GST PAIN POINTS & SUGGESTION'S THEREOF

(Submitted by Indian Industries Association to Mr. Mahendra Singh, IRS Member GST, CBIC, New Delhi on 14th December 2018)

PREAMBLE:

The first year of GST implementation was full of doubts & dilemmas. Apart from Tax payers, Tax practitioners and Tax officers were also seen struggling to answer various questions. The Govt. has taken every possible step to do away with the confusion by publishing various literatures, write ups, flyers, webinars etc. But the problems still persists. The complexity was further added by numerous notifications, circulars, press releases etc. which always cannot be tracked by common masses.

Indian Industries Association (IIA) have acted proactively to initiate dialogue with more than 8000 MSME Members of IIA to gather the issues / pain points of MSME's and submitted these to the GST Council from time to time with suggestions. Many of these issues have been accepted by the GST Council. All the steps so far taken by the Govt. in making GST simpler are really a welcome move. IIA is thankful to the Govt. for understanding the problems of common mass and resolving the issues. But there is still a long way to go and GST law is yet to be made simpler and implementable. It is further seen that problems are coming in its compliance, tremendous increase in paper works, improper functioning of GST portal etc.

In view of various pain complexities occurred in GST Regime Shri Sanjay Kaul, Chairman, Banking & Taxation Committee of IIA & Past President IIA submitted a detailed paper on issues in GST to Member GST (CBIC, New Delhi) Mr. Mahendra Singh, IRS in An Open House Discussion on GST organized by Indian Industries Association at IIA Bhawan, Lucknow on 14th December 2018. In this discussion Senior officials from DG GST Policy Wing, State GST, Tax Research Unit and GSTNShri P.K. Jain, IRS Principal DG Audit, Shri S.K. Rahman, IRS ADG GST, Shri Vashishtha Chaudhary, IRS Sr. Vice President GSTN were also present.

Details of Issues in GST represented to Member GST

1. MSMEs yet to recover from the twin economic measures-
   a) The impact of demonetization was largely ironed out by mid-2017; the introduction of GST brought with it a fresh wave of challenges, especially for the informal sector.
   b) Initial confusion and infrastructure glitches that took some time to stabilize, there were reports of delays in receiving Input Tax Credit (ITC), which directly affected the MSME industry.
   c) The advent of GST also affected supply chains, notably where small traders acted as suppliers of intermediates to larger manufacturing companies.
   d) The GST filing data is yet to become publicly available, any estimation at this stage would be inaccurate. In addition, with most MSMEs not being listed entities, their monthly or quarterly business performance filings are also largely unavailable.
   e) In the absence of such data, MSMEs still have access to related parameters to assess the impact of the twin economic measures.
   f) The following factors can help in assessing the effect of GST and demonetization on the MSME sector:-
      (i) Reduced Liquidity due to Daily Sales Outstanding (DSO) –

- It indicates number of days that it takes a company to collect payments in lieu of goods or service provided. High receivables periods directly affect the working capital of most firms in the sector.
- D&B data shows that the trade receivables scenario for micro and small companies has deteriorated, following demonetization and GST. For micro and small companies, around 70% of trade receivables were open for more than 90 days during Q1 2018 as compared to just 45% during 2015. In case of large companies, these percentages remained flat at around 55%.
- As per the Government's directive for the new tax regime, exporters are to receive 90% of the input tax refund within seven days of filing their returns. There had been significant delays in receiving the ITC, however, which adversely affected the working capital of firms. This scenario affected the liquidity positions of small and medium-scale exporters more than it did their larger counterparts.
- Exporters faced implementation glitches during the GST implementation period. It also implies that sectors with high working capital requirements could have been hit more severely due to non-refunds than those with low working capital requirements.
- Increased cost of compliance and an evolving refund mechanism resulted in a spike in working capital needs of exporters. Further, labor-intensive sectors were hit even more as a result of note ban.
- In the six months following implementation of GST, bank credit to MSMEs went up by 3.7% during the August 2017-January 2018 period as against a decline of 3.7% during April 2016-July 2017 due to shortfall in working capital funds. Further, the Dun & Bradstreet CFO Optimism Index, Q4 2017, indicates that the percentage of CFOs cited need for raising short-term funds stood at a six-quarter high during the July-September 2017 quarter.

