



## AMERICAN CHAMBER OF COMMERCE IN INDIA

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June 23, 2017

**Mr. Arun Jaitley**  
Minister of Finance  
Government of India  
New Delhi

**Sub: Representation on Goods and Services Tax, w.r.t.**

- (i) Methodology for commensurate reduction under Anti-Profiteering Rules, 2017 and**
- (ii) Applicability of Credit Transfer Document (CTD) to transactions below INR 25,000**

**Hon'ble Minister,**

Firstly, we on behalf of the trade and industry would like to congratulate the GST Council for its relentless support, contribution in several important decisions and making the path to GST implementation free from fallouts.

We take this opportunity to represent the interest of our members and the taxpayers at large, before your good self on the following two issues.

***(1) Commensurate reduction under Anti-profiteering provisions***

As you may be aware that the legislators have incorporated anti-profiteering provisions under Section 171 of the Central GST Act, 2017. The anti-profiteering provisions provides that 'any reduction in rate of tax or any supply of goods or services or the benefit of input tax credit shall be passed by on recipient by way of commensurate reduction in prices'.

Further, Section 171(2) of the Act provides that the Central Government, on recommendation of the Council, may constitute or appoint an authority to examine whether the input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of goods or services or both supplied by him.

The GST Council, post its 17<sup>th</sup> Meeting had released the draft Anti-profiteering Rules, 2017 as available in public domain. The constitution of the authority is provided under the Rule 3 of the draft. Also, the Rule 7 of the draft provides that "the authority may determine the methodology and procedure for determination as to whether the reduction in rate of tax on supply of goods or services or the benefit of input tax credit has been passed on by way of commensurate reduction in prices".

It is imperative to mention here, that term 'commensurate reduction in the price' is not defined or discussed in the Act or draft Rules. The establishment of authority and the power to make its own procedures, is apparently a machinery to take cognizance of evidences and determine whether the commensurate reduction has actually happened or not. The authority will be more of redressal forum. However, what will constitute 'commensurate reduction' is not defined and in absence of a definition or guidance the industry will follow its own economics to determine the commensurate reduction in price of goods or services.

Determination of prices is a crucial aspect for any business and the change in law especially with incorporation of anti-profiteering provisions spurs the criticality.

**Request:**

- As the GST will go live from 01<sup>st</sup> July 2017 and the Section 171 becomes operative on the industry, it would be extremely important for businesses to calculate the 'commensurate reduction' and revisit the price of goods or services supplied by them.
- The Government should release some guidance regarding, methodology including calculations and periodicity to reflect such commensurate reduction, before GST is implemented i.e. 01<sup>st</sup> July 2017. The release of clear guidance will help the industry to comply with the Anti-profiteering provisions.

***(2) Applicability of Credit Transfer document to goods with value higher than INR 25,000 per piece***

The other aspect, which we would like to take up through this letter relates to Credit Transfer Document (CTD). In order to allow the benefits of credit, where the duty paying document is not available in the intervening period of GST implementation, the Government has proposed the concept of CTD. The objective of inserting CDT in present CEVNAT Credit Rules 2004, is to provide transfer of Cenvat credit paid on specified goods available with a trader as on appointed date.

The draft Rule provides that a manufacturer who is registered under the Central Excise Act 1944 may issue a document called CTD to evidence the payment of duty of excise, paid on goods manufactured and cleared (under the cover of an invoice) by him before 01<sup>st</sup> July 2017, to a person who is not registered under the Excise Act. It is not irrelevant to cite here that the draft Rule provides for limitations, conditions and procedure to be followed while issuing a CTD. Please note that the only objective of issuing a CTD is to evidence that the payment of duty of excise has been made by the manufacturer and that the specified goods had suffered the excise duty as tax incidence under present laws.

Whereas, the first and foremost limitation of issuing CTD is that the value of goods for which CTD can be issued should be higher than INR 25,000 per piece and bears the brand name of the manufacturer and are identifiable in distinct number such as chassis/engine number of a car. The monetary threshold in the Rule, restricts the benefit of credit to the manufacturer who are engaged in the manufacturing of products with the value less than INR 25,000.

It may kindly be noted here, that execution of the proposed CTD facility would lead to discrimination whereby goods valued less than INR 25,000 albeit they have suffered excise duty, would still not be eligible for CTD facility. The credit provisions ordinarily are not designed with a monetary threshold. Thus, putting an artificial embargo in terms of value of goods eligible to avail CTD facility is against the basic principle of allowing input tax credit to a taxpayer.

Independent to above, one may also consider that largely the products with value less than INR 25,000 are of household use, which are already intended to be kept at lower or lowest tax rate under GST. By extending the facility of CTD uniformly irrespective to monetary value of goods,

while maintaining the identifiability to ensure easy administration, will lead to reduced prices of stock in hand with the traders.

**Request:**

- The businesses dealing in such products (i.e. with value less than INR 25,000), thus should not be denied of the benefit of CTD facility. This is because from an administration perspective, the draft Rules anyways put the onus on the manufacturer to establish that the excise duty has been paid.
- Therefore extending the benefit of CTD to every manufacturer will not lead to any drawback but rather eliminates the discrimination and is likely to reduce the prices of goods used by a common man on routine basis.

We hope our present request finds merits and consideration before this office and shall be taken up for a further discussion so as to ensure a timely and mutually agreed resolution between the council members, allowing to make a recommendation to the Government.

If required, we would be happy to assist you with further documents and in meetings as the case may be.

Thanking you and with best regards,

Yours sincerely,



**Madhvi Kataria**  
Deputy Director General