



प्रधान मुख्य आयुक्त कार्यालय
Office of the Pr. Chief Commissioner
केन्द्रीय वस्तु एवं सेवा कर और के. उ. शु. लखनऊ परिक्षेत्र
Central GST & Cen. Excise, Lucknow Zone
७-अ, अशोक मार्ग, लखनऊ
7-A, Ashok Marg, Lucknow



E-mail: gst.grc2022@gmail.com
052 / 124

Ph./FAX: 0522—2233-

Minutes of the 4th meeting of
Grievance Redressal Committee (Lucknow, Uttar Pradesh)
26th September, 2023

---X-----X-----X-----X-----X---

4th GRC meeting was held in hybrid mode (i.e. physical as well as through virtual mode for the members / participants who could not join the meeting physically) on 26.09.2023 which was co-chaired by Shri Pramod Kumar, Pr. Chief Commissioner, CGST & Central Excise Lucknow Zone and Ms. Ministhy S., Commissioner, State GST, U.P..

Following Officers of the Central Tax and State Tax, representatives of the trade / industry and associations of professionals attended the meeting:-

Sr. No.	Designation in Grievance Redressal Committee	Name of the member Sh/Smt/ Ms	Organization
1.	Guest	Sandeep Puri (Online)	Pr. Commissioner, CGST Audit Kanpur
2.	Guest	Manish Goyal (Online)	Commissioner CGST Appeal Allahabad
3.	Guest	Sharad Shrivastava (Online)	Commissioner CGST Agra
4.	Guest	Vijay Kumar Singh (Online)	Commissioner CGST Allahabad
5.	Guest	Manzoor Ali Ansari	Commissioner CGST Audit Lucknow / CGST Lucknow
6.	Guest	Vikas (Online)	Commissioner CGST Kanpur / Varanasi
7.	Member (Representative of Trade Association)	Mahendra Goyal, State President	Confederation of All India Traders
8.		Manish Kataria (Online)	UP Motor Transport Association
9.		Alok Agrawal (Online)	Indian Industries Association
10.		Niketani Jain (Online)	Rice Miller Association, Gonda
11.		Manish Khemka	Ecopolicy & Taxation Assocham UP/ UK
12.		Surya Prakash Havelia	National Secretary, IIA
13.		Amar Mittal (Online)	National Chambers of Industries & Commerce, Agra
14.		Santosh Kumar Gupta	Merchants Chambers of Kanpur
15.		Member	Raghav Singh

	(Representative of Trade Asson.)		
16.	Member (Representative of Association of Tax Professionals)	Rishabh Mishra	Chartered Accountant
17.	Member Nodal Officer of ITGRC (Centre)	Reena Bhargava (Online)	Tax Professional (Chartered Accountant)
18.	Member Nodal Officer of ITGRC (State)	Ugrasen Dhar Dwivedi	Additional Commissioner, CGST Lucknow
19.	Members of GSTN	Hari Lal Prajapati	Joint Commissioner, State Goods & Service Tax, HQ Lucknow
20.	Secretary (Centre)	Vishal Pal Singh (Online)	Senior Vice President (Services)
21.	Secretary State	Ritu Raj Gupta	Additional Commissioner, CGST Lucknow Zone
22.	Member GRC Cell	Alka Shrivastava (Online)	Deputy Commissioner (IT), State Goods & Service Tax HQ Lucknow
23.	Member GRC Cell	Vishal Shrivastava	Superintendent, CCO, Lucknow
24.	Member GRC Cell	Saurabh Nigam	Inspector, CCO, Lucknow

The meeting started with greetings to the Co-chair and a welcome address to all the GRC members / participants by the Secretary (Centre) Shri Ritu Raj Gupta.

Shri Pramod Kumar, Pr. Chief Commissioner, CGST & Central Excise Lucknow Zone also welcomed all the participants. The Secretary (Center) stated that all the members were asked to submit their concerns / grievances, feedback / suggestions by 22.09.2023 so that the same could be made the part of core agenda for the 4th GRC meeting.

During the 4th GRC meeting, major concerns raised by the members of the GRC / trade professionals are as under:-

1. Shri Alok Agarwal, Indian Industries Association.

- (i) Almost all the stakeholders are getting notices for AY 2017-18 (9 months of GST), for even minor differences of less than a rupee. In some cases, even after replying on mail, the registered persons are called with books of accounts for verification.
- (ii) If a registered dealer has omitted to take benefit of some ITC in 2017-18, then it is treated as lapsed, whereas if some tax amount is due then it is recovered with interest & penalty. The law should be the same in both cases.
- (iii) For Intra – state Vehicle detention cases, the registered dealers should be given the option to opt for its registered place of business , for filing the appeal.

- (iv) There are several cases related to vehicle detention, wherein there are very minute-clerical errors and the goods count & weight matches, with No tax evasion, then seizure of goods can be avoided.