(ii) Increased cost of borrowing: higher spread over G-sec yield-

- The transition to the GST regime affected the MSME sector more than any other, since its players lack compliance infrastructure to map their outstanding inventory with tax invoices. Furthermore, its weak credit profile and risk weightages attached to it by banks, pushed it closer to higher credit change options from the non-banking finance segment.
- The difficulty that MSMEs face in accessing finance is an impediment to their global competitiveness. It is estimated that the lending rate to MSMEs in India varies broadly between 11% and 18%, depending on credit history and the type of loan. This also compares unfavorably with the interest rate scenario in other economies. Further, credit to the MSME sector in India has been low because banks are understandably more risk averse at this time.

(iii) Declining Sales volume of MSME sector-

- Vulnerable businesses which lack pricing power took the demand downturn harder because of high transaction costs and procedural delays (during GST implementations period). This led to high fixed costs that they were unable to control. D&B data shows that sales volume in the MSME sector declined by 0.2% during FY17, as compared to a positive growth of 7% for large companies.

- To help the sector, largely spread across rural and semi-rural India, the Government should offer an initial phase of handholding and on-ground support. More favorable export policies and adequate funding support from banks are required. Banks should also take initiatives for prudent credit relaxation for better segments of MSMEs.

2. **Pertinent Issues for Small Business** –
   (i) Thresh hold limit of 10 lacs a farce
   (ii) If one has to supply and goods or services to any Central or State Government of Rs.1/- then GST registration is mandatory, the what is the meaning of exemption limit.
   (iii) GST implies additional operational costs for Small businesses. In a developing country like ours, not all SMEs will be able to afford the cost of computers and accountants required to implement GST (make bills and file tax returns). 28% GST rate on some products like plywood, automobile parts, and electronic items forces potential buyers to opt for unregistered dealers.
   (iv) It is too difficult to assign MRP to handmade products like local shoes, Banarasi Sarees, etc. Most small artisans are illiterate and therefore unable to write MRP on their products and/or do any paperwork. Dealers are confused how to rates of such products.
   (v) Small businesses that have a small turnover and need not pay GST face trust issues. Buyers demand bills from even those sellers who are exempted from GST. Without proof of certificate of GST exemption, small shop owners find themselves stranded and immobile.
   (vi) Small business should be permitted to file their tax payment quarterly and should be permitted to pay tax quarterly.
   (vii) Goods and services tax is currently going under tremendous pressure to go through some of the burning and solution seeking problems of the year-old implemented indirect tax regime. The finance ministry, as well as the GST council, needs to take care of the GST return filing issues and forms related consequences which have to be faced by the taxpayers alike.

3. **Priority topics of GST on which the GST council and the finance ministry must work immediately:**

   (i) September 2018 Return Due Dates
   It might be wrong to the taxpayers as they cannot claim the ITC before matching the invoice, for the date being shortened of October 20th, 2018. Also, the credit of ITC claimed or unclaimed is to be claimed or reversed according to the filing dates, sot eh dates must be extended till 31st March 2019 for error-free filing.

   (ii) Composition Scheme
   Certain disparity in the composition scheme U/s 10 putting unnecessary financial burden on composite supplier. A simplified composition scheme has been provided upto turnover of 1 Cr. However, it has been discriminated against supplier of services other than restaurants as it has not been made applicable to them.
   On one account when they buy goods from Composition supplier, they will not be able to take input credit and on the other account they will have to charge 18% on their "composite supply". The small composite supplier will not only have to follow

the detailed accounting and paper work but his sales will be expensive by 18% putting strain on his already short Working Capital, especially when selling to Government Departments. This would be absolutely unfair and discriminatory.

Composition scheme dealers are required to give the details of purchase done in the filing return date of GSTR 4 for the September 2018 but the dealers are not allowed to claim the ITC credit so it is complex to manage the detailed record.

(iii) Credit Reversal

The credit claimed on the purchases in which the payment has not been given to the suppliers within the 180 days must be reversed. And to keep note of this things may indulge an extra burden on the organization.

(iv) No Option for Extra Tax Paid and Refund Challan

If in case the taxpayer had paid excess taxes there is no option to correct the paid challan and problems coming in the claim of refund.

(v) GSTR 2A Availability

As the annual GSTR 2A cant be downloaded and has to be filed monthly, this has created difficulties to match the returns with the books of accounts with 2A returns.

