxpayer has to select the nature of the business activity being carried out at the premises.

Business Process for GST on Registration

Please Tick the Nature of Business Activity being carried out at above mentioned Premises					
Factory / Manufacturing	<input type="radio"/>	Wholesale Business	<input type="radio"/>	Retail Business	<input type="radio"/>
Warehouse/Depot	<input type="radio"/>	Bonded Warehouse	<input type="radio"/>	Service Provision	<input type="radio"/>
Office/Sale Office	<input type="radio"/>	Leasing Business	<input type="radio"/>	Service Recipient	<input type="radio"/>
EOU/ STP/ EHTP	<input type="radio"/>	SEZ	<input type="radio"/>	Input Service Distributor (ISD)	<input type="radio"/>
Works Contract	<input type="radio"/>				

Suggestion

It has been suggested that two options i.e. one for 'Mining Business' and second for 'Other Business' also be included. Further, it is suggested to allow selection of multiple options as wholesale business may also be providing services etc.

B. Suggestions on “Report of the Joint Committee on Business Process for GST on Payment Process”

13. Insertion of ‘Pay Now’ button in the return form

It has been proposed in Para 2.0 (A)(v) of the Business Processes for Refund that the GST Law Drafting Committee / Payment Committee may decide as to whether payment is to be made tax period wise or a system of Personal Ledger Account (PLA) is to be used. Maharashtra has suggested that Kerala model of return cum challan may also be examined by the GST Law Drafting Committee / Payment Committee.

Suggestion

For the ease of filing of return and payment of any tax due at the same time, the system should provide a ‘Pay Now’ button in the return itself so that the taxpayer is not required to open a new window for the payment of due tax at the time of filing of return.

14. All Banks having internet banking be authorised for payment of tax under the GST Regime

It has been proposed in point 8 of the Business Processes for payment that only authorized banks would permitted to receive payment of GST on behalf of the Government, and keeping this distinction in view, the expression 'authorized bank' is used throughout this Document.

Suggestion

For the ease of doing business, it is suggested that all the banks having internet banking be authorised for receiving payment of taxes under the GST Regime in place of only few authorised Banks.

15. Alternative Payment Mode

In point 8 of the Business Processes for payment, three mode of payment have been proposed i.e. Internet Banking, CC/DC, OTC, NEFT/RTGS.

Suggestion

It is suggested alternative mode of payment will also thought such as M-payment (mobile based application), e-payment wallet etc. It has been observed that there is heavy load on banking server on due date of payment.

16. Payment of taxes through export scrips by linking it with DGFT portal

Point 9 of the Business Processes for payment proposes that payment by debit to export scrips, while paying tax would not be allowed.

Suggestion

It is suggested to continue with tax payments through debit of export scrips. Mechanism to link GST and DGFT Portal may be designed, if required. If the tax payment through scrips is disallowed, this will practically take away the benefit given by the new Foreign Trade Policy which would be regressive tax regime.

17. Date of deposit of taxes be taken as date of payment of taxes

Point 47 of the Business Processes for payment proposes that the bank's system would send a second message to GSTN once the cheque is realized, the total amount is credited first to GST pool account and thereafter the funds are credited to the respective tax accounts as per CPIN data.

Suggestion

It is suggested that the date on which payment is deposited by the taxpayer through cheque/debit card/credit card be considered as the date of payment and not the date when such amount is credited into the Government treasury.

Further, it is suggested that date of payment be made as 15th of next month so that all credits are reflected before filing of Return.

18. Challan correction mechanism

Point 123 of the Business Processes for payment list out following three types of errors:

- (a) Error in GSTIN;

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- (b) Error in major Head; and
- (c) Error in total amount

and have been concluded that challan correction would not be required.

Suggestion

There could be many situations of mistakes in challan and incorrect tax payments – may be by debiting different account heads or payment of tax on wrong GSTIN by an authorised representative (the Note envisages such mistake by the bankers only). For taking care of such situations, a challan correction module must be there, otherwise it will result into harassment of assessee where just for making excess tax payment for one type of tax say SCGST and short payment for other type of tax say CGST, he would be seeking refund in one case and paying interest and penalty in the other.

