AMBAJOGAI TAX PRACTITIONERS ASSOCIATION
Address : "Suyog", Teachers Colony, Ambajogai 431517, Dist. Beed
Tel. 02446 - 247441 / 248773 - E-mail : ambajogaitpa@gmail.com

CA. V. B. Walwadkar, President, 09422741012
ITP. P. G. Randad, Secretary, 09422244162
ITP. S. L. Bajaj, Treasurer, 09422233290
CA. Swapnil Munot, GST Committee Head, 09021265137

Date 23rd Oct 2021

To,

Shri Dr. Bhagwat Kishanrao Karad

Hon'ble Union Minister of State Finance,

Ministry of Finance, Government of India,

North Block, New Delhi - 110001

Subject: Important 10 Issues faced by Taxpayer in GST since 2017 with Recommendation

Respected Sir,

We, Ambajogai Tax Practitioners Association is one of leading Taxpayers and Professionals association in Marathwada Region of Maharashtra. Association's primary objective is, to help the member to get acquaint with changes in various laws as well to help the government, by representing, issues faced by taxpayer as well as professionals. We organise various programs and seminars to ensure that, chances in tax laws are communicated to Tax Professionals and Tax Payers.

Its indeed proud thing for we 'Marathwada Janta' that our leader is now in prestigious and important Ministry. Sir, we congratulate you for getting such important domain to represent and work in Union Government.

We are thankful to government for recent GST Late amnesty. However still there are numerous paining issues in GST. Todays, we are representing before you Important 10 issues in GST, which are faced by Taxpayer and Professional since 2017, which is directly impacting the business and eventually growth of nation. We request your honour to kindly try provide relief on the same -

1) FACILITY TO FILE REVISED RETURN:

- **DETAILS OF ISSUES:** Under GST Law, facility of Revised Return is not provided. If taxpayer makes any mistake while filing of GST Return, then he should be provided facility of filing of revised return, to correct his mistake is reporting. If any mistake happens in Sales, ITC details in GST Return, its revision is not allowed. Circular No 26/2017 dt 29.12.2017 issued to deal with such case and asked to make correction in subsequent GST Return. However subsequent return may not have said details and in such case, circular ask to do it in next-to-next return. This is cumbersome to follow. This also makes difficult to match the return data with books. Amendment facility in subsequent period, doesn't help taxpayer to keep control of reporting and correction. Thus, Revision is better and long demand of Tax Payer and Professionals.

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- **RECOMMENDATION:** We understand that government doesn't want to give revised return facility as it will impact recipient's ITC. However, If revised return of Form GSTR 3B is allowed, it is not going to have impact as such on recipient tax credit. Recipient derives tax credit from GSTR 1. Therefore, revised return of GSTR 3B can be provided without any issue. Income Tax Act allows revision of ITR. Even erstwhile VAT law allowed to file revised return. This is also helpful for taxpayer to ensure and check respective months liability is paid. However, till date taxpayer under GST not provided of such facility yet. It is very important issue faced by all taxpayer. To Err is Human. Therefore, we request government to provide facility to correct the mistake and error by way of Revised Return Facility.

2) INPUT TAX CREDIT MISMATCH ISSUE

- **DETAILS OF ISSUES:** It is known fact that, when GST was introduced, required IT infrastructure was not. Monthly Forms of GST which initially thought to be implemented (GSTR 1, GSTR 2 and GSTR 3), could not see light of the day after July 2017. GST law has concept of giving 'rating/grade like thing' to taxpayer, to know who is compliant and non-compliant taxpayer. However, even after 4.5 years of GST, this facility, provided by law is also not been provided so far.

  However, since beginning GST Law is stretching that, Buyer will get input tax credit only if it is paid by Supplier. However, buyer taxpayer is not provided proper infrastructure by government to comply this.

  Taxpayers, job is to be the business and pay tax to government. GST Law cast additional, big and 100% responsibility on taxpayer to ensure that his supplier pays tax to government. This is not ease of doing business. GSTR 2A facility was also provided in year 2019. Till date, government has not provided Best Reconciliation Software to GST ITC Reconciliation, which is basis of ITC match mistake. **Isn't it failure on part of government machinery**?

  Communication with supplier facility is provided on portal, but it was very recently and that no it is not backed by any legal provisions.

  However, now taxpayers from whole India are receiving notices from authority for reversal of Input Tax Credit from 2017, if not paid by supplier and big demand is raised. While is totally unreasonable, in the absence of above explanation.