In respect of point no. (i) above, Shri Harilal Prajapati Joint Commissioner, SGST, Lucknow has informed that necessary directions, to all the jurisdictional officers, have already been issued by the Commissioner, State Tax of Uttar Pradesh to abstain from initiating the litigation in respect of significantly low amount of demands so as to avoid the undue harassment of the genuine taxpayers. However, if any such cases come to the knowledge same may be specifically informed to the GRC / or the higher officers.

2. CA Raghav Singh, Laghu Udyog Bharti.

- (i) Notices for FY 2017-18 in ASMT -10 issued by the department to many registered persons with very minor differences. Huge penalty u/s 73 has been raised by the official regarding above minor differences. Further, if notices are not timely replied the option to reply is closed. Registered person insists to visit the department to adjournment and submit reply.

Kindly consider the above issue and relaxation given to the businessmen. Towards minor differences no penalty should be levied.

- (ii) If output supply of a unit is at zero rated GST, no refund is available on ITC accumulated with respect to capital goods. This increases the cost of establishing such projects. This issue may please be taken up at the forum.
- (iii) Penalty should be imposed to those dealers (sellers) who did not file their GSTR – 1 on time, due to which the purchaser can't claim the ITC on time.
- (iv) Option of revised monthly return (GSTR-1 / GSTR-3B) should be provided; earlier under VAT this facility was there.
- (v) GSTR-1 can't be download invoice-wise as was possible in VAT, like "Annexure-A", "Annexure-B". current system of downloaded file is very tedious and cumbersome.
- (vi) GST refund inverted tax structure utility file does not have the option of copy paste on column and serial no. column. These columns have to be filled manually which is very time taking and hectic process.
- (vii) For GST registration superfluous documents, queries and unnecessarily requiring to upload documents again which delays and lengthen the process.
- (viii) During GST registration the limit & size to upload file should be large so that required documents can be uploaded clearly and proper.
- (ix) Where registration certificate is voluntarily surrendered by the taxpayer, officers do not cancel the registration in time bound manner and keep it pending for long despite there being no mismatch or demand pending.
- (x) Delay in Processing of TCS Refunds.
- (xi) In case of post rejection of refunds, proper officer is not issuing Form PMT-03 for re-credit of rejected refund amount in to the taxpayer credit ledger.

I/1598308/2023

- (xii) Issuance of notices over an email without uploading the same in the common GST Portal.
- (xiii) Several cases related to vehicle detention in intermediary/transit state, the check post officers are suo-moto allotting the Temporary ID of registration in an arbitrary manner.
- (xiv) For Vehicle detention cases, the taxpayer should be given the option to opt for its registered place of business of the state for filing the appeal.
- (xv) There is a provision under GST to deduct GST-TDS @ 2% who dealing with government departments. Whereas in many MSME units, who prepare goods and sell them to government department, comes under inverted tax category, they have to take refund of GST. The said GST-TDS amount affect working capital and business of MSMEs. Kindly consider the issue and exempt GST-TDS in case of MSME units who comes under inverted category.
- (xvi) GST Tribunal not formed. Delay in Justice.

3. CA. Reena Bhargava.

- (i) Time limit to frame orders under GST for the Assessment year 2017-2018 is due to expire on 31.12.2023. Section 73 requires that SCN should be issued three months prior, i.e. SCN can be issued at the latest by 30.9.2023.
- (ii) Proper officers in a rush are not providing sufficient time to reply to ASMT 10, Section 61 grants at least 30 days time to file the reply, Notices are issued for shorter period. Further, where the time was sought by the taxable person to file reply, no adjournments were granted and now pressure is being built to issue DRC-01.
- (iii) Information like Copy of VAT/ Service tax returns for the period 1.4.2017 to 30.6.2017, Copy of order passed for TRAN 1 credit, Copies of Purchases Invoices, Copies of ledger accounts etc. asked for in ASMT 10 are beyond the powers vested U/s 61.
- (iv) ITC availed as per Form GSTR 3B captured in ASMT 10 is inclusive of RCM ITC, resulting in huge differences in GSTR 3B ITC and GSTR 2A ITC.
- (v) Certain columns in GSTR 9 and GSTR 9C were made optional by Notification no. 74 dt 31.12.2018 and Notification no. 56 dt 14.11.2019, however queries are raised in ASMT 10 for differences on same.
- (vi) ITC reversal calculation done in ASMT 10 is not as per the requirement of Law, as it only considers the total ITC, whereas Rules prescribe a method to calculate the same.
- (vii) ASMT 10 generates data without considering the tax deposited by DRC-03, since there is no column prescribed in GSTR 9 or GSTR 9C to fill the same.
- (viii) DRC-01 are issued without issuing show cause notice U/s 73.
- (ix) In many cases orders U/s 73 have been passed, now again notice U/s 61 has been issued.

I/1598308/2023

- (x) In many cases ASMT 12 have been passed for the AY 2017-2018, again Notice u/s 61 have been issued.
- (xi) In State GST department, dates for personal hearing of appeal are informed online. In case appellate authority is on leave, same should be informed in advance to the Appellant by fixing the next date online.
- (xii) In Central GST Department, after Audit U/s 65 a notice is issued by the Audit department U/s 73/74 but DRC-01 is to be issued by the Adjudicating Authority. DRC-01 are not issued timely and hence Dealer is unable to file reply for the same.
- (xiii) Notices are being issued without mention of section under which information is sought.