C. Suggestions on “Report of the Joint Committee on Business Process for GST on Refund Process”

19. Excess Payment of Tax due to Mistake or Inadvertence

Para 2.0 (A)(ii) of the Business Processes on Refund list out the following cases of excess payment of taxes:

- (a) wrong mention of nature of tax (CGST / SGST / IGST),
- (b) wrong mention of GSTIN, or
- (c) wrong mention of tax amount.

Para 2.0 (A)(ii) of the Business Processes proposed that in first two situations i.e. in case of wrong mention of nature of tax (CGST / SGST / IGST) or in case of wrong mention of GSTIN, the tax administration is required to verify the correctness of the taxpayer’s claim and therefore the taxpayer may file a refund application which should be decided within a period to be prescribed by the GST Law.

Para 2.0 (A)(vi) of the Business Processes proposed that in the third situation i.e. where the amount has been mentioned wrongly, the refund of excess amount of tax, at the option of the taxpayer, would either be automatically carried forward for adjustment against future tax liabilities or be refunded on submission of application (return itself can be treated as a refund application) by the taxpayer.

Suggestions

- (i) It is suggested that a challan correction module be introduced for correcting error relating to nature of tax and GSTIN.
- (ii) It is suggested that the refund claimed due to excess payment of tax in all cases be granted within a time bound manner from the date of submission of refund application.
- (iii) It is suggested to allow automatically carried forward for adjustment against future tax liabilities in case of wrong mention of nature of tax (CGST/ SGST / IGST) as well.
- (iv) Further, a provision must be provided for the refund of **excess payment of Additional Tax**.

20. Pay Duty on Inputs & then Claim Refund

It has been proposed in Para 2.0 (B) [Export of Goods] (iii) of the Business Processes on Refund that option to obtain non-duty paid inputs and exporting final products without payment of duty would not be made available under the GST regime.

Further, Para 2.0(B) (General) (i) of the Business Processes for Refund provides that up to 90% of the refund claimed by the taxpayer may be sanctioned automatically by the system. The balance amount of refund may be granted after completion of verification of documents/ accounts to be done at the end of the financial year and to be completed within a period of three months. The issue was discussed and it is recommended that partial refund may not be allowed.

Suggestion

It is suggested that the existing provision for 90% of the refund be continued in the proposed regime of GST and it may be sanctioned automatically by the system, may be on monthly basis, so that money is not locked up for long time. If required, Bank Guarantee or Bond may be taken for some specified period (may be for six months) to protect the interest of revenue. The balance amount of refund may be granted after the documents verification to be completed within stipulated time limit. This will address cash flow implication of taxpayer.

21. Submission of Bank Realisation Certificate

It has been proposed in Para 2.0 (B) [Export of Goods] (v) (g) of the Business Processes on Refund that the refund in case of post facto verification should be granted subject to submission of BRC details within a period of maximum one year or such period as extended by RBI from the date of the export.

Suggestion

- (i) Presently BRC in soft copy has to be submitted to the Custom authority. It is suggested that the same may be linked for the refund application or some integrated interface may be used for the both i.e. Refund application and requirement of submission of BRC to custom authority. It will reduce the multiple submissions by the assessee.
- (ii) Further, in case of deemed export for example, supply made to SEZ, it may be clarified that copy of BRC would not be required in the proposed GST regime.

22. Certification of declaration by Chartered Accountant in case of Refund

It has been proposed in Para 2.0(B) [Export of Goods] (v)(k) of the Business Processes on Refund that as regards utilization of the inputs for exports, a simple formula can be adopted that will provide for proportionate credit based on export turnover divided by total turnover. Moreover, a declaration can be obtained from the exporter regarding utilization of inputs in the exported goods.

Suggestion

It is suggested that declaration to be obtained from the exporter may be made to be certified by Chartered Accountants. This will facilitate the Government in granting of refund at the earliest and facilitate the ease of doing business.

