SIXTY DAYS OF GST

Implementation Challenges – Requested Changes

<table>
<tr><th>S.No.</th><th>Area of Challenge</th><th>Challenge</th><th>Change Requested</th></tr>
<tr><td colspan="4">Classification for Tax Rate</td></tr>
<tr><td>1.</td><td>Mapping of correct HSN code</td><td>The government has introduced only a four digit HSN Code as mandatory which leads to a situation where multiple items are falling under the same HSN Code despite different tax rate.

Furthermore, in a few cases, the same item is falling under more than one HSN Code. Due to this the issues faced in erstwhile tax regime will continue under GST. For example:

<table><tr><th>HSN</th><th>Particulars</th></tr><tr><td>2103</td><td>Mixed condiments and mixed seasoning</td></tr><tr><td>0910</td><td>Spices</td></tr></table></td><td>Mapping of correct HSN code and tax rate should be done to avoid confusion.</td></tr>
<tr><td>2.</td><td>Classification for tax rate – branded rice</td><td>Two rates of tax have been provided for supply of rice:

<table><tr><th>Description</th><th>Rate</th></tr><tr><td>Rice, other than those put up in unit container and bearing a registered brand name – Entry 70 of Notification No. 2/2017 – Integrated Tax (Rate) dated 28 June 201.</td><td>Exempt</td></tr><tr><td>Rice put up in unit container and bearing a <u>registered brand name</u> - Schedule I Entry – 51 of Notification No. 1/2017 – Integrated Tax (Rate) dated 28 June 2017.</td><td>5%</td></tr></table></td><td><u>Option A:</u>
GST Council may consider a provision wherein applying 5% GST on all packaged units where brand manufacturer/relabeller/co-packer is mandated to use their fssai logo and license number on the packaged unit.

<u>Option B:</u>
Use the definition of brand same as erstwhile excise laws wherein a product sold under a brand name or trade mark, whether registered or not, did not attract any differential tax rates,</td></tr>
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<td>The phrase ‘registered trademark’ used in the aforesaid notification (clarified as a ‘mark’ registered under the Trade Marks Act, 1999) is restrictive in nature and would allow various categories of rice supplier (like suppliers having popular registered trademarks which are now applying for cancellation of the trademark and still enjoying the same popularity and price or, suppliers using name of company as brand name in place of registered trademark) to supply rice at ‘nil’ rate irrespective of the fact that they are commercially operating in the same market segment.</td>
<td>the GST laws should also not be dependent on whether a mark is registered or not. Accordingly, the rate of 5% GST must be made applicable to any packaged rice sold in the market under a brand name, whether registered or not.

It is pertinent to note that removal of the requirement of registration under the trade mark laws and making the tax liability only dependent on the use of a brand name would easily remove all the tax leakages as all such cases would become taxable merely by removing the requirement of registration under the trademark laws.</td>
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<td>3.</td>
<td>Classification for tax rate – purified water</td>
<td>The following rates of tax have been provided for supply of purified water:

<table>
<tr><th>Description</th><th>Rate</th></tr>
<tr><td>2201- Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]</td><td>0%</td></tr>
<tr><td>All Goods not specified elsewhere under the tariff heading 22.</td><td>18%</td></tr>
</table>

On a plain reading of the above schedule, there is a possibility of confusion that the “sale/supply of “purified” water (whether or not sold in sealed container)” will also be subject to GST at 18%, under ‘all goods not specified elsewhere’ under the said tariff heading 22. The objective of the Government not to tax water, is clear from the fact that under the previous indirect tax regime ‘all waters not cleared in sealed containers’ was specifically exempt from all indirect taxes and VAT. It goes without saying that the objective of the Government is not to levy any taxes on purified water supplied in unsealed containers, in order to ensure access to safe and clean drinking water to public, which serves the larger public interest of right to life (which encompasses right to safe and sufficient water) under Article 21 of the Constitution of India.</td>
<td>It is requested to remove the word “purified” from exclusions provided for water in Chapter 22- (Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]) so that the taxability of purified water is on the same lines, as the earlier law.</td>
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4.	Classification for tax rate – solar power sector	Under solar industry, following rates have been notified: • 5% on solar power generating system • Different rates from 5% to 28% for different components used for solar power plants The main issue that the solar industry is facing is whether to apply the tax rate of 5% as solar power generating system or to apply respective rate of each component separately. Practically, it would not be possible to supply all components together in one go for setting up solar power generating system, however, still industry is taking the benefit of lower rate. Moreover, there is another issue whether setting up of a solar power system would be considered as work contract and liable to 18% or not.	Clarification on how taxes should be charged on such transactions related to solar power sector.
5.	Classification for tax rate – heading 2202	Specific technical parameters to classify goods as 'fruit juice based drinks' under tariff code 2202 9020 need to be informed. Also, specific technical parameters of goods to be classified as 'others' under tariff code 2202 1090 and 2202 9090 need to be informed clearly so that it is easy to differentiate and classify appropriately. And thus advance ruling option may not be the only recourse left.	Specific technical parameters to classify goods under the tariff code 2202 9020, 2202 1090 and 2202 9090 need to be provided.
6.	Classification for tax rate - intraocular lens	Intraocular lens are implants that have been internationally classified under HSN code 9021 all the while and even currently and same was the position for India customs until GST roll out. Under GST these have been incorrectly classified under a different HSN code namely 9002. Though both these HSN codes fall under same GST rates of 12%, the import duty rate for the chapter 9002 products is 10% while that for 9021 is 7.5%. This is causing a lot of inconvenience and financial losses to importers of intraocular lens.	Intraocular lens should be classified under the HSN code 9021.
7.	Classification for tax rate – permanent transfer of intellectual property rights	It is a settled position under the VAT Law that IPR are goods and thus permanent transfer of IPR would be taxable under VAT/CST. Moreover, the definition of goods as per VAT law and GST law are the same. Additionally, it may be noted that, Schedule II of the CGST Act clearly states that only temporary transfer of intellectual property is supply of service. Given the above, it may be interpreted that permanent transfer of IPR would be a supply of goods. Thus, sale of trademarks would be taxable @ 18% under the residual category i.e. Entry No. 453 of Schedule III of Notification No. 1/2017- Integrated Tax (Rate) dated 28th June, 2017. Further, Notification No. 8/2017-Integrated Tax (Rate) dated 28th June, 2017 (which specifies GST rates for services), states that temporary or permanent transfer of IPR in respect of goods is classified under Heading 9973. Since, the GST rate notification expressly provides for permanent transfer of IPRs under the GST rate notification for services, they may be taxable at GST rate of 12% (as supply of services).	Clarification is required on taxation of permanent transfer of IPR under GST.