(vi) GSTR 3B Issues

Under this return type, there is no modification or amendment facility available and in case the changes are to be made then there is a lengthy one month period time for the amendment making it interest liability issue.

Though the Central Govt. has come out with a Circular No. 26/26/2017-GST dated: 29.12.2017 wherein detailed procedure of correction is specified. It has been explained that mistakes of the earlier tax returns can be cured by making addition /subtraction in the figures of the current tax period. But this circular has given birth to some new problems.

So it is suggested that Govt. should either make provision of filing revised /rectified GSTR-3B else add a separate tile/column for prior period adjustments in the GSTR-3B so that mismatch can be avoided.

(vii) GSTR 1 Issues

It is worthy to note that the credit note/debit note or B2C sales made cannot be modified again in the GSTR 1 making it a serious task while filing.

(viii) Issues in TRAN 1 form

There will be issues in the Trans 1 notice in Form 603 as it is now sent by the department to everyone making it a trouble for the real taxpayers. As the notice requires all the previous records to be available making it a tiresome issue for the taxpayer to provide the details again.

(ix) E-way Bill and Interstate Trade

The GST E-way bill is a major concern for most of the companies which are regularly into the business of transporting goods and sending material over the locations, the transport company is also trying to figure out how it would deal with the GST E-way bill provisions. As soon the bill expires the transport company or the trucker himself has to generate the GST E-way bill on his own. The GST Council must have taken all these concerns into strict consideration and ensured easy and simple e-way bill generation procedure which has been effective from April 1, 2018.

(x) Evaders Bonanza

The consistent policy rollbacks and amendments, powered by the glitchy GSTN Network, have enabled massive tax evasion. The benevolent composition scheme, as well as windows for filing quarterly returns, raise concerns about the intention and execution prowess of the government at the centre. The increased pool of registered taxpayers has had little but no impact on Revenue generation. Only 70% of taxpayers file returns regularly. A major headache is, however, the mismatch between initial and final returns filed by taxpayers. There is an estimated mismatch of Rs 34,000 crore tax liabilities reported in GSTR-1 and GSTR-3B. The present GST structure has no mechanism for checking discrepancies found between GST Returns for July-Dec and Final Returns. About 84 % of the taxpayers were unable to correctly report revenue statements. The discrepancies and e-way bill failure demand that the GST Council now needs to take rigorous measures to tackle the menace of tax evasion through under-invoicing.

(xi) Facility of a Common Cash ledger to be introduced

Presently, under GST law there is a concept of Cash Ledger wherein cash payments are being made by the tax payers under the three major heads viz: CGST, SGST & IGST. These major heads are further sub-divided into five different minor heads viz: Tax, Interest, Fee, and Penalty & Others. Now, a tax payer has to pay tax under one major head and under one minor head combination. Further tax paid is credited to that particular major & minor heads and is adjustable with the liability under such heads only. Even if a tax payer has a surplus amount under one head and deficit under the other he has no option to offset. He needs to pay the deficit amount and to claim the surplus amount either as refund or to carry forward it for future liability. Due to such a bar the tax payer’s not only working capitals is blocked but also they are saddled with the burden of claiming refund.

Thus it is suggested that the Govt. should collect money under one common cash ledger and allow assessee to adjust the liability there from as per their need and requirement.

(xii) No further interest liability once money is credited to the Cash Ledger

The provisions of GST in respect of payment of tax and levy of interest are quite peculiar. The assessee has to pay interest till the time amount is debited to his Electronic Cash Ledger. It is immaterial how much balance lying to his Electronic Cash ledger but the interest liability will be calculated till the date amount is debited to Electronic Cash Ledger. Until and unless liability gets offset/debited the assessee need to pay interest from the due date of payment till the date of offsetting liability. For example, if Mr. A having IGST tax liability of Rs 1000/- for the month of

May'2018 and his cash ledger is already having balance of Rs 1100/- under IGST. Now, the due date for filing his tax return for the month of May'2018 is 20th June 2018 and if he do offset his liability on 25th June 2018 he have to pay interest on account of delay of 5 days. This is really a harsh provision and should be amended. An assessee who has already parted with the money and his cash ledger is also having balance he should not be called upon to pay interest. The difficulties become double where an assessee runs its affairs by means of bank finance /loan. In such cases on the one hand he/she needs to pay interest to bank and on the other hand due to not offsetting or late offsetting of liability the GST law demands interest inspite the fact the assessee has got sufficient balance in cash ledger.

