MEMMORANDUM TO HON. FM ON GST PROBLEMS

Hon. Finance Minister Madam 15th July 2021

Government of India

New Delhi

Respected Madam,

Best regards

Subject: - Memorandum to solve the problems faced by the common taxpayer in complying with GST tax laws in India.

Under your able leadership, GST has now completed four years in our country India and now it is certain that GST is going to stay continuously in our country India and it cannot be replaced by any alternative indirect tax system, so the taxpayers of India now have to live this tax.

Madam, there are examples of some small countries in that once GST was imposed and after its failure it was replaced by another indirect Tax system. But in a huge country like India, the tax which has implemented with the combined efforts of the Government and the taxpayer, it will continue and it has to be successful. GST is not only necessary for India's economy and Indian Taxation system but will also pave the way for much needed progressive development Indian Economy.

The efforts of the Government of India and especially your efforts as the Finance minister of the country are not only commendable but also worthy of praise. Madam Hearty congratulations to you and your team for these efforts.

The GST was a big and ambitious tax reform and it was natural to have problems in the its early stages. The GST network was a problem from the beginning, but at this time the problems and complaints from this network have been reduced to very little and your ministry and the concerned stake holders including the service provider deserves hearty congratulations and appreciation.

Hon. Madam, if some other problems related to GST are solved after considering it seriously, then not only will it be easy for the taxpayers to comply with this tax, but this tax will also be able to play an important role in the development of the Indian economy.

With this letter, we are telling you the following main problems related to GST, which if resolved, the business class, professionals and the taxpayers of the country will be grateful to you: -

1. TECHNICAL MISTAKES OF FOUR YEARS SHOULD BE FORGIVEN: -

GST is a new tax and since the last four years there have been many problems with this tax due to which the taxpayers were not able to follow this tax law properly. Frequently changed forms, regularly issued notifications, circulars and clarifications, shortcomings of GST network and initial lack of legal understanding under this law have left the taxpayer confused since the beginning of introduction of this tax.

The tax payers have made a number of mistakes in the observance of this law which is not tax evasion and in cases where procedural errors have been committed by the dealers, the reasons for which have just been pointed out, they should be given an opportunity to rectify them. If this facility is given to the dealers to narrate and rectify these mistakes then it will be very easy to complete the assessments for all these four years otherwise there will be number of notices have to be issued and it will be a problem for both the dealers and the department.

This can be done by issuing a new form in which the taxpayer can show the tax effect of all such mistakes to make the assessment easier. Wrong adjustment of input credit, wrong adjustment of debit or credit notes or showing them in wrong heads like adding to sales, not showing tax free sales in return are some of the instances of these mistakes.

There is no tax evasion in these mistakes, but if the opportunity for collective clarification is not given in this way, then lakhs of notices will be issued, due to which the dealers will not only be upset but the department also does not have so many resources and staff. It will result in large number of disputed cases.

2. CHANGE THE ARRANGEMENT OF MISMATCH OF INPUTS: -

ITC is the backbone of the GST & Mismatch of Input credit is the biggest problem of GST. The way in which this problem is being handled has made the situation more serious. In respect of mismatch of input credit, the same method is being adopted in GST that the buyer should be compelled to deposit the tax again with withholding the input credit. This was also the biggest shortcoming of the VAT law and it is also carried over to GST also which introduced in India as a reform of Indirect Taxation system. In these cases, the buyer has already paid his tax to the seller and now by withholding his input credit and depositing the tax again by him is tantamount to double taxation and it is a kind of injustice to the honest Taxpayers.

The tax which the seller has not deposited, which was collected from the buyer by him for any reason, then the government should collect this tax from the seller. Withholding of buyer 's input credit should be the last resort but in the current system this has been opted as first resort. There is a need to reform this system so that honest taxpayers get relief and get justice.

3. TIME TO BE GIVEN TO CLEAR THE MISMATCH ADJUSTMENT OF INPUT CREDIT: -

The buyer's right to input credit is made dependent on the GST return filed by the seller and the buyer's input credit is forfeited if the seller's return is submitted late for any reason. This is not a very just system, then what should be done? If the buyer is not asked to submit the list of his purchases from specific sellers, then how can the Government know which sales the seller has not shown in his return. If a return Form is introduced for the buyer to give the details of his purchase, the seller is already showing his sales in one return, then now both these returns of all the dealers should be processed in a central computer and the mismatch of the same is posted in the accounts of both buyer and seller. The mismatch will be known to all the three parties i.e., Government, Buyer and Seller, 90 days' time should be given to both buyer and seller so that they can make mutual adjustment of this mismatch and deposit it with interest wherever it is required. If it is not so, then after 90 days, the Government should take action against whoever is guilty on its behalf. At present it the Buyer who is punished without knowing the fact that who is the real culprit.