In the matter, Shri Vishal Pal Singh, GSTN asked that any such issue may be specifically brought to the notice of the GRC / GSTN and the issue would be examined accordingly.

4. Shri Santosh Kumar Gupta, Merchants Chambers of Kanpur, Uttar Pradesh.

1. Representation regarding grievance being faced due to Circular No. 183/15/2022 dated 27/12/2022 issued by CBIC:-

At para 4.2 it has been mentioned that if selling dealer uploads GSTR-1 for the financial year 2017-18 after due date of GSTR-I' of March, 2019 i.e. 11-04-2019. The I.T.C. claimed by purchasing dealer is not eligible Impugned para is reproduced hereunder:

4.2 However, it may be noted that for the period FY 2017-18, as per provision to section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his FORM GSTR-I till the due date of furnishing FORM GSTR-I for the month of March, 2019.

This circular is creating genuine hardship to the purchasing dealer(s). At one hand to the para-3 to this circular at Serial No. (a) is permitting to allow I.T.c. where the purchasing dealer submits a certificate from selling dealer to the effect of inclusion of invoice in GSTR-3B, resulting thereby payment of tax. In case of Input Tax Credit amount more than Rs. 5 Lakhs the certificate is required to be submitted from Chartered Accountant of selling dealer to this effect.

When CBIC is granting this relief where selling dealer has not uploaded the invoice in GSTR-I and no limitation is prescribed in case of FY 2017- 18 & 2018-19. On the other hand at Para 4.2 to this Circular restricting the allowability of Input Tax Credit where selling dealer uploaded GSTR-1 delayed only up to due date of furnishing GSTR-I for the month of March, 2019 i.e. 11th day of April, 2019.

I/1598308/2023

This is an anomaly in impugned circular itself. Para-3 allows Input Tax Credit with certain compliance if not reflecting in GSTR-2A, no limitation of time period is prescribed. On the other hand at Para 4.2 is restricting the allowability of Input Tax Credit related to FY 2017-18, the filing of GSTR-1 by selling dealer upto due date of GSTR-1 for the month of March 2019 i.e. 11th day of April, 2019. This anomaly is required to be removed because it is causing genuine hardship to the dealer(s). The Adjudicating Authority(s) are not allowing Input Tax Credit where GSTR-I for FY 2017-18 if uploaded after due date of GSTR-I filing for the month of March' 2019.

2. Claim of IGST by mistake under the head of CGST & SGST problem regarding.

In GST Regime due to lack of technical knowledge, the accountant claimed Input Tax credit under wrong head. For example the Input Tax Credit relating to IGST claimed by them half-half under CGST & SGST and vice versa. But the claim of I.T.C. is genuine and is in accordance with the legal provisions. The net effect in ITC amount is zero. But the technical mistake is committed. We do hereby request to consider this erroneous claim of ITC in different head(s) due to mistake committed by unskilled persons who uploaded the data of ITC in GST Portal. A mechanism for rectification or transferring into correct head of GST may be provided to resolve this hardship.

In this regard, Shri Harilal Prajapati, Joint Commissioner (SGST) informed that sometimes it is not possible because if return is filed with the wrong head/details, the credit / duty is transferred to that particular state. The taxpayer should take utmost care while uploading the ITC / Tax amount keeping in view the Inter / Intra State tax distribution system under GST regime.

5. Shri Manish Katariya, U. P. Motor Transport Association.

(i) Request to clarify ambiguity on levy of GST & eligibility of input tax credit in case of service provided by Goods Truck or Lorry Owner & Goods Transport Agency

With regard to legal position and amendments made in provisions under Goods and Services Tax (hereinafter referred to as GST) with respect to Good Transport Agencies (hereinafter referred to as GTA/GTAs) and Goods Truck or Lorry owners, we wish to draw your kind attention towards certain ambiguities in provisions relating to availment of input tax credit by the registered Goods Transport Agency/taxpayers in road transportation industry.

With regard to scheme introduced for the payment of GST liability on forward charge by GTAs and intention of Government to provide the benefit of ITC to GTAs in case of payment of output liability @ 12%, it is to be submitted that there are certain ambiguities, which needs to be taken care of and requires necessary clarifications.

That the services of GTA to specified persons continues to be only liable to RCM under the GST regime till 17-07-2022. However, transportation of goods by road (except services of GTA) continues to be exempt till date under GST regime as well.

I/1598308/2023

As per Explanation to Entry 9 of Notification 11/2017-Central Tax Rate, dated 28.06.2017, Goods Transport Agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.

However, it is important to note that Carriage by Road Act, 2007 read along with Carriage by Road Rules, 2011 clearly defines and regulate “Goods Transport Agency” as a “common carrier” and “consignment note” as “goods receipt”.