23. Refund in case of Export of Services

It has been proposed in Para 2.0 (B) [Export of Service] (i) of the Business Processes on Refund that in the case of export of services, BRC would be required before sanction of the refund of GST paid on inputs (input services) / rebate of GST paid on exported services.

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Suggestion

It may be submitted that IEC number is not required to be obtained for exporter of services and without IEC, BRC are not issued by the Bank. Therefore, it is suggested that a refund may be allowed to the exporter of services on the basis of copy of FIRC.

24. Relevant Date in case of Export of Services

It has been proposed in Para 2.0 (B) [Export of Service] (ii) of the Business Processes on Refund that the relevant date in case of export of services is date of BRC or date of invoice whichever is later.

It has been proposed in Para 4.0 (B) [Time period for filing of refund and relevant date] (iii) of the Business Processes on Refund that relevant datedate of BRC in case of refund on account of export of services under claim of rebate of GST paid on exported services or refund of accumulated input credit of GST when services are exported.

Suggestion

It is suggested to appropriately rectify the above anomaly.

25. Refund of Input Tax when Export is subject to Custom Export Duty

It has been proposed in Para 2.0(B)(General)(ii) of the Business Processes on Refund that there may be certain goods on which Customs Export Duty may be leviable. It is recommended that in such cases refund of ITC of GST paid on inputs (including input services) used for such exported goods may not be admissible.

Suggestion

It is suggested that the GST paid on inputs (including input services) be refunded or ITC of GST paid may be allowed in case the goods have been exported on which export duty is leviable.

It may be noted that Article 286 of the Constitution of India, which specifies that, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place outside the State; or in the course of the import of the goods into, or export of the goods out of, the territory of India.

26. Refund be processed by Single Authority

It has been proposed in Para 2.0(B)(General)(iv) of the Business Processes on Refund that in case of refund of GST paid on inputs (including input services) used for exported goods, the refund of CGST, SGST or IGST may arise and the same needs to be paid by the respective tax administration.

Suggestion

It is suggested that in the case of exports, refund claimed by the taxpayer be processed by the any one single authority, may be Central Government or State Government or any other authority and tax payer should not be insisted to deal with the both the authorities i.e. Central Govt. and State Govt. separately.

27. Refund when the Appeal is in the favour of Taxpayer

It has been proposed in Para 2.0(D)(iii) of the Business Processes on Refund that Law may provide for certain pre-defined period during which refund may not be granted which can be regarded as the mandatory waiting period for the outcome of the appeal / application for stay.

Suggestion

It is suggested that when the appeal has been decided in the favour of the taxpayer then the refund may be granted within the suitably prescribed time limit.

28. Powers of Jurisdictional Authority for Withholding the Refund

It has been proposed in Para 2.0(D)(iv) of the Business Processes on Refund that powers may be provided to jurisdictional authority at sufficiently senior level for withholding the refund in exceptional cases on the condition that interest at appropriate rate has to be paid.

Suggestion

It is suggested to define the exceptional cases in which the senior level officer would be entitled to withhold refund. In the absence, there would be fear in the industry that this provision may be misused to deter the assessee and may not facilitate ease of doing business.

29. Interest Rate on Refund granted

It has been proposed in Para 14.2 of the Business Processes on Refund that Committee recommends the rate of interest in case of refund to be around 6%. In case of default in payment, rate of interest would be 18%

Suggestion

It is suggested that the interest rates for both the demand of the tax and the refund of the tax be made uniform. There is need for fairness and equity in the rates at which interest is paid by the department and is charged from tax payer and therefore interest rate on refund be also kept @ 18% P.A. i.e. equal to interest rate on demand.

D. Suggestions on “Report of the Joint Committee on Business Processes for GST on Return”

30. Periodicity of Return Filing

It has been proposed in para 2.1 of the Business Process for Return that Return Form GSTR 1 – Outward supplies made by taxpayer, GSTR 2- Inward supplies received by a tax payer and GSTR 3-Monthly Return are required to be filed by the tax payer by 10th, 15th and 20th of next month.