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<td>8.</td>
<td>Classification for tax rate – printing industry</td>
<td>One of the major challenges which the printing industry is facing under the GST regime, is the classification issue i.e. in case where only content is provided by the customer and own material is used for printing, binding, etc. and subsequent sale of books whether such supply shall qualify as supply of goods or supply of services. Basis the concept of “composite supply”, such supply shall qualify as supply of goods i.e. books etc. since the dominant intention of the buyer is to buy the books printed by such publisher, which shall constitute principal supply in the said case.

Even in the earlier tax regime, supply of books etc. were exempt from the payment of tax. Under GST regime as well, sale of books, journals and periodicals, (4901) is kept under exempt category. However, there is ambiguity in law among which category, as stated below, such supplies shall be classified:

In case it amounts to supply of goods:

<table>
<tr><th>Chapter</th><th>Description of goods</th><th>Rate %</th></tr>
<tr><td>4901</td><td>Printed books, including Braille books and newspaper periodicals & journals</td><td>Nil</td></tr>
</table>

In case it amounts to supply of services:

<table>
<tr><th>Chapter, Section or Heading</th><th>Description of Service</th><th>Rate %</th></tr>
<tr><td>Heading 9988</td><td>Printing of books (including Braille books), journals and periodicals recovery services</td><td>5%</td></tr>
<tr><td>Heading 9989</td><td>Other manufacturing services; publishing, printing and reproduction services; materials recovery services.</td><td>18%</td></tr>
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</td>
<td>The activity of printing, binding selling etc. of books by publisher on the basis of content provided by a customer shall be treated as supply of goods attracting “Nil” rate of tax and a clarification should be issued to determine the nature under different scenarios. Classification of activity as service under entry no. 9988 and 9989 would levy the tax on domestic activity which would make the import of printed books a more viable option for Indian players instead of getting the same printed domestically.</td>
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9.	Classification for tax rate – timing chain	Some 2 wheeler customers have raised an issue on the HSN Code being adopted for the timing chain. The company is using 8409, based on the earlier Excise Tariff Code. Now some customers want the company to use 7315. Prior to GST, the Central Excise rate for both 8409 and 7315 were same. Under GST the Tax rate for 7315 is only 18%, were as for 8409 it is 28%. The company is planning to apply for an Advance Ruling with the GST Authorities, but as on date the Appropriate Authority in the State of Tamil Nadu is yet to be constituted by the Government. Hence the company is unable to apply for an Advance Ruling.	Clarification on tax rate to be used for the timing chain needs to be provided. Otherwise, at least the appropriate authority in the State of Tamil Nadu needs to be constituted so that the company may apply for Advance Ruling on the said issue.
10	Classification for tax rate - chains of iron or steel used in manufacture of a two wheeler	Some 2 wheeler companies are facing issues in respect of classification of chains of iron or steel used in manufacture of a two wheeler (TW). This is primarily due to the confusion as to whether or not TW chains are classifiable as chains under chapter heading 7315 or classifiable as parts of motorcycles under chapter heading 8714. Under GST the tax rate for 7315 is 18%, were as for 8714 it is 28% Based on the principles of classification prescribed under the Customs Tariff Act, 1975, read with Section Notes that chains used in manufacture of a TW are more appropriately classifiable under chapter heading 7315 and not under chapter heading 8714 due to the specific exclusion thereof (from chapter 87) provided under section notes covering both the tariff items.	Clarification in respect of the correct classification of chains used in TWs to ensure appropriate GST is discharged by the entire industry.

