GST Concern areas during COVID Era

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The outbreak of Coronavirus has caused a significant impact on day to day living of the common man, government, and business operations.

Though lockdown still remains the only way to slow the spread of the disease, it will also continue to push economic operations to the downside. It will continue to have an impact on businesses which may bring further the downturn.

To combat the situation, Hon'ble FM announced a slew of tax measures as listed below:

- Waiver of late fees leviable on delay in filing of returns
- Reduction/waiver of interest on delay in payment of taxes
- Simplification in manner of filing returns
- Extension in timelines for various compliances under GST
- Extension in the validity of e-way Bill
- Deferment of ITC matching required under Rule 36(4)

Despite the above, the lockdown has a significant impact on other various provisions under GST law such as Eligibility of input tax credit, the charge of tax on outward supplies, raising of service invoices, and goods sent for Job work. To avoid these related issues, some measures are needed from the government.

In this article, we have outlined the areas where unexpected related issues may arise in GST during this time & areas where GST Taxpayers need to be aware of the compliance requirements. And we have also mentioned some of the decisions that the government should take in order to support this concern.

DELAY IN GST REFUND: -

Since the pandemic has created a global financial crisis, there could likely be a delay in realisation of the export proceeds for supplies made abroad. Though GST refund on export of goods can be claimed using the customs certified shipping bills, Refund for export of services can be claimed only on the basis of FIRC Copies certified by the bank. Since there could be a delay in realization of export proceeds, there would be a delay in claiming GST refund on export of services on time resulting in working capital issues for the service exporters.

RESTRICTION ON INPUT TAX CREDIT IN CASE OF DELAYED PAYMENT TO SUPPLIER

GST Law restricts the availing of ITC on invoices for which payment is not made to the supplier within stipulated span of days resulting thereupon the input tax credit availed on such supplies need to be reversed along with interest.

Due to the current situation, the average payment cycle in the industry is severely impacted and any non-compliance to this condition would further add to increased tax liability to the taxpayers.

INPUT TAX CREDIT ON EMPLOYEE RELATED EXPENSES

Input tax credit on employee expenses has always been a subject matter of debate and in most instances, the credits have been disallowed in case of employee benefits expense.

In the present situation, it is a moral obligation on the part of businesses to provide certain facilities to their employees, which includes:

- medical insurance to employees covering the pandemic risk
- safe transportation of employees to the work premises
- accommodation to employees near the business premises to ensure the business is carried out with minimum disruption
- food for employees during the lockdown
- reimbursement of expenses related to internet and telephone facility to employees
- Free distribution of masks, Sanitizers etc.

Pursuant to the guidelines issued by Ministry of Home Affairs & as part of moral obligation businesses are incurring huge cost in the form of above-mentioned expenses during this crisis as precautionary measure to avoid any risk to an employee.

Disallowance of ITC on these expenses indirectly increases the cost of production which would further impact the Indian businesses adversely. GOI needs to look after this matter.

BLOCKED INPUT TAX CREDITS (ITC)

A free flow of input tax credit is a backbone of GST Law for eliminating cascading effects of taxes. However CGST Act, 2017, restricts ITC on any goods lost, stolen, written off or disposed of by way of gifts or samples.

Since the government has announced a sudden lockdown, those businesses which were dealing with products of short to very short shelf life would have write-offs on perished goods resulting in a huge reversal of input tax credit. Thus, in addition to the loss of goods on account of such disposal and writing off, blocking of ITC incurred on such goods is another difficulty for such companies.

NO EXTENSION OF TIME FOR RAISING SERVICE INVOICE

Due to the spread of pandemic COVID-19 and sudden lockdown announced by the Government of India, the situation is beyond the control of the service sector, **except for essential services/goods shops**, offices, warehouses, restaurants, public & private transport all are closed.

Therefore during the lockdown, service providers as well as services receivers both are out of operations. Hence periodic billing cannot be done on time and if the actual billing date exceeds 30 days from the date of provision of service shall not be complied with.

This denial of extension of time for raising invoices may lead to enormous hardship for the service industry.

DEFERMENT OF GST COMPLIANCE IMPACT ON TAXPAYERS:-

Another apprehension for businesses has been on the Government only allowing a waiver of late fees/

interest on delayed fillings of GSTR-3B/GSTR-1 without due dates for the same being extended which may lead to non-compliance for reporting purposes (even filling falls within extended timelines).

Also, there remains ambiguity on possible blockage of E-Way Bill generation by companies where GST returns for two consecutive months are not filled within the due date envisaged in the law.

GOODS SENT FOR JOB-WORK

When inputs are sent for job work without payment of tax and neither received back within 1 year nor supplied from the job worker premises, the principal shall be liable to pay GST on it alongwith interest since the day they were sent out for job work.

Similarly, when capital goods are sent for job work without payment of tax and neither received back within a period of 3 years nor supplied from the premises, the principal shall be liable to pay GST on it as above.

An application to the jurisdictional commissioner should be made for extension of the time limit after reviewing the status of any inputs or capital goods sent for job work.

Numerous issues that may be faced by the taxpayers have been covered here. The covid-19 situation may cool down in few months, but the officer can impose penalty of non-compliance till 6 years. The taxpayer must be extra cautious to be compliant on these issues and not unknowingly cross the line which can become a huge burden in future. Although government is taking, strong measures to help taxpayers to cope with many issues in this pandemic, but clarifications on these is still awaited.