

Research Paper on Relief sought under Goods & Services Tax

The second wave of COVID-19 has severely affect the trade at the time when the traders was trying to restart their respective businesses greatly suffered with first spell of Corona and due to lockdown and other covid restrictions, the traders across the Country are unable to comply with various statutory compliances under GST Act. **Therefore, extension on the date of filing of various GSTR returns till August, 2021 without late fee and interest is the need of the hour. Also the Import duty on raw material required for manufacturing medicines and medical equipments may be suspended/ reduced till the time current situation is resolved. It is also requested that all the medical and surgical equipments required for covid and black fungus pandemic may also be reduced considerably.**

Considering the hardships faced by the assesses, we once again request you to kindly take the following issues into consideration keeping in mind the current situation of the Country and the infrastructure and means available to the businessman during these trying times:

1) The changes made in the GST Act in certain sections are against the spirit of ease of doing business, and will severely affect the survival of businesses. Therefore, the implementation of following provisions may be deferred:

a) The proposed insertion of clause (aa) to section-16(2) is against the basic structure and spirit of GST. How an assessee can be made dependent on the compliance of supplier. According to this section if the detail of such invoice or debit note has been not furnished by the supplier in GSTR-1 or using IFF / GSTR-2B the recipient will not get ITC. The proposed change may be withdrawn as the same will not be accepted by the trade.

b) Change in the definition of supply vide clause (aa) in sub-section (1) of Section 7 of the CGST Act retrospectively bringing/covering the services of Club and association to its members and vice-versa as supply will act as a deterrent in registering more association, the purpose of which is to empower the members. Even though this issue was settled by the Honourable Apex Court, introduction of this provision will unsettle the settled position. Moreover, the retrospective effect of this section would lead to litigation and will put a huge tax burden on the clubs and association which are formed for the welfare of the trade and for any profit purpose. Therefore, it is requested the proposed amendment may kindly done away with.

c) Sub-section (5) of section 35 of the CGST Act is proposed to be omitted which would remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional. This is a welcome step, as this will discourage last minute audit. This will lead to internal audits and timely reconciliation of books of accounts with the returns filed. In line with this, we request you to kindly remove section 65 of the CGST ACT as well i.e audit by departmental officers. This was though prevalent under central Excise and service tax but the same was not there under VAT. When the provision of assessment by department is there why this additional burden on the trade.

d) Amendment to section 129(1) (a) seeks to enhance penalty from 100% to 200% for releasing of detained or seized goods and conveyance and previously only tax and penalty. Tax could have been paid through electronic ledger but penalty has to be paid through cash ledger only. On the other and an amendment is made in section 107 of the CGST which says that to file an appeal against the order under section 129 minimum penalty of 25% has to be paid. Which means till the appeal is not decided the goods will remain detained. The Goods seized shall not be released on provisional basis upon execution of a bond and furnishing security in such manner. This means the penalty have to be paid in cash by the taxpayer u/s 129(2) if he wants the goods to be released. This will hamper the business and the working capital of the assesses. Even though there is a provision for an opportunity of hearing where penalty is proposed on detention or seizure of goods or conveyance u/s 129(4), the same is a futile exercise as the orders are always passed against the assessee. The only remedy left is Appeals which too has proved to be of no effect as till date the Appellate tribunal has not been formed. For every small case an assessee has to knock the doors of the high court .

e) The explanation proposed to be added in section 75(12) of CGST Act will create undue hardship for the assessee. As per this proposed amendment if by mistake an assessee shows wrong figure in GSTR-1 and GSTR -3B the difference will be treated as his self assessed tax and the recovery of the same can be made directly under section 79. There is already a facility for revision or rectification of invoices on or before the 30th September of subsequent year, so no action on such difference should be taken before the due date of filing of Annual return,

f) We welcome the change in sub-section (1) of section 50 of the CGST Act due to which the interest will be collected/charged on the net tax liability. But the proviso if read carefully excludes such returns which are furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period. Which means if return of any month is not filed on time and the officer starts proceedings under section 73 which covers cases of determination of tax not paid or short paid or erroneously refunded or input