Suggestions

We welcome auto population step for matching sale details with purchases of respective buyer as it will to a large extent eliminate mismatch. However, to remove the practical difficulties which may be faced by taxpayer it is suggested that:

- One single Quarterly online return on Centralised basis be required to be filed from which information may be captured for each State. Alternatively, it is suggested that all these returns be required to be filed by the taxpayer on quarterly basis by 25th of month next to the quarter.
- Further, it is suggested that half yearly return be required to be filled by an assessee having turnover less than specified limit say, 1 crore. It may be mention that presently under service tax, half yearly return is required to be filed by the assessee. Further, under the DVAT, quarterly return is required to be filed.
- It is also suggested that GSTR-1 & GSTR-2 may be called as annexures to the return containing details of Sales and Purchases which may be required to be filled up by 20th of month next to quarter.

31. Filing of Return by Non-Resident Taxpayer (foreigners)

It has been proposed in para 2.2 (vi) of the Business Process for Return that Non-Resident Taxpayers (foreigners) would be required to file GSTR-5 return for the period for which they have obtained registration within a period of seven days after the date of expiry of registration. In case registration period is for more than one month, monthly return(s) would be filed and thereafter return for remaining period would be filed within a period of seven days.

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Table given in para 2.1 of the Business Process require Non-Resident Foreign Taxpayer to file return form GSTR -5 by the last day of registration.

Further, Annexure VI (GSTR- 5) prescribes filing of return on monthly basis by 20th of the month & within 7 days after expiry of registration.

Suggestion

It is suggested that the discrepancy in regard to date of filing of return by Non-Resident Taxpayers (foreigners) mentioned at different para of the Business Process be appropriately rectified.

32. Filing of Return by Compounding taxpayer

It has been proposed in para 2.2 (viii) of the Business Process for Return that Compounding taxpayer will also file a simple annual return. However no format has been prescribed.

Suggestion

It is suggested that a return form may be prescribed for Compounding taxpayer.

33. Information required in GSTR-1 regarding Gross Turnover in the previous Financial Year

It has been proposed in Para 3.1.1(3) of the Business Process on GST Return that the information in the return will be required for the gross turnover of the Taxpayer in the previous Financial Year. This information would be submitted by the taxpayers only in the first year and will be auto-populated in subsequent years.

Suggestions

- It may be clarified that whether the information in respect of "Gross Turnover of the Taxpayer **in** the previous financial year"

pertains to the corresponding month of previous financial year or for the complete previous financial year.

- Further, in case it is for the previous financial year then it is suggested that the above information should be submitted in the annual return only.
- Also, clarify that whether that Turnover required to be filled up in the return, would be Registration based **or** PAN Number Based **or** State wise including all the business verticals with in the State.

34. Documents required for Inter-state B2C Supplies

It has been proposed in Para 3.1.1(4)(ii) of the Business Process on GST Return that for all inter-state B2C supplies (including to non-registered Government entities, Consumer / person dealing in exempted / NIL rated / non GST goods or services), the supplier will upload invoice level details in respect of every invoice whose value is more than Rs. 2,50,000/-. Further, for invoice below this value State-wise summary of supply statement will be filed covering those invoices where there is address on record. The address of the buyer has to be mandatorily reflected in every invoice having a value of Rs. 50,000/- or more. Invoice for a value less than Rs. 50,000/- that do not have address on record will be treated as intra-state supply.

