



# INDIAN INDUSTRIES ASSOCIATION

AN APEX BODY OF MICRO, SMALL & MEDIUM ENTERPRISES

(IN THE SERVICE OF MSME SINCE 1985)

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Ref: IIA/CEC/bly/f-

Date: July 29, 2016

Shri Manish Goel Ji,  
President,  
Indian Industries Association,  
Gomti Nagar, Lucknow

## Sub: Suggestions on GST

Dear Sir,

In terms with CEC agenda dated 28.07.2016, we are forwarding some suggestions on drawn during a meeting held among our eminent consultant, Mr Kapil Vaish and core-committee members of IIA, Bareilly.

Any new comments that may further come in discussion shall follow.

Kind regards,

Yours in IIA,

R. K. Goel  
National Advisor

Dinesh Goyal  
Divisional Chairman

Chandra Bhusan Saxena  
Chapter Chairman

Satish Agarwal  
Past Chapter Chairman

  
S.K. Singh  
Past Chapter Chairman  
Suresh Sundrani  
Past Chapter Chairman  
Bharat Bhusan Sheel  
Past Chapter Chairman  
Neeraj Goel  
Member CEC  
MANOHAR LAL DHEERWANI  
PAST CHAPTER CHAIRMAN  
SANDEP HARI

## FEW SUGGESTION/COMMENTS ON GST

1. Section 140(2) specifies several taxes which will subsume in GST. It is suggested that following taxes being levied by local Government in different States/Cities/Districts may also be subsumed under GST.
  - (i) Octroi
  - (ii) MandiSamti
2. From the perusal of GST law, it is not clear as to who will administer/regulate the GST. Presently assesseees are filing their return for Central Taxes with Central Government and for State Taxes with State Government. It would be appreciated that there should be one authority under GST law for one assessee. The entire purpose of GST will get defeated if the same assessee has to file returns to Central Government as well as State Government. It is therefore suggested that some criteria should be laid down so that assessment /administration for an assessee is carried out by one authority only. This criteriamay be on the basis of product or on the basis of previous year turnover or on the basis of nature of transaction.
3. As per Cenvat Credit Rules 2004, builders are eligible for cenvat credit of service tax paid on various services. Exclusions also do not exclude the input services (particularly work contract services) so far as the said exclusion relates to services provided by builders. The proposed provisions under GST (Section [16(9)]) appear to be worded in such a way that builder shall not be eligible to avail input tax credit. Necessary amendments may be made so that builders are allowed credit of ITC.
4. Presently all traders are liable for payment of VAT on sale of their goods. They are not liable for payment of Central Excise Duty nor have they been allowed to take its credit. From perusal of section 145 of GST & its condition therein, it appears that the said dealers would not be eligible for excise duty paid on purchase of goods lying in stock. But the said dealer would be liable for payment of IGST/CGST/SGST on sale of the goods lying in stock. It is suggested that



section 145 should be worded such that it allows credit of excise duty paid on goods lying in stock to the dealers also.

5. Specific provision should be made for allowing of credit of taxes on the stock lying with service provider.
6. Similarly specific provision should be made of CST paid on goods lying in stock on the date of transition.
7. Composition Levy- Section 8 provides for the optional scheme of composition levy for the assessee having turnover upto Rs. 50 lacs in the previous year. The rate prescribed is minimum 1%. We suggest that the minimum rate should be .5% under GST.
8. Refund- Section 38 provides for refund of taxes paid before the expiry of 2 years from the relevant date. One of the requirement is that burden of tax should not have been passed on to another person. Proviso to sub section 3(b) provides that if the refund is less than Rs. 5 lacs; instead of filing the documents to support that burden have not been passed, the applicant may file a declaration, certifying that the incidence of such tax has not been passed on to any other person. To avoid dispute and litigation in the matter, it is suggested that such refund claim may be got certified by a practising chartered accountant certifying the correctness of claim and the fact that the burden of tax has not been passed on to any other person.
9. Prosecution- Section 73 provides for prosecution of an assessee in different circumstances. At the outset it is submitted that there should be no prosecution of assessee under the tax laws. Assessee found to be evading tax or not paying taxes in time may be required to pay interest and penalty. In case prosecution is considered necessary, it is suggested that these provisions should be kept in abeyance for the initial period of three years.
10. Compounding of offences- Section 78 provides for compounding of offences. Even though we have suggested that there should be no provision for prosecution under GST Law, it is suggested that the amount paid under the compounding provisions should be as under:-

As per GST Provision	Our Suggestion
Minimum Amount Rs. 10000/- or 50% of tax involved. Whichever is higher.	Minimum Amount Rs.10000/- or 100% of tax involved. Whichever is higher.
Maximum Amount Rs. 30000/- or 150% of tax involved. Whichever is higher.	

11. Further proviso 'c' to section 78(1) excludes the facility of compounding if the assessee has been accused of committing an offence under the Act which is also an offence under the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985), the Foreign Exchange Management Act, 1999 (42 of 1999) **or any other Act other than the CGST/SGST Act.**

It is suggested that the words '**or any other Act**' should be deleted. In case, offence is expected under any other law also, the same may be specified.

12. Section 90 provides for the provision relating to advance ruling. It is suggested that there should be some provisions providing for withdrawal of application by the applicant.
13. Indemnity- Section 125 grants indemnity to the officers of department for the actions done in good faith. It would be noticed that there are several provisions providing for payment of interest and penalty as well as prosecution and arrest of the tax payers. Similarly there should be some provision for accountability of the officers of department. Many a times they make high pitched assessment or raise infructuous demand which do not stand to the test of Law and ultimately set aside. It is suggested that there should be some provisions restraining the officers of department from such high pitched assessment/demand and make them accountable for such infructuous demand.
14. Rectification of mistake- Section 129 provides for rectification of mistake within three months from the date of issue of such decisions. It also provides that rectification may be done either on its own motion or it may be brought to be



notice by the affected person within period of three months from the date of issue of such decision. It is suggested that the time limit should be extended to six months and it should be with reference to the date of receipt of the decision by the affected person.

15. Section 80 provides for revision of orders prejudicial to the interest of revenue. Such powers are to be exercised by the commissioner in respect of the orders passed by his subordinates. This provision is similar to section 263 under the Income Tax Act 1961. The said Income Tax Act 1961 contains section 264 which empowers the commissioner to revise order in favour of the assessee. Similar power should be given to the commissioner under the GST Act also.
16. Provisions of settlement of cases are incorporated in IGST only. Similar provisions should be incorporated in SGST/CGST also.
17. Provisions relating to input tax credit provide that credit shall not be allowed if supplier has not made payment of taxes (refer section 16(11)). It would be noticed that it is the responsibility of supplier of goods and services to pay the corresponding taxes. Once the recipient of goods/services has proof of having received goods/services along with a tax invoice, there should not be any restriction on availing the credit. GST Act has sufficient provisions to recover such taxes along with interest and penalty from the suppliers of goods/services.
18. Section 116 provides for GST Compliance relating score card on record or compliance with the provisions of this Act. It needs to be clarified as to what would be the impact of said GST compliance rating.