Concessional Tax Rate			
11.	Tax rate on properties for senior citizens	An operator in the senior living space, develops properties for seniors to live with all the services provided. Most of the seniors otherwise would be living alone in cities or towns with their children travelling out for work and depending on unreliable house-help and un-friendly infrastructure for senior living. The new GST regime has put the GST for services at 18%, which becomes an additional burden for the seniors who rely on their pensions or savings to pay for these services. This becomes a huge drain on their resources with increasing costs and reducing income earning opportunities, especially even the bank interest rates on the deposits have been steadily coming down. This is causing a lot of stress on financial resources of seniors who want to live in such managed properties.	Exemption under GST should be provided for these services towards seniors. This will help retiring seniors live a more tension free life.
12.	Tax rate on used vehicles	Through valuation rules, clarity has emerged on valuation of second hand vehicles. However, second vehicles attract the same rate as new vehicles, which is significantly higher than the tax rates under the erstwhile Excise/VAT regime.	GST rate for second hand cars should be fixed at a flat rate of 5%.
13.	Tax rate on maize bran and maize gluten	Maize bran and maize gluten which are used as cattle feed/poultry feed, were exempted from excise duty and VAT in most of the states. Charging GST on maize bran and maize gluten meal will result in price rise and eventually these products will become unaffordable for the farmers and therefore rural livelihood will face difficulty. Also dairy/poultry industries will be adversely affected.	Maize bran and maize gluten should be exempted from levy of GST.
14.	Tax rate on air compressors	Air compressors are being taxed at 28% under Chapter 84 of GST whereas earlier taxes were 15% to 18%:	Tax rate on air compressors should be reduced to 18% from 28% in line with the pre-GST regime.

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<tr><td></td><td colspan="2">Pre-GST Invoice Break-up</td><td>Post-GST Invoice Break-up</td><td>Addl. Work. Cap.</td></tr>
<tr><td></td><td>Inter State</td><td>Intra State</td><td></td><td></td></tr>
<tr><td>Sale Price</td><td>100</td><td>100</td><td>100</td><td></td></tr>
<tr><td>Excise</td><td>13</td><td>13</td><td></td><td></td></tr>
<tr><td></td><td>113</td><td>113</td><td>100</td><td></td></tr>
<tr><td>CST</td><td>2</td><td></td><td></td><td></td></tr>
<tr><td>VAT</td><td></td><td>5</td><td></td><td></td></tr>
<tr><td>GST</td><td></td><td></td><td>28</td><td></td></tr>
<tr><td>Total</td><td>115</td><td>118</td><td>128</td><td>10-13</td></tr>
</table>
An air compressor is an essential and critical element of any capital equipment as it works as a life-line for any manufacturing operation. Key served sectors include – steel, power generation, cement, pharmaceuticals and textiles.

Air compressors constitute approx. 1.5% - 3% of the total capital investment in these sectors which are primarily debt financed at an average cost of capital of 10% per annum over 10 years. The high rate of GST, the impact of which is about 10% additional tax will increase the cost of total investment in a plant and would translate into a higher cost of products sold, be it yarn from textile industry or medicine prices from pharma industry, power rates or the cost of steel produced etc. These industries are at the core of industrial activity in the Indian economy and the burden of higher GST rate will impact the industrialization/employment in these sectors and the sectors ancillary to them.

Today, most of these sectors namely, steel, power, textiles are under severe stress due to competition posed by cheap imports and lack of capital funding. A higher GST rate will dis-incentivize further capital investment and thus impact the competitiveness of the Indian industry. This would also be detrimental to the 'Make in India' initiative started by the Prime Minister.
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<td>15.</td>
<td>Tax rate on medical devices</td>
<td>GST rate on medical devices is 12% which should be gradually reduced since it is an important part of the healthcare industry.</td>
<td>Lower taxation rates of GST in future, should be provided especially for the medical devices since it is a part of the healthcare industry.</td>
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<td>16.</td>
<td>Taxation of free of cost services provided by foreign group companies to Indian group companies</td>
<td>Under GST law, free of cost services provided by group company outside India to Indian group company is being subjected to GST. Also, one is required to discharge GST on use of brand name of holding company even though there is no consideration flowing from India to the holding company.</td>
<td>As there is no consideration involved, the taxation of such free of cost services should not be done.</td>
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Reverse Charge Mechanism (RCM)			
17.	RCM on sponsorship services supplied on B2B basis	As per Entry No. 4 of the Notification No. 13/2017 of Central Tax (Rate), **sponsorship services** provided to a body corporate or partnership firm by any person are covered under the Reverse Charge Mechanism (RCM). GST in respect of the same is required to be paid by the recipient of service. Further, Section 17(2) of the CGST Act, 2017 provides that "where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies." Also, Section 17(3) of the CGST Act, 2017 provides that, "The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building." A conjoint reading of the above makes it clear that output services on which GST to be paid under RCM are to be treated at par with exempted services and thus ITC accruing to such output services shall not be available or shall be required to be reversed.	It is requested that in case of sponsorship services supplied on B2B basis, the same should be covered under forward charge instead of reverse charge to ensure free flow of credit. In case of sponsorship services on B2C basis, the same may continue to be covered under RCM.
18.	RCM on supplies made to SEZ units/ developers	Conjoint reading of GST law along with various notifications in this regard states that there are certain supplies which attract reverse charge thereby making recipient of supplies liable to discharge GST liability on such supplies. Law also stipulates that supplies made to SEZ units/developer has been made zero-rated wherein there is no liability on SEZ units/developers to discharge GST liability on such supplies. However, there is no absolute clarity in the law with regard to applicability of provisions with regard to reverse charge mechanism on such supplies made to SEZ units/developers.	Suitable clarifications should be released by the Government in order to clarify the applicability or non-applicability of GST on reverse charge basis on supplies made to SEZ units/developers.
19.	RCM on inputs used for making exempt supplies	Under Notification No.8/2017-Central Tax, GST is recovered from the recipient of product or service, supplied by unregistered dealers, where the value of supply is more than Rs. 5,000 in a day. This causes great hardship to suppliers of exempted products or services as they are unable to avail and utilize input credit on GST paid under reverse charge mechanism as the same is restricted through Section 17 (2) of the CGST Act, 2017.	It is requested to fully exempt levy of GST under reverse charge mechanism for supplies of inputs of products and services made to organizations, whose output is exempt from levy of GST.