Moreover, Motor Vehicle Act, 1988 read with Central Motor Vehicle Rules, 1989 clearly defines and regulate a “commercial vehicle” and “owner/operator” of a commercial vehicle viz. Lorry or Truck owner.

That w.e.f. 18.07.2022 your kind attention is drawn towards following legal provisions introduced under GST for Goods Transport Agencies as per Notification No.03/2022 Central Tax (Rate) dt.13.07.2022.

Regarding taxability of services provided by GTA, it is to be stated that there are three options available to the registered personas per S.No.9 (having Heading 9965) of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017.

At this juncture, we also wish to highlight exemption notified for truckers-

It is to be stated that as per S. No. 18 (having Heading 9965) of Notification No. 12/2017-Central Tax (Rate), dated 28th June, 2017 following services are exempt from GST.

Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.

Thus, in view of above, it is clear that services by way of transportation of goods by owner of trucks are exempt under GST.

Accordingly, it is not out of place to mention that the input tax credit against GST paid at the time of purchase/repair of trucks shall not be eligible to be availed by transporter/goods transport agency as per Section 17 of CGST Act, 2017 read with Rule 42 and Rule 43 of CGST Rules, 2017 since, the same is directly attributable to exempt supply in the nature of transportation of goods by trucks.

In view of aforesaid, it is to be stated that since Goods Transport Agency and Goods Truck Owner/ Operator or Trucker or Lorry Owner are entirely different verticals of business, there is no possibility to avail input tax credit against capitalization or repair & maintenance of trucks.

You will appreciate that the scheme introduced w.e.f. 18.07.2022 for payment of GST liability on forward charge @ 12% on GTA services with admissibility for availment of ITC is against the basic spirit/ideology of legal provisions in transport industry.

Attention of your goodself is invited to the case where registered person is acting as both GTA and Goods Truck Owner/Trucker or Lorry Owner and opts for payment of GST @ 12% on forward charge basis as GTA with availment of input tax credit. It is to be stated that in

I/1598308/2023

this scenario, he shall be liable to pay GST liability on freight amount of truck without getting any ITC against truck (as being attributable to exempt supply, as discussed above)

In other words, it is to be submitted that at one place GST on freight on transport of goods by truck is exempt under GST whereas on other side, registered person, being in the capacity of GTA is liable to pay GST on forward charge basis on gross freight.

In connivance of same, it is to be submitted that it will create imbalance in transport industry and transporters may tend to avail wrong input tax credit.

Henceforth, your goodself is requested to consider the current legal provisions in force and accordingly, issue a circular clarifying the GST liability and ITC intricacies separately for both GTA (defined as common carrier under Carriage by Road Act, 2007) and GTO or Truckers (defined as registered owner under Motor Vehicle Act, 1988) and also in a situation wherein a registered entity is running both business under common entity.

(ii) Abuse of Power by SGST officials, Moradabad w.r.t. detention of Truck No.UP78DT2583 loaded with HERO make new motorcycles since June'2023

We wish to draw your kind attention towards the absolute hardship being faced by owner of truck no. UP78DT2583 loaded with HERO make new motor cycles which is under detention at SGST Office, Moradabad since 22.06.2023

Subject truck loaded with motorcycles transported from "HERO" manufacturing unit at Haridwar to its authorized dealer at Moradabad was awaiting unloading in front of the "HERO motorcycle dealer" due to constraint of space on the date of interception.

Concerned officials well knowing the facts and understanding the nature of product loaded in the truck exercised its powers alleging the goods were in transit and not supported by valid e-way bill, wherein demanding a deposit of app.Rs.12 lacs for release of truck with consignment of motorcycles.

"HERO" dealer at Moradabad has now knocked the doors of Hon'ble High Court, Allahabad seeking relief.

This entire issue has lead to a situation wherein the truck alongwith high value motorcycles is lying idle at SGST office, Moradabad since last three months

In lieu of the above facts and such instances wherein enforcement officials are acting in copy book style with sheer motto of achieving so called revenue targets well knowing the fact that at the end of the day it is sheer waste of energy, time & money for all concerned, it is high time that remedial measures be put in place wherein:

A. adding much more goods to the list of goods exempted from e-way bill requirement viz:

1. Motor vehicles
2. Government owned goods.

3. Public Sector Undertaking owned goods.

B. Declaration of completion of transit & receipt of goods by ensuring closure of e-way bill by generation of e-acknowledgement.

We look forward for favorable consideration to ensure relief to aggrieved truck owners & law abiding GSTIN entities.

The State Tax authorities assured the member that they would look into the matter and would take remedial measures. The above matter is referred to the SGST authorities for examining the issue and taking necessary action in the matter accordingly.

Apart from the above he also raised issue that it happens sometimes that, regarding status of an ARN / application filed by the taxpayer, a TEXT message received through SMS on registered mobile number without mention of GSTIN is forwarded. There is a necessity for improvement in the system to mention GSTIN in all communications, knowing the fact that there are possibilities that common mobile number may be available for multiple GSTIN.