Respected Madam, at this time the buyer is continuously working in removing the mismatch and the work which can be done only on one central computer, it is being done on at least 1 crore computers by the dealers, still no result is coming, then this arrangement should be changed to improve the system.

4. THE NUMBER OF NOTICES ISSUED IN GST SHOULD BE REDUCED: -

The number of notices issued in GST should be reduced and this is happening at this time if the officials look at the facts available after a notice is generated from the system, then in many cases there is no need to issue such notices but notices issued from the system are being sent to the dealers automatically, which is not only causing them trouble but also affecting the main purpose of GST to keep it free from human influence. The Notices generated by the system should first be vetted by officers and try to remove the problem with the records available with them instead of issuing the notices.

5. RELIEF UNDER SECTION 16(4) TO BE GIVEN ALONG WITH AMNESTY SCHEME/REVOKE CANCELLED REGISTRATIONS: -

The government brings amnesty scheme for GST dealers, but for those dealers whose registration has been cancelled long ago, if their registration is not started again, then this amnesty scheme is of no use to them, apart from this, on their input credit on which the restriction imposed under section 16(4) of the GST Act should also be removed.

The dealer who pays late tax and filing late returns has to pay interest anyway, then why does the government want to levy double tax on it by withholding its input credit under section 16(4).

6. INTEREST SHOULD BE STOPPED AS SOON AS GST TAX IS DEPOSITED BY THE DEALER: -

There is a law in GST that provides that even if the dealer pays his tax, his interest does not stop until he files his monthly return GSTR-3B and this is a very strange law.

Sometimes the taxpayer has deposited his tax but is not able to file the return, so in such a situation, the tax which he has deposited, then his interest on this deposited amount should be stopped. Late fee is applicable for late filing of return, but interest should be stopped on the tax which has been deposited by the dealer.

7. THE RATE OF INTEREST SHOULD BE REDUCED ON DELAYED PAYMENT OF TAX IN GST: -

Under the GST law, the rate of interest on late deposited of tax is 18 percent, but this rate was fixed at the time when the interest rate on fixed deposits in the bank was 10 to 12 percent, but at present the rate of Bank interest is reduced to 5 percent, then this the rate of 18%. is not just and fair. There are many reasons behind not depositing the tax within time, so the rate of this interest should be reduced and make it justified.

8. CONDONATION FOR DELAYED IMPLEMENTATION OF E-INVOICE: -

The provisions of e-invoicing in GST were implemented much later in GST, but some dealers could not start it on time, so those dealers who could not implement these provisions in time at the beginning of this provision. Since no tax evasion is made in this mistake hence this procedural mistake should be forgiven.

9. TRADE NAME OF THE DEALER TO BE USED ON GST NETWORK: -

At many places in GST the trade name of the of the dealers is replaced with name of proprietor. But no such name is given by the dealers on their selling bill, so there is always a confusion to the buyer, so the name of the trader's firm should be given first on the network of GST instead of the proprietor's name. The proprietor’s name is not used in the business world in India so this practised should be stopped.

10. LATE FEE TO BE REFUNDED TO DEALERS WHO HAS PAID IT: -

The government waives the late fee from time to time, so the late fee should be returned to the dealers who have filed the return after paying the late fee for that time for which the Late fees is waived. This will be a justified action and further it will also enhance the faith of law-abiding tax payers in this taxation system.

11. FACILITY OF AMENDMENT IN GSTR-3 SHOULD BE GIVEN: -

One of the main returns of GST is GSTR-3B but there is no facility to rectify the mistake in this return and in absence of this facility many problems of adjustment of GST are arising. There is no bar on the amendment of this return in the GST law, but why this facility is not there is one wonder. The facility of rectification in this return should be started immediately to make the return logical because mistakes are inevitable in any procedure.

12. THRESHOLD LIMIT FOR SERVICES ALSO TO BE INCREASED TO RS.40 LAKH: -

GST was implemented with the message of “One nation One tax” but initially the threshold limit was Rs 20 lakh for both goods and services but this limit was increased to Rs 40 lakh for goods but for services this limit was remained Rs 20 lakh only. This limit for services should also be increased to Rs 40 lakh now to remove this disparity.

I hope that by paying attention to these problems, you will provide the relief to the taxpayers of the country by giving quick orders to solve these problems.

- with respect

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