Suggestion

It is suggested that value of invoices for uploading invoice level details in case of B2C, be increased from Rs. 2,50,000/- to Rs.10,00,000/-

35. HSN Code for goods & Accounting Codes for services

It has been proposed in Para 3.1.1(4)(iii) of the Business Process on GST Return that Invoice would capture information of HSN Code in goods and Accounting Code for services as follows:

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- (i) HSN code (4-digit) for Goods and Accounting Codes for Services will be mandatory for all taxpayers with turnover in the preceding financial year above Rs. 5 Crore.
- (ii) For taxpayers with turnover between Rs 1.5 Crores and Rs 5 Crores in the preceding financial year, HSN codes may be specified only at 2-digit chapter level as an optional exercise to start with. From second year of GST operations, mentioning 2-digit chapter level HSN Code will be mandatory for all taxpayers with turnover in previous financial year between Rs. 1.5 Crores and Rs. 5.0 Crores.
- (iii) To start with, compounding dealers may not be required to specify HSN at 2-digit level also.
- (iv) The taxpayers who have turnover below the limit of Rs. 1.5 Crore will have to mention the description of goods/service, as the case may be, wherever applicable.
- (v) HSN Codes at 8-digit level and Accounting Codes for services will be mandatory in case of exports and imports.

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Suggestions

- It is suggested that use of 8 digit HSN Codes and Accounting Codes be promoted and made mandatory. It will facilitate tracking of goods and services and therefore, will help in eliminating black money.
- It may be mentioned that presently NPS used for ROC, may be referred while prescribing Accounting Code for services.
- It may be clarified that whether Turnover would be GSTIN basis or PAN Number basis or State wise including all the business verticals within the State.

- It is suggested that for calculating the turnover of the preceding financial year only taxable turnover of goods & services and exports should be included.

36. Value of Invoice for calculating Threshold

It has been proposed in Para 3.1.1(4)(iv) of the Business Process on GST Return that the HSN code for goods and Accounting Code for services will apply for submitting the information in return relating to relevant invoice level information for B2B supplies (both intra-state and inter-state) and inter-state B2C supplies (where taxable value per invoice is more than Rs. 2.5 lakhs).

Suggestion

It is generally understood that the value of invoice for calculating the threshold limit exclude the tax amount mentioned in the invoice itself. Accordingly, clarification may be issued in this regard.

37. Place of Supply to identify the Destination State

It has been proposed in Para 3.1.1(4)(vi) of the Business Process on GST Return that the supply information will have details relating to the Place of Supply in order to identify the destination state as per the Place of Supply Rules where it is different from the location of the recipient.

Suggestion

It is suggested that column 15 of point 5 given in the Return Form in Annexure II be deleted, as place of supply will automatically be determined on the basis of co-ordinate like GSTIN of the buyer etc. The assessee is liable to pay taxes accurately i.e. CGST, SGST and IGST, however, they should not be burdened to fill the place of supply for each transaction in the return form.

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38. Details relating to advance receipt

It has been proposed in Para 3.1.1(6) of the Business Process on GST Return that Details relating to taxes already paid on advance receipts for which invoices are issued in the current tax period will be submitted.

Suggestion

It is suggested that corresponding credit in respect of advance payment be allowed since movement of goods is no criteria in relation to the time of payment of taxes. If receipt of goods/service is taken as criteria for taking credit, then it will create a wide time gap cash outflow and Credit. Also it will once again require assessee to differentiate these cases and there would be practical difficulties in entry wise reconciliation of the same. Following details may be asked in the return for reporting purposes if required:

Invoices Issued	XXX
Add : Closing balance of advances to Supplier	XXX
Less : Opening Balance of advances to Supplier	XXX
Tax liability in the Current Period	XXX

In the present regime in services tax, assessee is allowed to take credit on the receipt of invoices only.

39. Details of Debit/ Credit notes

It has been proposed in Para 3.1.1(8) of the Business Process on GST Return that there will be a separate table for submitting the details of Credit/Debit Note issued by the suppliers pertaining to previous tax periods and the differential value impact and the concomitant tax payable or refund/tax credit sought.

Suggestion

It is suggested that in case of B2C supplies the invoice wise details of debit / credit notes should be required to be filled up after a threshold limit of Rs. 2.5 Lakhs or any other limit as may be prescribed by the Law.

40. Modifications/ Correcting errors done in the previous Returns

It has been proposed in Para 3.1.1(9) of the Business Process on GST Return that there will be a separate table for effecting modifications/ correcting errors in the returns submitted earlier.