In the matter, Shri Vishal Pal Singh, GSTN asked that any such issue may be specifically brought to the notice of the GRC / GSTN and the issue will be examined accordingly.

In this regard Shri Manish Katariya has forwarded following two examples of text message received

1. *Your IFF for 072023 is filed successfully and acknowledged vide ARN is AA090723533936R. Please use this ARN to track the status of your application. - GSTN.*

2. *Order for dropping proceedings vide Ref. No. ZD0909233028157 dated 25/09/2023 has been issued. Access your dashboard for further details. - GSTN.*

6. Surya Prakash Havelia, Indian Industries Association

1. Non-compliance of Scrutiny of Returns:

Notice for GST ASMT 10 are being issued by SGST which is not reflected on portal which is followed by SCN which is also not reflected on portal. Personal appearance is also being demanded by SGST in Vanij Kar Bhawan Lucknow.

The proper officer has been conducting scrutiny of returns and initiating proceedings of Demand of tax / Recovery of Tax from the taxpayers without following the procedures of issuance of prescribes FORMS. The action of the proper officer resulting in non-compliance of Section 61 / Rule 99 due to non issuance of FORM GST ASMT-10 (Notice for intimation of discrepancies intimation after scrutiny of returns) by the proper officer. By which the taxpayer fails to give proper explanation to the discrepancy in returns in FORM GST ASMT11 to the proper officer to close the li ga on. It is invariably observed that the proper officer is directly issuing FORM GST DRC-01A Part A under Rule 142(1A) – In ma on of tax ascertained as being payable under Sec on 73 / Sec on 74 of the Act, without giving

I/1598308/2023

reasonable me for submissions clarification by the taxpayer in FORM GST DRC-01A Part B, but in many cases the proper officer simultaneously issuing FORM GST DRC-01A Part A as well as FORM GST DRC01A (Demand-cum-Show Cause Notice), which is contrary to the provisions of GST Act / GST Rules, 2017. For which the taxpayer is losing opportunities to clarify the litigations and taxpayer is deprived of presenting his case before the proper officer to close the issue. It is pertinent to men on that as an interim measure the C.B.I&C has issued standard operating procedure for scrutiny of returns vide its instruction No.02/2022-GST, dated 22-03-2022. Let us hope the proper officer should follow this instruction without any fail for scrutiny of returns

2. Grounds of Show cause notice is different from Demand of Order:

It is observed that there is mis-match of grounds alleged in the show cause notice versus grounds taken into account for the recovery of demand of tax / demand confirmed with some other grounds. Thus, the grounds have been alleged in FORM GST DRC-01 (SCN) is different from grounds have been incorporated in FORM GST DRC-07 or additional grounds mentioned in FORM GST DRC-07. It is clear picture of viola on of Sec on 75 (4) of the Act, 2017.

3. Imposing Penalty under wrong Section:

It is observed that the proper officers are initiating search and seizure of goods in the business premises of the taxpayers under sec on 67 of the CGST Act and initiating recovery proceedings under Sec on 73 /74 of the Act but in case of penalty the investigating officer considering charging sec on 129 of the CGST Act in place of Sec on 73(1) / Sec on 74(1) of the Act. It is pertinent to mention that Sec on 129 is applicable only for detention, seizure and release of goods and conveyance in transit (implies when any person transports any goods or store any goods while they are in transit in contravention of the provisions of this Act). Hence, the proper Officer of GST, while issuing SCN by charging wrong Sec on for imposing penalty is illegal and harassment to the taxpayers.

4. Revocation / Restoration of Cancellation Registration is not supported by IT system in the Common portal:

The taxpayers are facing problem for restoration of cancelled registration and revocation of cancelled registration after passed of appeal orders against cancellation orders or passed suo-moto by the Range officers u/s 29 of the CGST Act, 2017. Even the orders from High Courts / Appellate authorities to restore registrations cancelled on their own request. The functionality to implement the orders online was not ready; a temporary mechanism to restore cancelled registration was created in the back-end but is not functioning at all upto the satisfactory of the taxpayers. Recently, an advisory dated 23-03-2022 on restoration of cancelled registration has been issued by the Pr. Additional Director General of System & Data Management, Chennai but it is observed that still under process of rectify the defects / errors has been displaying online system of the Jurisdictional Range officer / Assistant Commissioner 's user id of the common portal. Hence, there is need of Government intervention to se le the issue of restoration of registration of the taxpayers.

5. Restriction of availing ITC:

The eligibility and conditions for taking input tax credit under Sec on 16 of the CGST Act, 2017 has undergone significant changes by the legislative policy in comparison to earlier tax regime. In the last budget the me limit extended to 30th November of next year in place of 30th September of next year but ITC is restricted only in respect of Tax Invoices which are reported by filing of GSTR 1 as well as GSTR 3B on or before specified due dates for the month of November of next year for any previous year and recently from 1'st January'2022 ITC only allowed as per auto-populated GSTR 2B.