So it is suggested that Govt. should change/amend GST rules suitably and make sure that wherever the assessee has balance in cash ledger no interest will be collected even if offsetting of liability is done after the due date.

(xiii) Late Fee should not exceed Tax liability of an assessee:

Though the Govt. has already reduced the quantum of late fee but still there are some issues involved with the levy of late fee under GST. The late fee on account of delay in filing tax returns is causing some disturbances in those cases where the figures of late fee exceeds the payable tax. In such a situation it is really harsh to demand late fee more than the tax payable. If we refer the Income Tax law also (which is a Central legislation) section 234E is having provisions for late fee payments for delay in submitting TDS statements. But under that section also the maximum amount of late fee payable is restricted to the quantum of tax payable.

Thus it is suggested to rationalize further the provisions of late fee payment under GST.

(xiv) Settlement of earlier taxation laws disputes through 'Kar Samadhan Scheme'

GST is going to complete its first year and now the assessment and appeal provisions are likely to play their respective roles. But until and unless old long pending disputes are settled tax officials will hardly find any time to deal with GST disputes. Therefore Govt. should introduce a **'Kar Samadhan Scheme'** whereby one time opportunity should be given to the assessees to settle their old pending disputes. Further such scheme should be made available only for a prescribed time frame. This will give an opportunity to the assessee to settle their disputed matter without any further litigation. Not only the time and money will be saved by this but early collection of taxes will also be ensured.

(xv) Centralization of Advance Ruling Authority

Advance ruling authority under GST is the first forum to get clarification on any disputed matter. Thus the ruling issued by the authority is of paramount importance. But since recent past it is seen that some of the rulings were not backed by the provisions of the law. Furthermore, being a State specific body, different authorities from different States are interpreting the same subject matter in their own individual manner. It has resulted in some discrepancies in the ruling issued which created chaos and confusion and more litigations. This has also somewhere disturbed the theme of 'One Nation- One Tax –One Market. Hence the Govt. should seriously take note of this matter and would try to constitute a Centralized Advance Ruling Authority so that all the rulings can be issued from a common platform.

(xvi) GST and Fiscal Fractures

The GST revenue shortfall promises large dents in the Centre and states' fiscal applecart. The Center and State budgets will be pegged down by the gap in Tax revenue. The common man will find himself on the receiving end if such gap in revenue continues. To bring states on the same wavelength and approve GST, the government had offered state compensations to the tune of Rs 60,000 crore for July to March in FY18. In order to stay true to its pre-GST promises, it is estimated the Central Government will have to make payment to the tune of Rs 90,000 crore further in FY19.

Understandably, the Budget 2018 unleashed record taxation of over Rs 90,000 crore in the form of capital gains tax, increase in customs duty, cess and surcharge. The fall in revenue has further made states apprehensive about bringing petroleum products and real estate under the GST ambit.

(xvii) Adapting to IT Ecosystem is Hard

Indian economy is majorly driven by small business units i.e MSMEs. It will be unfair to expect small-scale business firms to make the transition to an online IT platform and expect no errors in return filing. It is an uphill task for the majority of our working population which has little hands-on experience with IT solutions. The cost of SRP deployment is a major concern for micro-small-medium scale enterprises.

(xviii) The Confusion

For a frictionless and less burdened GST, the government is looking to shore up revenues to the tune of Rs 1 lakh crore per month. It would be interesting to see if the Government still has the courage to take stern measures against tax evaders and other business firms involved in anti-profiteering activities. The GST was projected as India's second tryst with destiny. However, the financial budget of 2018 has thrown a wide plethora of taxes at the Indians to gobble up. Increased taxation it seems is the only way of generating operational revenues for a complex system like GST in the nonlinear Indian Demographics.

Conclusion

In conclusion, the present GST appears to deliver little on promises. The GST rollout it seems was done with very little homework both at operational and technical ends. For the time being, the GST Council needs to pay heed to public as well as taxpayer grievances. It must take note of the fact that policy must be designed to reduce the compliance burden on the taxpayers. Compliance strategies must include compulsory education and assistance programs and risk-based audit programs. It must also run a communications campaign that enlightens the various effects as well as benefits of GST amidst businesses, consumers and important intermediaries.