  <u>**In many cases, supplier has paid tax under B2C category, but recipient is not allowed such ITC, as it is not reflecting in his account. In some cases, supplier has paid tax but on different GSTIN, than of his customer by mistake, but time limit to do amendment is over.**</u>

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- **RECOMMENDATION:**

  a) Some mechanism should be provided for correction of B2C, wrong GSTIN from 2017 to 2021 at earliest. In Maharashtra VAT Law, Ledger confirmation like concept was introduced. GST Council and government should urgently think of bringing some mechanism to provide relief in these genuine cases.

  b) Since proper infrastructure was not provided and GST being new law, 100% responsibility should not be casted upon buyer for period 2017 to 2021 for payment of tax by supplier. It is first and foremost duty of GST Officer to catch such people who don't make tax payment to government. If government thinks to recover said ITC from 2017 to 2021 from buyer businessmen, without being provided proper infrastructure, it will amount to shut down/killing of many small taxpayer's business.

  c) No coercive and hard action should be taken by authority from 2017 to 2021 for ITC mismatch issue. Government should provide some mechanism at earliest.

3) ITC Denial, IF PAYMENT IS NOT MADE TO SUPPLIER WITHIN 180 DAYS

- **DETAILS OF ISSUES:** Sec 16 requires, reversal of ITC (with interest) if payment is not made to supplier within 180 days, from the date of invoice. This provision is introduced to support MSME to get payment on time from customer. However, practically, this provision is hitting hard to MSME. Most of MSME (might be more than 75 - 80%) are not able to payment to their supplier within 180 days. Some time contract provides more time for payment. However, GST Law require to reverse ITC along with interest, if not paid within 180 days.

- **RECOMMENDATION:** There are other law to govern payment compliance to small taxpayer (MSME Act) and therefore GST law should not specify any time limit for payment to supplier. Also Interest should not be asked for this. This provision, instead of supporting the MSMS, is on ground level / practically, found to be not convenient and raising heavy interest liability on MEMS on account of not compliance. Therefore it is requested that, GST Law should not monitor time limit of payment between supplier or customer or higher time limit (say 2 year) should be provided.

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4) HIGH RATE OF INTEREST FOR LATE PAYMENT 18%/24%, WHERE AS FOR LATE REFUND, INTEREST RATE IS JUST 6%.

- **DETAILS OF ISSUES:** In case of wrong availment of ITC/delayed payment of tax or any other reason, Interest is demanded at 24%/18%. This is very high. Due to financial crisis, tax payer is not able to make payment of tax and such higher interest rate, is very harsh and demotivating the compliance.

  Many times it is observed that taxpayer wants to pay Tax plus interest, due to such high interest, it makes him impossible, leading to stress among taxpayers.

- **RECOMMENDATION:** Even bank rates are now very lower. Around or less than 10% on loan. <u>Therefore, it is requested that Rate of interest under GST should be rational to recover government loss</u>. <u>It is recommended that interest should be equal to interest rate on refund or 1.5 time of interest rate on refund but it should not be more than 12% in today's scenario where Bank interest on FDs/Loan are reduced drastically.</u>

5) E WAY BILL NOT BE REQUIED, IN CASE OF APPLICABILITY OF EINVOICE

- **DETAILS OF ISSUES:** Now E Invoice is made applicable to all Tax payer having turnover more than 50 Crore. E Invoice and E Way bill contain 99% same information. However, still both the document is required to be complained with, resulting in increase of compliance. Government intention of stopping bogus billing is now to large extend taken care by E Invoice.

  <u>In 2019 Business Speech, Honourable Finance Minister in her speech in Parliament has categorically said that, "There will be no need for a separate e-way bill", once E Invoice is introduced</u>. However, till date both document EInvoice and Eway bill is asked from Taxpayers and Transporter

- **RECOMMENDATION:** <u>For taxpayer to whom E Invoice is made applicable, for him E Way bill should be relaxed, since both the document is serving the same purpose.</u>

  <u>Government should comply what they stated in parliament</u>. Also, Revenue Secretary in Dec 2020 has given statement that, government is thinking on relaxing E way bill, if E invoice is prepared. We recommend government should implement it at earliest. This recommend if accepted, will ease Make in India, and India's Ease of doing business Ranking globally.

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6) MINOR DISCREPANCIES IN E WAY BILL CAUSING PENALTIES IN LAKHS AND CORES TO HONEST TAXPAYER

- **DETAILS OF ISSUES:** Sec 129 of CGST Act levies very high penalty, if minor discrepancies observed in e way bill. This lead to increase in corrupt practices as well. Circular No 64/38/2018 GST dated 14.9.2018 issued to levy Rs 500 penalty for some discrepancies, however it doesn't cover all clerical mistake.