6. GST registration:

In case of new registration , the person has to submit the list of documents are clearly outlined in the GST Rules and the drop down list clearly prescribes the documents with limited choice and the limited digital size to upload the same. But the Registering Authority demanding notarized agreement / affidavit, copy of ROR of the owner, copy of NOC from the owner, which is beyond the statute and at times not practicable. Hence, the GST officer should be cooperative with the new registrant and enhance the Government revenues.

In the matter, Shri Harilal Prajapati, Joint Commissioner (SGST) clarified that during course of verification of new registrant only requisite documents are called for verification of the new registrants however if any such issue comes into notice, where it is felt that unnecessary documents are called for verification by the concerned officer, that may be specifically brought to the notice of the GRC or the concerned jurisdictional higher officers. The Commissioner (SGST) has also assured that necessary directions have already been issued to the field officers that due care should be taken to act to cause no harassment to the taxpayers.

7. Recovery of Tax during investigation:

Sec on 67 and 68 of the CGST Act, 2017 deals with the search and inspection of the business premises of the taxpayer to safeguard Government revenue, whereas Sec on 73 and 74 of the CGST Act, 2017 prescribes for determination of tax on the basis of findings of search and inspection or investigation of records of the taxpayers. Sec on 79 of the CGST Act'2017 provides for recovery proceedings to be initiated against defaulting taxpayers. Thus, the recovery of tax dues during the course of search or inspection or recovery of tax start with the issuance of show cause no ce and end with adjudication proceedings. Hence, the deposit of tax without adopting recovery proceedings is the matter of great concern. Whether it is voluntarily depositing of tax liability through DRC-03 or coercion by the department officers for making 'recovery' during the course of search or inspection or investigation is the matter of discussion. Since, in the certain cases the taxpayers have approached the Hon'ble High Courts with regard to recovery of tax by use of force and coercion by the officers for recovery of tax from the defaulter taxpayers wherein it is declared as illegal act. Thus, recently, the C.B.I&C, has issued Instruction No. 01/2022-23[GST Investigation] dated 25th May, 2022 and clarified in case of any wrong doing on the part of any tax officer, strict disciplinary action as per law may be taken against the defaulting officers.

8. 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 in 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 has been a long demand of Tax Payer and Professionals.

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 in the service tax regime, returns filed were allowed to be revised. Even erstwhile VAT law allowed to file revised return. This is also helpful for taxpayer to ensure and check respective month's 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.

9. Tax Credit Mismatch Issue DETAILS OF ISSUES:

It is known fact that, when GST was introduced, required IT infrastructure was not available. 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 6 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. Taxpayer's job is to do 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. The process of the claim of Input Tax Credit (ITC) has undergone several changes over the last 6 years. Earlier, taxpayers were allowed to claim the en re eligible ITC based on their purchase invoices and GSTR-2A was only facilitation, which did not impact the ability of the taxpayer to avail ITC on a self-assessment basis. Subsequently, the ITC was restricted to 120% / 110 % / 105% (as amended from me to me) of the matched credits with GSTR-2A. Later, through another change in the functionality and law, ITC would not be available unless the details of invoices have been communicated in Form GSTR-2B by the government portal. Further making matters worse, the Union Budget 2022 imposed another onerous condition that ITC would be

I/1598308/2023

available only if it is not restricted in the auto-generated form by the common portal. The restrictions enumerated under the said provisions are to address defaults of the suppliers viz. non-compliance with registration provisions, default in reporting and payment of tax, excess ITC availment, etc., the imposition of such restrictions on the recipient, for the non-compliance of a supplier causes hardships to the recipient, who has no recourse or control over the supplier. Seamless ITC is one of the stated objectives and salient features of GST, now becoming a casualty in the process. The recent changes in reporting of returns in form GSTR-3B require the recipient to avail ITC as per the GSTR-2B data and reverse the ITC for supplies that are not received by him or in transit. The basic report for claiming ITC would be GSTR-2B and the taxpayer would be cumulatively required to maintain reconciliation between their purchase register and the ITC claimed in GSTR-3B. Therefore, the recent changes in form GSTR-3B are primarily meant to ease tax administration, which adds to the woes of the taxpayer making compliance difficult and cumbersome. In addition to the above, the ambiguity in the annual returns and reconciliation statement on several fronts, delay in operationalisation of forms such as ITC-02 have made compliances under GST a nightmarish proposition for taxpayers. 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 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.