Suggestion

It is suggested that point no. 10 in Annexure II be read as "if the details of nil rated and exempt supplies have been provided in Table 5, 6 and 7, then information in column 4 may only be furnished.

Further, it is suggested that modification and correction of errors relating to previous returns should also be allowed in Annual Return.

41. GSTR-2 to be filled only if taxpayer has received the goods or services

It has been proposed in Para 3.2.1(4) of the Business Process on GST Return that the information submitted in GSTR-1 by the Counterparty Supplier of the taxpayer will be auto populated in the concerned tables of GSTR -2. The same may be modified i.e. added or deleted by the Taxpayer while filing the GSTR-2. The recipient would be permitted to add invoices (not uploaded by the counterparty supplier) if he is in possession of invoices and have received the goods or services.

Further in para 3.2.1(9) it has been proposed that in respect of inputs, there can be two situations. If inputs are received in one lot, the ITC will be given in the return period in which the purchase is recorded in the books of accounts. In case inputs covered under one invoice are received in more than one instance/lot, the ITC will be given in the return period in which the last purchase is recorded in the books of accounts. (GST

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Law to contain appropriate provision in this regard). A note in this regard has been incorporated in the Return form for the guidance of the taxpayer.

Suggestion

It is suggested that Credit may be given on payment of Advance for goods or services on the basis of advance receipt.

Further, it is suggested that the condition of receipt of good or services for claiming CENVAT should be done away. If the goods or services are not received within a specified time period (may be upto the filing of Annual Return), then CENVAT credit claimed may be required to be reversed.

For Example, A truck carrying goods move from Delhi for destination to Mumbai on 30th Sep, 2015, however due to some unavoidable reasons truck could not reach before 25th Oct, 2015 (After the date of filing of monthly/quarterly return). In this scenario Mumbai supplier should be allowed to take Credit on the basis of GSTR-1 filed by Delhi Supplier.

Further, to avoid the misuse of the provision, it is suggested that a limit, may be 25%, be fixed for addition of invoices by the recipient of goods and services in GSTR – 2 form.

42. Adjustments in GSTR-2 may be allowed till 19th of the succeeding month

It has been proposed in Para 3.2.2 of the Business Process on GST Return that auto population in GSTR-2 returns will be done from GSTR-1 on or after 11th of the succeeding month. Addition or Deletion of the invoice by the taxpayer will be permitted between 12th to 15th of the succeeding month. Adjustments would be permitted on 16th and 17th of the succeeding month.

Suggestion

It is suggested that the adjustments may be permitted up to due date of filing of Return form GSTR-3 instead of only 16th and 17th of the succeeding month.

43. Inserting 'Pay Now' button in the return form

It has been proposed in Para 3.3.2 of the Business Processes on Return that the return (GSTR-3) would be entirely auto-populated through GSTR-1 (of counterparty suppliers), own GSTR-2, etc., own ITC Ledger, own cash ledger, own Tax Liability ledger. However, the taxpayer may fill the missing details to begin with.

Further in Para 3.3.3 permit the filing of return both on online and offline mode. In case of offline mode, payment by debit to cash / ITC ledger can be done at an earlier date also and such debit entry number would be verified at the time of uploading of the return. In online mode, both debiting and filing can be done simultaneously.

Suggestion

For the ease of filing of return and payment of any tax due at the same time, it is suggested that the system should provide a 'Pay Now' button in the return itself so that the taxpayer is not required to open a new window for the payment of due tax at the time of filing of return.

44. ITC on Service in case of ISD (GSTR-6)

It has been proposed in para 3.6(3) of the Business Process on GST Return that the GSTR-6 will capture the final invoice-level inward supply information pertaining to the tax period separately for goods and services on which the ITC is being claimed. This will be auto populated on the basis of GSTR-1 filed by the Counterparty Supplier of the taxpayer. The same may be modified i.e. added or deleted by the Taxpayer while filing the ISD return. The recipient would be permitted

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to add invoices (not uploaded by the counterparty supplier) if he is in possession of invoices and have received the services.

