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We would like to give our suggestions for the amendments required in a tabular form as under explaining the present provisions, difficulties faced and suggested amendments

Sr. No.	Existing provision under the CGST Act/IGST Act ("the Act")	Difficulties Obstacles / Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
1	Section 10 of IGST Act, 2017	<p>Section 10(1)(a) of IGST Act provide that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;</p> <p>Section 10(1)(c) of IGST Act provide that where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;</p> <p>Therefore, Clarification is required regarding place of supply in case where registered person purchases goods over the counter (On OTC Basis) in one state and thereafter transported/move the said goods to another state by the recipient.</p> <p>GST Council in its 37th Council meeting has discussed the above issue but no clarification till date is given on the said issue.</p>	<p>The section 10 of IGST act should suitably amended to provide for interstate supply when the buyer gives declaration in prescribed format that he is causing movement of goods and taking the same to other state.</p> <p>Circular may be issued by CBIC to clarify this issue for determining intra state and interstate supply for earlier years.</p>

		<p>IGST Amended Act, 2023 dated 18th August, 2023 (w.e.f. 1st October, 2023) has inserted Section 10(ca) which provide that where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.</p> <p>Explanation. —For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person</p> <p>There are series of show cause notices issued for earlier years based on audit para issued by GST audit party.</p>	
2	<p>Section 54 read with Rule 89(4) and Rule 89(4B)</p>	<p>Rule 89(4) of CGST Act, 2017 provide <i>that in the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of subsection (3) of section 16 of the IGST Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the formula prescribed</i></p> <p><i>Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover</i></p> <p>Where, -</p> <p>A) "Refund amount" means the maximum refund that is admissible;</p> <p>B) "Net ITC" means input tax credit availed on inputs</p>	<p>The section 54 or rule 89 (4) & 89(4B) should be suitably amended to provide for sequence of claiming refund. Circular should be issued by CBIC to clarify this Issue especially for earlier periods.</p> <p>Further the Rule 89(4B) should provide for FORMULA for claiming refund</p>

and input services during the relevant period **other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;**

- C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, **other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;**

Similar, Rule 89(4B) provides that where the person claiming refund of unutilised input tax credit on account of zero-rated supplies without payment of tax has –

received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017; or

availed the benefit of notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-

Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E), dated the 13th October, 2017,

the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

On combine reading of Rule 89(4) and 89(4B), it emerges that if person is claiming Refund under Rule 89(4B), then the amount of refund granted under Rule 89(4B) is required to be reduced from refund claimed under Rule 89(4). Rule 89(4) nowhere provide that Person claiming benefit of Advance Authorisation is mandatorily required to claim refund under Rule 89(4B) first before claiming refund under Rule 89(4). In other words, Exporter availing benefit of advance Authorisation is given an option to claim refund either under Rule 89(4) or Rule 89(4B) or both. In fact there is no such bar laid down in statute especially in section 54 of CGST Act,2017 dealing with refunds.

The GST Department insisting exporter availing the benefit of Advance Authorisation to file refund under Rule 89(4B) mandatorily. Further GST department has issued Show cause notices to recover the amount of refund granted/issued under Rule 89(4) for earlier years on the ground that the said refund was Erroneously granted. Vide said SCN, department has proposed to recover interest u/s 50 and Penalty u/s 122(1)(a).