- **RECOMMENDATION:**
  a) Scope of said circular to be increased to cover below:
     - Error in invoice date
     - Expiry of e way bill (but still vehicle was on road and travelling)
     - Tax rate is wrongly selected in E way bill but description, value and HSN is correctly mentioned on E invoice and E way bill

  b) Also, maximum penalty should be levied in other clerical error, should not exceed 10% of tax amount or Rs 10,000/- whichever is lower. (Presently, same is 100% and also instead of reducing, it is increased to 200% but it is not yet made effective)

7) WAIVER/REDUCTION OF LATE FEE FOR GSTR 4, GSTR 10 FOR 2017 TO 2021

- **DETAILS OF ISSUES:** Government has provided late fee amnesty scheme to reduce late fee of GSTR 3B. However, most of taxpayer of GST (might be more than 50%) are composition Taxpayer who are required to file GSTR 4. However, in recent late fee amnesty, they are not covered. This is causing injustice on said category of taxpayer without any reason.
  Also, on cancellation GSTR 10 is required to be filed. Late fee in such case is too high. Same should be reduced to make it rational.

- **RECOMMENDATION:** We strongly request that Government should consider late fee amnesty for these categories of returns at earliest.

8) APPEALS ARE NOT BEING HEARD, IN THE ABSENCE OF FORMATION OF GST TRIBUNAL

- **DETAILS OF ISSUES:** Most of the GST Appeals (other than Registration Revocations) are not being heard by officer. This is amounting to blocking of funds. Appeal mechanism is foremost right

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of taxpayer as matter of natural justice, however it is observed in many cases that authorities are not taking appeal cases for hearing (mostly E Way Bill appeals) as it is communicated orally to appellant that, since tribunal is not formed, we are taking Appeal for hearing.

- **RECOMMENDATION:**
  a) Government should provide immediate instruction that all appeal cases should be taking for hearing within 1-2 months and should be completed at earliest.
  b) Now soon 5 years will be completed from GST Implementation Day 1st July 2017. It is now high time for government to form and make GST Tribunal functioning

  We request government that please don't delay opportunity of getting justice to taxpayer by way of judicial mechanism. It is said, Justice Delayed is Justice denied.

9) ITC ON BUSINESS PROMOTIONAL EXPENSES / SAMPLES

- **DETAILS OF ISSUES:** It is common practice that, business is required to give samples to its customer and distributors. Also, on some occasion's business gifts are given to stake holders by business. All these expenses are done in order to promote the business only. As per Sec 16, All ITC is allowed, if it is for furtherance of business. However Sec 17(5)(h) is restricting ITC on gift and sample, which is without any rationale, whereas cost of all such expenses is already included in Finished goods on which GST is paid.

- **RECOMMENDATION:** ITC on All Business Promotion expenses should be allowed including Gift / Sample, which are given in normal course of business, since without this, business cannot be done. While calculating costing for finished goods, company ensure to add cost of such expenses and indirectly GST is also paid on it. Therefore it is requested that ITC on such basic expenses should be allowed.

10) FORM OF ANNUAL REUTURN AND RECONCILIATION

- **DETAILS OF ISSUES:** Current Form of GST Annual Return has major issues. It doesn't provide any tax calculation. Many Taxpayers found it is difficult to fill this form. Tax paid voluntarily through DRC 03 is not linked with Annual Return. Annual Return is important for Government officer too to check that whether taxpayer has paid all taxes correctly or not. However current form of GSTR 9, lacks all such ingredient.

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- **RECOMMENDATION:**

Government should come with new and more logical Annual Return Form. Annual Return Form should provide tax calculation. There should be some flow, some logic and proper patter of reporting of information on GST Portal. It should also consider Tax paid voluntarily earlier through DRC 03

If form becomes easy, its compliance will be simpler. [We request to refer Maharashtra VAT Audit Report Form 704. It was having some flow and easy to fill]

Government is also learning in GST and that's why hundreds of notification/circulars are issued to make amendment. However, this sympathy is not provided to taxpayer. **<u>GST Law should not try to get success at the cost of lakhs of Taxpayer</u>**. **<u>GST is there, because of Taxpayer</u>**. Therefore, it is very important that government and GST Council should give at most attention to basic issues of taxpayer which are not resolved since 2017. Else this will increase lot of stress and dissatisfaction among trade and professionals.

Sir, we humbly request you to kindly consider above issue and take it to GST Council and try to provide give relief for same. Most of GST Issues will be resolved if government consider above issues and provide positive relief on it.

For Ambajogai Tax Practitioners Association, Ambajogai

CA. V. B. Walwadkar
President

ITP. P. G. Randad
Secretary

CA. Swapnil Munot
GST Committee Head

Copy to:

a) **Hon'ble Smt. Nirmala Sitharaman, Union Minister of Finance** and Chairman, Goods and Service Tax Council, Ministry of Finance, Government of India, North Block, New Delhi - 110001

b) Hon'ble GST Council Secretariat
5th Floor, Tower II, Jeevan Bharti Building, Janpath Road,
Connaught Place, New Delhi -110 001

c) The Chairman of Central Board of Indirect Tax and Custom,
North Block, New Delhi - 110001

d) Hon'ble State Finance Minister, Maharashtra
Mantralaya Mumbai - 400032