Suggestions

- It is suggested that concept of Input Service Distributor (ISD) be extended to inputs and capital goods also. Further, it may be renamed as Credit distributor. Accordingly, the format of Return form GSTR – 6 (Annexure – VII) be modified.
- It is suggested that the recipient may be allowed to avail credit on the invoice basis only and the condition that he has received the service may be deleted. Hence the words in last line 'and have received the services' may be deleted.

45. Tax, fine, and penalty paid

The heading of Point (11) of Annexure – IV (GSTR – 3 – Return) of the Business Process on GST Return is Tax, fine, and penalty paid. However, details of fine is not required, instead interest figure is required to be filled.

Suggestion

It is suggested that the word 'fine' in the heading of this point be replaced with the word 'interest'.

46. Opportunity for rectifying error after filing return

It has been proposed in Para 3.9.1 of the Business Process on GST Return that on submission of return, an Acknowledgement Number will be generated. In case of submission of a return which has been prepared by using offline tools, acknowledgement of submission will take some time as GSTN System will need to first verify details like the carry forward cash as per personal ledger, ITC, tax payment details etc. In such cases, initially a Transaction ID confirming receipt of data will be conveyed to the taxpayer, (as also envisaged in case of filing of short paid / non –

paid return). Final acknowledgement of receipt of return will be generated after validation of data is completed, which will also lock-in the Transaction ID.

Suggestion

It is suggested that opportunity be given to the taxpayer for rectifying error in the nature of non-impact transaction, if any, arises on validation of data after filing the return. Similar provision for giving 15 days time for rectifying error have been provided under the Income Tax-act, 1961 which is reproduced below:

Where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, the return shall be treated as an invalid return and the provisions of this Act shall apply as if the assessee had failed to furnish the return.

Provided that where the assessee rectifies the defect after the expiry of the said period of fifteen days or the further period allowed, but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

47. Additional information in acknowledgement of e-return

It has been proposed in Para 3.9.2 of the Business Process on GST Return that the acknowledgement of e-return would contain the following details:

- (i) Return acknowledgement number (unique number generated by the GSTN), Date and Time

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- (ii) Transaction ID No., Date and Time
- (iii) GSTIN of taxpayer
- (iv) Relevant tax period details
- (v) Gross Supplies, Taxable Supplies and Tax paid / refund claimed (CGST, SGST, IGST and Additional tax separately) during the Return period

Suggestion

It is suggested that acknowledgement of e-return should contain details of CENVAT Credit to be carried forward to the next period.

48. Procedure for registration of GST TDS IN – GSTR - 7

It has been mentioned in Annexure VIII – GSTR -7, to provide GSTIN/GST TDS IN, however, no procedure has been prescribed for GST TDS IN registration.

Suggestion

It is suggested to prescribe detailed condition/procedure for registration of GST TDS IN.

49. Alternative option if authorised person is temporarily not available for submission of return

Para 3.11.2 of the Business Processes on Return prescribed the process for filing return through TRPs which inter-alia includes:

.....

- (i) The TRP will be able to upload all types of return, based on the information provided by the taxpayer who has authorized him to do so at the portal;

- (ii) The system will generate an email and SMS having basic data of return and send the same to the taxpayer;
- (iii) The taxpayer can accept the correctness of the return and submit the same by just clicking on the link provided in the e-mail. In case he does not respond to the e-mail, return will be considered as not submitted;
- (iv) In case taxpayer wants to respond to the SMS, he may do so by replying YES and mention the OTP sent alongwith the SMS. In case he does not respond to the SMS, return will be considered as not submitted;

Suggestion

It is suggested to prescribe the alternative option for submission of return in case the authorised person is temporarily not available at the time of submission of return as the return has to be filed in time bound manner. Sometimes it may happen that the authorised person is out of India or unable to attend business due to health reason.