Imports			
20.	Import – double taxation on ocean freight paid by importers	IGST needs to be paid under reverse charge basis by the importers on ocean freight @ 5% GST. At the same time, importers need to pay the customs duty on the CIF value of the goods imported into India. The CIF value includes freight as well. As a result, there is double taxation on ocean freight under GST.	In order to avoid double taxation on the ocean freight, appropriate amendments may be carried out to remove GST applicability on the ocean freight under reverse charge basis. There is no loss of revenue to the Government since GST will be paid at the time of filing BOE for customs clearances including freight.

Exports/SEZ			
21.	Export – no EPCG benefit on GST	Prior to GST, EPCG benefit was available for both customs duty and the CVD. But under GST Act, the EPCG benefit is given only to the customs duty and the company is required to pay the IGST on the machines imported. Even though input credit is available on the IGST paid, this will have a negative impact on the cash flow.	EPCG benefit should also be extended for IGST.
22.	Export – compensation cess on motor vehicles being exported	Compensation cess @ 1 to 15% is required to be paid on export vehicles that are subsequently refunded upon occurring of export. The time period of refund would vary from 2 to 6 months given the documentation and other filing/processing requirements. This would result in a significant blockage of funds; thereby increasing cost of doing business and if the exporter charges the interest cost to the overseas buyer, then it makes the export product cost more and become uncompetitive in the international market. Imposing refundable output taxes on export products is contrary to the idea of 'Make in India' and 'ease of doing business.'	Compensation cess should not be required to be paid on export vehicles and should be exempted. Following IGST regulations, the exporter should be required to pay output IGST only or export without payment of IGST but the payment of compensation cess should be exempt/not required.
23.	Export - working capital blockage for exporters	Prior to the implementation of GST, exporters used to get exemption from duties. Now, they have to pay the duty first and then seek a refund, a process that ties up a portion of their working capital with the government and pushes up manufacturing costs. According to industry estimates, over INR 1.85 lakh crore belonging to exporters will get stuck with the government due to GST every year. The exporter's working capital is getting locked up.	Export business related imports and domestic purchases should be free from GST.
24.	Export – LUT submission	Registered dealers are required to submit various documents with different jurisdiction authorities. It may be noted that there is no standard practice across India among the jurisdictional authorities with respect to submission of documents. Some authorities require submission of RFD – 11 on stamp paper (despite Notification 16/2017 which requires submission of the same on letter head). Further, no standard guidelines are there for value of stamp paper (different authorities require different value of stamp paper).	Clear guidelines/circular should be issued for standard practice for documents across India.

25.	Filing of bond/LUT by DTA unit for supplies from DTA to SEZ	As per Notification No. 16/2017 of CGST, a DTA unit supplying goods/services to a customer in SEZ needs to file a Bond/LUT. This is also resulting in a bond/LUT being issued twice for the same supply by both the supplier and the recipient. The above compliance procedures result in huge compliance burden on the DTA suppliers. This would also be a hindrance for ease of doing business by the DTA suppliers.	SEZ's are under the obligation to execute the bonds/LUT for any procurement of inputs or input services without payment of taxes under the SEZ law. Therefore, the same bonds/LUT filed by the SEZ unit with the Development Commissioner, should be extended to cover all procurements/supplies from the DTA to SEZ. Further, SEZ's are a registered person under GST. An amendment in the notification relaxing the requirement of bonds/LUT to be furnished by a DTA unit for supplies from the DTA to SEZ's is recommended for the ease of doing business.
26.	Place of supply for intermediary services	As per Section 13 of the IGST act, the place of supply for 'intermediary services' is prescribed to be the location of supplier of service. This effectively creates a situation where intermediary services will never be treated as export which militates against the default rule of place of supply being the location of the recipient of services particularly with respect to the kind of services that apparently are sought to be covered under the ambit of 'intermediary services.' The IGST Act on this subject is inconsistent with the fundamental VAT principles practiced and prevalent in VAT regimes of European Union, Canada, Australia, New Zealand, Singapore, South Africa and Malaysia.	We request you to have the provision in respect of intermediary service under the IGST Act be urgently re-examined. A bare perusal, basis first principles of VAT would make it evident that the provision defeats the construct of GST as a tax on final consumption.