This is causing hardship to Exporter, since their refund

		claim was granted after due verification by GST department. Recovering back the said GST refund, not only result long litigation but also financial burden on account of predeposit.									
3	<p>Section 107(4) of CGST Act, 2017 provides that the Appellate Authority shall allow the appeal within a period of one month if the appeal could not be filed within the time limit as provided under Section 107(1) of CGST Act, 2017. It may be noted that due to various reasons such as not receiving information about the order etc., the above timeline to file the appeal is not met.</p> <p>Especially in cases of cancellation of registration, in case the assessee is not in a position to make payment of GST dues, the time limit to file the appeal is exhausted.</p>	<p>The provisions of Section 107(4) should be amended to condone the delay even beyond one month in cases where sufficient cause is proved.</p> <p>The said condonation of delay should be permitted with certain amount of condonation fees based on the delay in filing the appeal. A consolidated condonation fees of CGST, SGST and IGST can be as below:</p> <table border="1"> <thead> <tr> <th>Delay period</th> <th>Amount</th> </tr> </thead> <tbody> <tr> <td>Delay upto one month after due date under Section 107(1) of CGST Act, 2017</td> <td>NIL</td> </tr> <tr> <td>Delay upto two months and beyond one month</td> <td>Rs. 10,000</td> </tr> <tr> <td>Delay upto three months and beyond two months</td> <td>Rs. 20,000</td> </tr> </tbody> </table>	Delay period	Amount	Delay upto one month after due date under Section 107(1) of CGST Act, 2017	NIL	Delay upto two months and beyond one month	Rs. 10,000	Delay upto three months and beyond two months	Rs. 20,000	<p>This amendment would provide an assessee a fair chance to present their case, where the delay was on account of reasons beyond the control of assessee.</p>
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4	<p>ITC on account of health Insurance and Life Insurance.</p>	<p>Currently, on account of Sec 17(5)(b)(i) – Input Tax Credit on account of health Insurance and Life Insurance is blocked. However, the input tax credit in respect of such services is available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p>	<p>The Employers who are providing Health & Life Insurance to their employees voluntarily is not eligible for input tax credit. This activity is in the course or furtherance of business and therefore, is causing entities who are not obligated to provide health or life insurance, to lose credit which adds to the cost of doing business.</p> <p>It is therefore, recommended to amend provision of Section 17(5) of CGST Act, 2017 to allow claim of Input Tax Credit on account of health insurance and Life</p>								

			Insurance to all Taxpayers.
5	<p>If a recipient fails to make payment to the supplier within a period of 180 days from the date of issue of invoice by the supplier, then an amount equal to the input tax credit availed by the recipient has to be reversed along with the payment of interest.</p> <p><u>Relevant Provision under Central GST Act, 2017</u></p> <p>Second Proviso to Section 16(2) of the CGST Act, 2017 <i>“(2)... Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed: ...”</i></p> <p><u>Relevant Provision of United Kingdom Value Added Tax Act, 1994</u></p> <p>26A. Disallowance of input tax where consideration not paid</p> <p>Where—</p>	<p>Difficulty is being faced by taxpayers in sectors where the contractual terms provide for a credit period of more than 180 days for payment. The supplier would have already paid tax on the basis of the invoice issued, but the recipient has to reverse the credit inspite of contractual terms agreed with the supplier of making payment beyond 180 days.</p>	<p>It is recommended that a proviso should be inserted after the second proviso to Section 16(2) of the CGST Act, 2017 wherein the time limit of 180 days should be considered from the due date of payment as per the terms of contract and not from the invoice date.</p> <p>Similar provisions also exist under Section 26A of UK VAT Act which requires business to repay input tax recovered on supplies made to them where the supply has not been paid for within 6 months of the date of the supply, or due date for payment if later.</p> <p>Suggested Proviso: Provided further that where the contractual terms provide for credit period, the time limit of 180 days should be considered from the due date of payment as per the terms of contract and not from the invoice date.</p>

	<p>a person has become entitled to credit for any input tax, and</p> <p><u>the consideration for the supply to which that input tax relates, or any part of it, is unpaid at the end of the period of 6 months following the relevant date,</u></p> <p>he shall be taken, as from the end of that period, not to have been entitled to credit for input tax in respect of the VAT that is referable to the unpaid consideration or part.</p> <p>(1A) Subsection (1) is subject to section 26AA (disapplication of disallowance under section 26A in insolvency).]</p> <p><u>For the purposes of subsection (1) above “the relevant date”, in relation to any sum representing consideration for a supply, is—</u></p> <p><u>(a)the date of the supply, or</u></p> <p><u>(b)if later, the date on which the sum became payable.</u></p>		
6	<p>Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt from the levy of</p>	<p>It is submitted that when an entity accepts deposits, the question of any consideration arising there from by way of interest or discount does not arise since in the case of acceptance of deposits, interest is paid to the depositor and not received. It is only in the case of extending of deposits that such consideration by</p>	<p>Accordingly, amendment may please be brought about in clause (b) of Explanation 1 appended to Rule 43 of the CGST Rules, 2017 by substituting it with the following entry:</p>

	<p>GST vide entry number 27 of Notification No. 12/2017 (Central Tax (Rate) dated 28.06.2017.</p> <p>However, by virtue of Explanation 1(b) to Rule 43 of CGST Rules, 2017 such services are not to be included in value of exempt supply for the purposes of apportionment of input tax credit in terms of Rule 42 and Rule 43. Relevant portion of Explanation 1(b) to Rule 43 of CGST Rules, 2017 is reproduced below:</p> <p><i>“(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.”</i></p>	<p>way of interest arises.</p>	<p><i>“the value of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount except in the case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of extending deposits, loans or advances.”</i></p>
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