50. One single authority for registration of TRP/FC

It has been proposed in para 3.11.4 of the Business Process on GST Return that Registration of TRP/FC will be done by CBEC / respective State tax authorities and the registration data will be shared with GSTN to enable applicants/taxpayers to choose one from the available list of registered TRPs/FCs. The GST Law may also contain suitable provisions about it.

Suggestion

It is suggested that one single authority viz. Central Government, State Government or any other independent authority, be empowered for granting registration to TRP/FC.

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51. Single audit either by authority of Central Government/State Government

It has been proposed in para 3.11.7 of the Business Process on GST Return that taxpayer is not required to submit any other document. The documents as required for scrutiny or audit shall be made available by the taxpayer to the audit party deputed by the CBEC /State tax authorities/CAG.

Suggestion

It is suggested that one single authority viz. Central Government, State Government or any other independent authority, be authorised for audit. Once the audit is done, a certificate should be issued to the taxpayer to the effect that taxpayer has been audited for a particular period and this should not subject to re-audit for any reason.

52. Arrears be allowed to be adjusted from CENVAT Credit

It has been proposed in para 3.11.9 of the Business Process on GST Return that Arrears pertaining to audit/reassessment/enforcement outcomes would be handled separately, and not mixed with the return related liabilities and payments. The payments made on this account, however, would be reflected in the return.

Suggestion

It is suggested that the arrears pertaining to audit/ reassessment/enforcement may be allowed to be adjusted from the CENVAT Credit.

53. Return be treated valid after payment of shortfall

It has been proposed in para 3.13.B of the Business Process on GST Return that Return without full payment of tax will be allowed to be uploaded but it will be treated as an invalid return and this return will not be used for matching of invoices and settlement of funds.

Suggestion

It is suggested that invalid return due to non-payment/shortfall of payment be treated as valid return after payment of tax due along with interest from the date of filing of return.

Further, it may be clarified whether penalty would be levied in case of invalid return due to non-payment/shortfall of payment or any other reasons.

54. Symmetric system for filing information in Return Form

It has been observed that in the return forms at some places information of IGST has to be filled up before CGST while at other places information of CGST has to be filled up before IGST.

Some extracts from GSTR – 3 are given below:

6.7 Total tax liability on outward supplies				
(Auto Populated from the Tables above)				
(figures in Rs)				
Value	IGST	CGST	SGST	Additional Tax
(1)	(2)	(3)	(4)	(5)
Goods				
Services				

Note. To be auto-populated from Tables 6.1 to 6.6 above of this Return

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TAX Liability Ledger (Auto populated in real time)

(figures in Rs)

	CGST	SGST	IGST	Addl Tax	Total
(1)	(2)	(3)	(4)	(5)	(6)
Opening Tax Liability					
Tax liability arising out of return					
Tax liability on account of mismatch of					
Other tax liability					
TDS Liability					
Penalty					
Fees					
Interest					
Less : Tax paid (cash plus ITC)					
Closing balance					

The heads for tax, TDS and other liability shall be shown as drop down items for facilitation

Suggestion

It is suggested that information across all the form may be required to be filled in same order like Value of Goods and Services, IGST, CGST and SGST or any other order.

55. Mechanism for reporting and allowing unutilised transitional credit in the GST regime

Suggestion

It is suggested to design appropriate mechanism for reporting and allowing unutilised transitional credit in GST regime.

56. The word 'fine' may be removed from the following extracted table of Return form GSTR – 3

11. Tax, fine and penalty paid (auto-populated from cash and ITC ledger)					
(figures in Rs)					
S. No.	Description	IGST	CGST	SGST	Addl Tax
(1)	(2)	(3)	(4)	(5)	(6)
1.	ITC Reversal paid (On account of adjustment)				
2.	ITC Reversal paid (On account of mismatch)				
3.	Interest				
4.	Tax for previous Tax periods				
5.	Tax for Current Tax period				
6.	Late fee				
7.	Penalty				

Suggestion

It is suggested that the word 'fine' be replaced with the word 'interest' in the heading of above table as there is no field for fine given in the table.