Input Tax Credit (ITC)			
27.	ITC – immovable property	To avail any input credit on services related to immovable property such as hotel stays of employee on business visits, dining in restaurants, organizing business meetings, etc., the GST registration needs to be taken in all such travelling states irrespective of the fact that there may not be any branch/office of a company in those states. Only in case Input Service Distributor (ISD) registrations are taken by a company, input credit of CGST and SGST availed can be transferred to respective location of the assesse for utilizing. Thus it entails taking registration and regular compliance of filing returns in all states or else the GST paid cannot be availed as input credit. Here taking one-time registration is not as big a challenge as the cost of manpower and time in filing of returns on monthly basis. Thus in this manner there is restriction in seamless flow of GST credit which otherwise is rightfully due to the assesse thereby causing undue hardships.	ITC should be made available for services procured in relation to immovable property located in states other than the state of registration of the assesse so as to allow seamless flow of GST credit across the nation.
28.	ITC - working capital impact as eligibility to claim ITC depends upon vendor's compliance	GST input credit eligibility depends upon the vendor's compliance and it may impact working capital in case suppliers failed to do compliance or there are some matching issues on GSTN portal.	GST input credit eligibility should not be dependent upon vendor's compliance. Recipient should be allowed input credit by allowing to submit proof at the GST portal of the tax invoice received at the time of procurement of the input and the proof of consideration paid to the supplier for the same.
29.	ITC on capital asset	On procurement of capital asset, 100% credit can be claimed subject to the conditions prescribed for availment of ITC. CGST rules specify that residual life of the asset shall be taken as 5 years. For dealers engaged in the supply of both taxable as well as exempted goods, credit of capital goods would be restricted to the extent of taxable supplies. Manner of allowing credit and reversal of credit to the extent of exempt supply is very difficult and practically almost impossible to implement. Even standard renowned systems are not providing any functionality to comply with this requirement. Further credit attributable to exempt supplies would have to be reversed during every tax period of its residual life along with interest. This will lead to additional compliance as well as financial burden.	The restriction on availment of ITC in respect of capital goods should be the same as provided under Cenvat Credit Rules i.e. full ITC should be allowed unless the capital asset is used exclusively in making exempt supplies.
30.	ITC – short period to correct mismatch	As per section 18(2) of CGST Act, 2017, a registered person shall be entitled to take input tax credit of a particular year up to the date of filing annual return i.e. by 30th September. However as per Section 42 of CGST Act, 2017, in case of mismatch of input tax credit claimed by the registered	GST being a new tax structure, implementation currently is challenging due to new filing formats, various deadlines for payment and

		recipient, there is a time limit of only 2 months to get the mismatch rectified or else the excess input tax credit claimed shall be added to the output tax liability of the recipient and he shall be liable to pay interest on same. On subsequent rectification up to annual return, the credit will be allowed to the recipient of goods/services. By adding the limit of 2 months instead till annual return, the reconciliation efforts of rejection/subsequent allowance of credit are increased substantially. Hence the period 2 months should not be used for rejection. Instead, credit should be disallowed only if rectification is not carried till the date of filing annual return.	return filing, conditional tax viz., registered and unregistered etc., Government should continue with the extended time limit of annual return filing for the initial 1st year of rollout and then later review and shorten the period once the compliance is regularized.
31.	ITC – high seas sales	The govt. has understood the pain of industry and has issued clarification to "exempt" high seas sales transaction but as a result the "common input credit" related to high seas exempted business becomes ineligible under GST and becomes a cost.	It is recommended that high seas sales should be "zero rated" so that input credit of common services gets reversed to the extent of such exempted high seas business only.
32.	Treatment of merchant trade transactions under GST	An Indian exporter has received an order of supplying 100 pieces of jackets from a customer X based in UK. ABC gives the order to another company Y in Bangladesh to manufacture the jackets and directly ship to X. There is no clarity with respect to the above transaction as to whether the same will be treated as export of goods or an exempt supply under GST. As per section 2(5) of Integrated Tax Act, 2017, "*export of goods" means taking goods out of India to a place outside India*. In the instant case, the final goods are already outside India and thus supply to X shall not qualify as export. Alternatively, *"exempt supply"* means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax, **and includes non-taxable supply**. As per Section 2(78) of Central Tax Act "**non-taxable supply**" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act. Basis this the transaction can be considered to be exempt supply, as a result of which credit restrictions and proportionate credit reversals are attributable to this transaction However, since the entire transaction is being effected outside India, should this transaction be considered within the purview GST in the first place?	Clarification is required whether the transaction is a zero rated supply or an exempt supply, within the purview of GST, basis which there would be restrictions on input tax credits.

33.	ITC – physical invoice requirement	GST Law requires physical invoices for claiming input tax credit. When every industry is moving towards digitization, gathering physical invoices and retaining them is a huge logistic challenge more so when this is coupled with increased volumes. Currently due to lack of physical invoices, GST Authorities may reject input tax credit. As the tax payer has to update invoice number in GSTR 1 and this automatically gets reflected in GSTR 2, hence the requirement of mandatory physical invoices should be removed.	If requirement of physical invoice is removed, the GST compliance and reconciliation could be expedited. This would not result in any loss to the tax exchequer.
34.	ITC – free samples and free trials	Due to very low penetration rates for contact lens in India, large numbers of trials are essential to the business in order for the new consumers to try contact lens before buying these. Such consumer trials are widespread and both, a unique and essential part of this business. As such, the cost of trials is already built into the consumer prices. Under GST, input tax credit (ITC) is not permissible and has to be reversed. This has resulted in added costs to the industry hampering their ability to grow this category.	It is recommended that free trials should be allowed ITC the same way as saleable product. As much as free consumer trials, free schemes for trade partners is also a common practice to grow the category. Free goods are essentially in same nature as price discounts and hence should not require ITC reversal on the part of the supplier.