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 me limit to do amendment is over. Another issue plaguing the taxpayers is fulfillment of condition of payment of tax to the Government exchequer by the supplier, in the absence of any formal tracking mechanism. The Government has now introduced rule 37A in the CGST Rules, providing that such tracking can be done based on status of filing of FORM GSTR 3B of supplier. In case of non-filing of FORM GSTR 3B by supplier for the period of relevant supply, by 30th September following the end of financial year, taxpayer is now required to reverse ITC availed in the GSTR 3B to be filed on or before 30th November following the end of financial year and can re-avail ITC after supplier files FORM GSTR 3B. To the extent, the taxpayer has a valid invoice and has paid the GST component to vendors, the cost is eligible as credit, then the input tax credit should not be denied only on the basis that the vendor has failed to file its GST return. The Madras High Court in *M/s D.Y. Beathel Enterprises v. the State Tax Officer*, the Court while allowing the recipient to claim ITC observed that strict ac on must be taken against a seller who due to omission on his part fails to remit the tax paid by the recipient. Similarly, in *Assistant Commissioner (CT), presently Thiruverkadu Assessment Circle, Kolathur, Chennai v. Infiniti Wholesale Ltd.*, the Madras High Court held that where the purchaser has proved that it has paid the due tax to the seller and furnishes the invoices for the same, it cannot be stopped from availing the ITC. The Court added that such a restriction

I/1598308/2023

on claiming ITC cannot be sustained and requires re-consideration. The courts have clearly noted that it is impractical and unrealistic to expect the buyer of supplies to go and verify the supplier's accounts or to inquire with the department whether the tax paid by them on the inputs has been collected or not.

RECOMMENDATION:

- a) Some mechanism should be provided for correction of B2C, wrong GSTIN from 2017 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 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 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 for ITC mismatch issue. Government should provide some mechanism at earliest. It is expected that the judiciary take steps to ensure that ITC is not denied to bona fide purchasers.
- d) The Law should not compel the taxpayer to do the impossible i.e. to ensure that the supplier has paid the tax to the Government. To the extent, the taxpayer has a valid invoice and has paid the GST component to vendors, the cost is eligible as credit, then the input tax credit should not be denied only on the basis that the vendor has failed to file its GST return.

In this regard, the Commissioner (CGST)-Audit-Lucknow informed that during course of Audit by the CGST Officers in case of mis-match of ITC from GSTR-3B to GSTR-2A of the genuine taxpayers, provisions of Circular 183/15/2022-GST dated 27.12.2022 are strictly being followed by the CGST Audit Officers i.e. to avoid unnecessary litigation wherever required certificates of the suppliers or the Chartered Accountant / Cost Accountant are called for ascertainment of the ITC.

10. If Payment is Not Made To Supplier within 180 Days DETAILS OF ISSUES:

Section 16 of the GST Act, 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 me 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:

I/1598308/2023

There are other law to govern payment compliance to small taxpayer (MSME Act) and therefore GST law should not specify any me 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 me limit of payment between supplier or customer or higher time limit (say 2 year) should be provided.

In this regard it is informed by the co-chair that in the above provision sufficient time limit has been granted for payment to the supplier to keep check on the cases of fake ITC / invoices.

Further, Shri Ritu Raj Gupta, Additional Commissioner (CGST) clarified that if payment to the supplier by the recipient (taxpayer) is not made within the prescribed time limit of 180 days then as per provision of the Section 16 of the GST the interest availed on the invoices of that particular suppliers becomes ineligible and is liable to be reversed (although same can be re-credited once payment to supplier is made including tax amounts). Further, it is also clarified that interest is judiciously demanded / charged on such ineligible ITC if that is utilized earlier (for payemnt of taxes) when it was legally not available to the taxpayer.

7. Mahendra Goel, Uttar Pradesh Confederation of All India Traders.

Being the prominent organization of the traders of Uttar Pradesh, the Confederation of All India Traders (CAIT) is kept informed from time to time about the problems faced by the traders of the entire state in GST. Some of the following are in front of you through this letter:-

1. State Goods and Services Tax has issued notices under Section 61 regarding mismatch for the year 2017-18. In some cases, notices have been issued by very small margins. In the year 2017-18, GST was new for the department as well as the traders and at that time GST was implemented by the government without complete preparation, hence there were many shortcomings on the portal. Due to which GSTR-2 was abolished and tax was asked to be deposited through GSTR 3B. GSTR 1 used to get uploaded even if wrong GSTN number was entered on the portal. Since matching of purchases from the portal was not necessary, traders did not pay attention to it. Now after 6 years, such notice is causing anger among the traders.

If GSTR 1 for the year 2017-18 is amended and the filing facility is given, then more than 50% of the notices will be automatically eliminated. The effect of which will be that the officer will be able to focus on stopping tax evasion being done in other ways.

2. After drawing attention to the notice of zero and minimum amount, Joint Commissioner of State Goods and Services Tax Shri Harilal Prajapati clarified through letter No.

I/1598308/2023

GST/2023-24/266 dated 07 July 2023 that zero and extremely low amount Tax assessment action should not be taken under Section 73 and 74 on the notice of. But due to lack of clarity as to what is meant by extremely low amount, there is harassment by officials at the local level.

Therefore, to avoid disputes the very minimum amount should be clarified through another order.