Transitional Provisions			
35.	Transitional provisions – MRP stickers	It was allowed to put the revised MRP sticker alongside the printed MRP, with the condition that all such stocks should be cleared before 30th September 2017 and after that there should be just one price on each pack. This condition is onerous in certain sectors like contact lens, medical devices etc. where there is large number of stock keeping units (SKU) due to peculiar needs of the customer/patient and as a result overall inventory levels range from 4-6 months of the monthly sales.	It is requested that the time allowed should be extended until 31st December 2017 so that the industry does not have non-saleable inventory at the end of this window.
36.	Transitional provisions – state VAT incentive schemes	GST transition clarity is awaited for state VAT incentive schemes.	State Governments should, after trade consultation process, release their GST transition plan such that incentive commitments can be optimized.
37.	Transitional provisions – area based tax incentive schemes under excise	In pre-GST regime, the Government, with an objective to attract investment and promote trade and industry, in certain under-developed areas had designed a scheme called 'Package for Special Category States' for Jammu & Kashmir, Uttarakhand and Himachal Pradesh. In this scheme, the Central Govt. had offered various indirect tax concessions to industries setting-up manufacturing facilities in such special category states. One such incentive was exemption from payment of excise duty on goods manufactured and cleared from Uttarakhand (UKD) factories for a period of ten years. GST law has withdrawn all such area-based exemptions due to which the units set-up there are now required to pay GST. It is understood from the press release issued on August 16, 2017, the Central Govt. has taken a decision to provide a budgetary support equal to the Central share of the cash component of CGST and IGST paid by the affected eligible industrial units for the remaining period of benefit. It is pertinent to note that there is no mention in the press release in regards to the refund of the remaining share (or the state share) of the CGST and IGST. It is also understood from the press release that DIPP will notify the scheme, including detailed operational guidelines for implementation of the scheme within 6 weeks.	It is requested that since the benefit was granted by the Central Govt. under central laws, the Central Govt. should ensure that the budgetary support should compensate the entire loss incurred by the industrial units on the withdrawal of the exemptions. In absence of the compensation industry would suffer a severe financial burden of the huge investment made on the promise of being granted such area based exemptions.

38.	Transitional provisions – C Form pendency	SGST Rules provide that so much of the credit as is attributable to any claim related to statutory declarations like Form C, Form F etc. which is not substantiated in the manner, and within the period, shall not be eligible to be credited to the electronic credit ledger. State authorities are not issuing Form C due to shortage of printed stationery or they are focusing on smooth transition of GST.	Adequate stationery for C Forms should be made available to state authorities and the same shall be instructed to issue the same to the persons seeking them.
39.	Transitional provisions - form TRAN-1	GST transition rules provide that credit of central tax shall be availed subject to satisfying the condition that the stock of goods on which the credit is availed is so stored that it can be easily identified. Being into modern whole sale business and considering the number of items, it's very difficult to sort physical inventory on shelf in to pre and post GST regime.	Requirement to sort physical inventory for pre and post GST stock should be dispensed off.
40.	Transitional provisions - form TRAN-2	GST transition rules provide that credit of central tax shall be availed subject to satisfying the condition that the registered person shall submit a statement in FORM GST TRAN 2 at the end of each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period. Government has not yet released utility format for filing of TRAN-2. This will lead to additional cash outflow despite the fact that law entitles the assesse to avail deemed credit in the month of sale.	The utility format for filing TRAN-2 should be released at the earliest so as to allow the assesses to avail deemed credit in the month of sale.
41.	Transitional provisions - RCM liability on invoices up-to June 30, 2017	The issue is in reference to RCM liability on invoices pertaining to June 2017 and payment being made to vendors in July. Kindly note that Service tax is payable under RCM only when payment is made to vendor subject to certain conditions. Further, credit of service tax paid under RCM would be available after payment of service tax. Further, with effect from July 01, 2017, GST has been implemented. However, the question emerges here that whether RCM liability of pre-GST regime should be payable under GST or service tax. In this regard, reference shall be drawn to Rule 7 of point of taxation Rules 2011 which provides the liability to pay tax under RCM arises when the payment is made. Accordingly, tax incidence on invoices pertaining to June 2017 arises under GST regime. However, the liability relates to service tax period which expired on 30th June 2017. Furthermore, it is also not clear whether the credit for the same will be available on or after July 01, 2017. Also, there are situations where a particular transaction was subject to RCM under service tax regime for eg. work contract services which are not subject to RCM under GST regime. In case date of payment is to be considered for the purpose of payment of tax, technically there is no RCM liability on the date of payment and hence the transaction will escape tax payment.	Clarification is sought as to which tax is required to be paid and how the credit of the same will be availed.

42.	Transitional provisions - adjustment of service tax	The mutual fund Industry pays commission to distributors with clawback conditions. Hence, on receipt of gross commission the recipient would have paid service tax as applicable. For any reversal during the GST period such adjustment of service tax is only available till Sep 2017. Hence, for schemes which have clawback after Sep 2018 for payments made before July 2017 adjustment for service tax will not be available and thus will be an additional outage for tax payer.	If the tax payers are not able to claim the service tax paid in excess on clawback of commission, it would be loss to tax payers and a disadvantage for them on account of this transition to GST. Government should extend the adjustment to service tax till December 2020 for all valid service tax adjustments.
43.	Anti-profiteering clause	GST's anti-profiteering clause requires companies to pass on the benefit of lower taxes and increase in taxes to consumers. But little clarity over anti-profiteering clause has led to confusion over setting of selling prices for goods. The law doesn't clarify how the costs incurred on account of transition from GST to non-GST era are to be factored in. It also doesn't specify how loss-making units pass on the benefits.	Request Finance Ministry to elaborate on the provision of anti-profiteering clause so that the industry can take up necessary changes wherever required and avoid unnecessary litigation on this front.

Credit Note			
44.	Credit Note – Linkage with original invoice	Under GST requirements, every credit note must have an invoice reference, and also one credit note can be issued only against one single invoice. This means that in case of monthly / quarterly discount schemes where the discount is given against purchases made under various invoice during the month/quarter, the dealer will now have to raise one credit note against each invoice which will lead to very high volumes in terms of number of credit notes and in case of multiple schemes for the same period, will almost become unmanageable administratively.	This needs to be addressed on topmost priority as this is one of most painstaking issue causing much grievance in the Trade causing sentiments to suffer.

Registration			
45.	Registration – migration issue	During the transition period, when service tax assesse is in the process of migrating to GST, GSTN portal shows that it's RC has been cancelled before submitting the application for the same. Accordingly, taxpayer is not able to complete the migration process and not able to carry forward the transitional credit to GST regime.	Facility should be started to resolve such issues so that tax payers are able to submit their pending application for migration and avail transitional credit via filing form TRAN-1.
46.	Registration-requirement for mutual fund distributors	As per GST Law, registration becomes mandatory for any service provider who provides interstate service. The distribution in MF industry is slowly gaining foothold and approximately 80% of the active empaneled distributors may be below the threshold of 20 lac of annual revenue. As per GST Law, registration is not mandatory if the annual revenue of the service provider is less than Rs. 20 Lac provided he is not engaged in inter-state service. With the MF industry predominantly based in capital cities like Mumbai, Chennai, Delhi and Kolkata and primarily most of the asset managers operate out of Mumbai, all distributors who are based in smaller cities and catering to investors in their cities are now required to be registered and comply with the registration and return filing as they are now considered to be giving inter-state service. Such small distributors lack infrastructure and bandwidth to meet the onerous GST requirement. They may phase out of business and this may impact the growth of MF industry in such smaller cities.	GST Law to be amended and mandatory registration to be waived for service provider with annual revenue of less than Rs. 20 Lac even if they provide inter-state service. This will reduce the compliance requirement for such tax payer with no loss to the tax exchequer as tax would be paid by the service recipient on reverse charge mechanism.
47.	Amendment in registration certificate	GST Laws provide that where there is any change in any of the particulars furnished in the application for registration, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal. Amendment in registration certificate core fields (like additional place of business, authorized signatory etc.) are not yet available.	Registered persons should be allowed to make amendments in core fields of the Registration Certificate at the GST portal.
48.	Registration - persons dealing exclusively in exempt supplies	As per Section 23 of the Central Tax Act, a company, engaged exclusively in supply of exempted goods or services, is not required to take registration under GST. Section 24 of the Central Tax Act, provides a mandatory requirement, that a person liable to pay tax under reverse charge is required to take registration.	Urgent clarity is required in as to whether or not the persons who are exclusively engaged in supply of exempted goods or services, are required to take registration to discharge liability under reverse charge for notified services.

		Considering the above provisions, it appears that in case a person, covered under Section 23 is receiving services which are specified for the purpose of reverse charge payment, would be required to obtain GST registration even if he is dealing in non-taxable supplies. This anomaly creates a situation where every person would be required to obtain registration and do necessary GST compliance which makes the provisions of Section 23 redundant.	

INVOICE			
49.	Invoice – barter activities	One peculiarity in contact lens and intra-ocular lens is that these come all pre-packed each for specific dioptre to suit consumer requirement. Products like contact lens and intra-ocular lens being dioptre based items, require range of stock keeping unit (SKU) resulting in high trade inventory levels. Exchanges of lens of different dioptres, between market players is a common practice and essential part of keeping inventory hygiene and faster service to patients. Prior to GST implementation, this was a simple process that could be carried out on the strength of an exchange delivery challan. However, under GST, due the requirement of raising a tax invoice for every exchange (these being also treated as supplies), this has become difficult and slowed down the exchange process. Essentially, the exchanges being in the same product do not cause any tax loss.	The GST council should look at this practice and provide clarification to allow these on the strength of a delivery challan only. As most of the Retailers are in the "composite dealer" category, they are reluctant to issue invoices as this artificially inflates their turnover, in the event they issue invoices for every exchange, which is the integral way of doing business.
50.	Invoice - warranty activities	As per time of supply and invoicing regulations, for every warranty service done, an invoice is required to be raised the same day. In the automotive business, each individual job card is a separate supply requiring invoices to be raised, etc. Under the current regulations, this increases the administrative and accounting work substantially.	The dealer should be allowed to raise periodic (weekly/monthly) invoices for the supplies to the OEMs and not be required to raise daily invoice(s) at every job card level. This will ease the administrative compliance burden while not compromising on the GST collection.
51.	Invoice – purchases made from unregistered dealers	GST law mandates raising self-invoicing for purchases from un-registered dealers. The invoice serves dual purpose of statistical data gathering and classifying the goods and services. The GST paid is available as credit. Administrative difficulties are faced in the self-invoicing process and this is a compliance for statistics/data gathering purposes.	A threshold should be specified for raising self-invoicing documents.