3. In the year 2017-18, notices are being given regarding such discrepancies which have no justification. In which demand for reverse charge mechanism on expenses like salaries, repairs etc.
4. Here we again demand that traders should be given the facility to revise the returns of the relevant month before filing the returns of the next month.
5. It is often seen that there is unnecessary delay in disposal of TCS returns due to which traders' capital is getting stuck in the department.
6. In case of tax evasion goods, the entire vehicle is seized, if there is another trader's goods on that vehicle, till the vehicle is not released, even the honest trader is troubled.
7. It is Six Years since the implementation of the GST system. In this time, more than 1200 amendments have been made in GST, due to which the dispute between the trader and the department is increasing. Therefore, a tribunal should be constituted with immediate effect to resolve the growing dispute between the trader and the department.
8. Rate of interest should be reduced to 8 to 12% instead of 18% : Rate of interest is charged @18% for late payment. Under the present circumstances of the trade when the trade is struggling to meet the routine overhead expenditure of the business, and when there is no certainty of payments to be received against the supplies made payment of interest @ 18% is very harsh.
9. At present, the inward IGST is first set off from the output IGST and the remaining amount from the outward CGST. Traders whose purchases are inter-state and outward supplies are made in the state, in this case their IGST input tax credit is set off from outward CGST but the remaining input tax credit is not set off and they have to pay outward SGST through invoices. Have to deposit from Due to this, there is a decrease in cash in the business in front of the traders. IGST should be set off with CGST from SGST as in the past.

From the issues discussed above your honour will appreciate that the compliances introduced are too stringent and the same will add to the hardships of the businessmen. Many businesses are getting closed merely because of compliances. Since their numbers are cancelled they cannot do business. Therefore, it is requested that the implementation of the above rules may kindly be deferred and the businessman may be given a breathing period. We on behalf of traders are duty bound to be party to government in increasing the tax base, but the compliances should be implemented considering the trades hardships.

Further, if any changes are made under compliances brought through Rules the same be implemented from the beginning of a financial year and not anytime in between as

I/1598308/2023

financial year as has been done till now. We also request you that in future if any compliance procedures are drafted and rules are introduced the representative from the trade and some Law Experts are consulted.

Further, the Secretary (Center) GRC informed that from the next meeting only those issues will be discussed which will be submitted / provided in advance on or before the scheduled / appointed date.

At the end of the meeting, it was also assured to all the members that issues / concerns raised by them will be looked into seriously for the welfare of the taxpayers. The issues / concerns which can be resolved at the Zonal / Commissionerate level shall be taken up. The issues related to GSTN shall be referred to the GSTN and other policy related issues shall be communicated to the higher formations / appropriate forum for necessary action and the outcome will also be shared with the members on receipt of the same.

Ms. Ministhy S., Commissioner State Goods & Service Tax U.P. informed to all the representatives of trade associations and trade professionals that GST department is running a drive for enhancing the taxpayers base by getting the eligible business entities registered with the GST department. So, it is requested to all the GRC members to encourage the eligible business entities to get them registered.

Further, it was also informed by the Commissioner, State Goods & Service Tax U.P. about the insurance scheme of the State Government of Uttar Pradesh with the name of “मुख्यमंत्री व्यापारी दुर्घटना बीमा योजना” under which the registered business entity is eligible for the insurance cover of Rs. 10 Lakh in case of the death, partial or permanent disability of the person insured without paying any premium. She also informed that details regarding filling up of the form for this scheme are available in the website of the State Goods & Service Tax (www.comtax.up.nic.in) so the registered entities should be encouraged to avail the benefits of the said scheme.

The meeting ended with a vote of thanks by the co-chair.

This issues with the approval of the Pr. Chief Commissioner, CGST & Central Excise Lucknow Zone and the Commissioner State GST, U.P..

Secretary (Center)
Grievance Redressal Committee

For information and necessary action copy to:

1. The Chairman, CBIC, New Delhi.
2. The Member (Tax Policy) & Zonal Member, CBIC, New Delhi.
3. The Member (GST) (GST), CBIC, New Delhi.
4. The Special Secretary, GST Council Secretariat, New Delhi.

I/1598308/2023

5. The Chief Executive Officer, GSTN, New Delhi.
6. The Addl. Chief Secretary (Finance), Govt. of Uttar Pradesh, Lucknow.
7. The Finance Secretary, Govt. of Uttar Pradesh, Lucknow.
8. The Pr. Commissioner (GST Policy Wing), CBIC New Delhi w.r.t. letter F. No. 20/10/16/2018-GST (pt-1) dated 24.12.2019.
9. The Pr. Commissioner / Commissioner, CGST Lucknow / Kanpur / Agra / Allahabad / Varanasi.
10. The Pr. Commissioner / Commissioner, CGST Audit Lucknow / Kanpur.
11. The Pr. Commissioner / Commissioner, CGST Appeal Lucknow / Allahabad.
12. The Pr. Commissioner / Commissioner, Customs Lucknow.
13. All the member of the GRC.
14. P. A. to the Commissioner, State Goods & Service Tax Office, Uttar Pradesh.
15. P. A. to the Pr. Chief Commissioner, CGST Lucknow Zone.
16. Web Master, CBIC.
17. The Superintendent (System), CCO Lucknow for uploading the minutes on Zonal Website.

Secretary (Center)
Grievance Redressal Committee