Sector Specific Issues			
52.	Oil and Gas Sector	The oil and gas industry is required to comply with both the current tax regime as well as the GST regime leading to double compliance cost because five petroleum products viz. crude oil, natural gas, motor spirit, high-speed diesel and aviation turbine fuel have been excluded from the GST, while other products such as LPG, naphtha, kerosene, fuel oil etc. are included. Besides, it will result in non-creditable tax costs where an oil and gas company will pay the GST on procurement of plant, machinery and services, and will be unable to get credit on sale of the finished products (which are out of the purview of GST) as the input GST would not be credible against the excise duty and value added tax levied on these fuels.	Necessary amendment subsuming VAT provisions on fuels needs to be passed by government to pass-on the actual benefit of GST to the oil and gas sector and provide hassle free flow of input credit. Till the time, Govt. should provide a mechanism of credit of VAT paid with GST output liability and vice-versa.
53.	Online Information Database and Retrieval services ('OIDAR')	The main issue which mostly OIDAR tax payers are facing is that their username and password has not been generated by department as on date and due to which such taxpayers are not in position to login on GST portal and file their required GST return. Moreover, utilities have not been shared till date to file the specified return for such OIDAR.	The Finance Ministry should take this issue on priority basis and provide required username and password basis which such taxpayers will be able to login on GST portal and file return within due time limit after discharging output tax liability on same.

Miscellaneous Issues			
54.	Confusion regarding Communication on Twitter	The government is facilitating assesses by clarifying teething problems through GOI Twitter account however the Twitter clarification don't have any legal binding. On few occasions, it has been observed that there are different clarification/views being tweeted on the same matter. For example, while a strict reading of the act, suggests that any payment made to an unregistered vendor/service provider is subject to GST under reverse charge. This same provision extends to employee reimbursements as well. However, through tweets, GSTN has been constantly replying to queries of various people that GST would not apply to employee reimbursements. This is causing a lot of confusion with the companies.	Clarifications provided on Twitter should be carefully analyzed in light of the GST laws and contrary views should be avoided for similar issues. Government should instead issue clarifications on teething issues by way of notifications or circulars under the GST laws.
55.	E-way Bill	E-way bill implementation requires a significant change in processes and systems across the supply chain including last mile distributors which are companies with limited infrastructure, hence companies would need a window of 3 months post release of rules to ensure a smooth implementation across all touchpoints.	It is requested to move the implementation timeline for e-way bills to 1st Jan, 2018.
56.	Composite Supply	Separate MRP/prices on invoice/packaging under "composite supplies": Does mentioning of separate MRP/prices on the same invoice for each supply of goods or services which are naturally bundled (for e.g., (i) base unit (CPU) of desktop and monitor; (ii) laptop and branded carrycase), qualify as a composite supply and will attract GST rate as applicable on principal supply? Does each supply need to be packed together and needs to have a composite/single MRP to constitute a composite supply? Imports under "composite supplies": Similarly, would imports of base unit (CPU) of desktop and monitor or laptop and branded carrycase, constitute a composite supply, (i) for the purposes of payment of IGST on import of goods into India; or (ii) on supplies from a SEZ unit to customers in the DTA?	A clarification/circular clarifying these issues would settle the various different interpretations and help in the smooth functioning of the IT business. The principle test of determining a composite supply is: two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. Hence, separate MRP/prices being mentioned on the composite supply invoice or separate packaging should not be interpreted to create an issue.

		Only one product is returned for replacement from an original composite supply transaction: In case any replacement needs to be carried out for only one product from the composite supply transaction, for e.g., only monitor needs to be replaced, the base unit (CPU) is ok, does the entire composite supply goods need to be brought back/returned or only the monitor in the above example can be returned and replaced?	For import transactions and supplies from SEZ's to DTA as well, customs authorities should also allow to clear on payment of IGST as a composite supply. Return and replacement of only one product from the composite supply should be allowed as per the original invoice against which the replacement is to be made, without treating it as separate from the original composite supply.

57.	Definition of "agricultural produce" to include cotton	Under the service tax regime, the transportation service in relation to cotton was specifically exempt however in GST regime the exemption is for "agricultural produce" only. Loading/unloading and storage/warehousing service in relation to "agricultural produce" is also exempt but here again cotton is not captured. If we look at the definition of "agricultural produce" it means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Please note in case of cotton, the process to make it marketable for primary market is conducted by ginners not by cultivator/producer hence the same is not qualified for exemption.	The definition of "agricultural produce" should include cotton for the purpose of exemptions under the GST regime.
58.	Advances received – adjustments of tax paid	There is no clarity regarding adjustment of taxes paid on advances received with GST applicable on supply when the taxes paid on advance or as applicable on supply falls under different tax pools. One is liable to pay GST on advances depending whether the supply is interstate or intrastate, i.e. IGST/CGST and SGST (as the case may be). For example one pays IGST on advance considering the transaction to be interstate supply but later the supply happens to be intrastate supply and accordingly the person is liable for CGST/SGST, there is no clarity whether the two taxes (IGST on advance vs. CGST/SGST on supply) can be offset against each other.	Clarity for adjusting the taxes paid on advances received against the actual output liability on supply needs to be provided.
59.	Access to GST portal	As the internet gateway of some companies is in foreign countries, they are unable to access the GST website. On perusal of the system requirement details on GST website (www.gst.gov.in) as well as per telephonic discussion, companies have been informed that GST common portal is currently unavailable for IP address having domain outside of India network.	GST common portal should be made available for IP address having domain outside the Indian network so as to allow MNC's having internal gateways outside India to access the GST common portal.
60.	Place of supply – bill-to-ship-to cases	GST being a destination based tax needs to be levied basis place of supply/delivery. However, on a plain reading of Section 10(1) of the IGST Act, it is not at all clear whether the place of supply should be the bill to location of the customer or the ship to location of the customer thus causing unnecessary confusion in nature of levy of GST and wide disparity in following the correct approach. This needs to be addressed and provisions need to be clearly explained.	Provisions regarding bill-to-ship-to transactions needs to be clearly explained.
