PRE-BUDGET MEMORANDUM 2018-19 ON INDIRECT TAXES

I. CUSTOMS DUTY:

Sr. No	Section/ Subject	Issue	Suggestion / Recommendation
1.	***Ambiguity in Chapter 98.01 governing project imports – Irrigation Projects :***		
	Chapter 98.01 of Customs Tariff Act, 1975	This Chapter allows import of goods under project import regulation for various projects including **Irrigation projects**. However, by a separate Notification No.14/2004-Cus. dated 08.01.2004 Government has exempted Water supply project under Heading 98.01 for Agriculture or Industrial use from whole of the basic duty and additional duty.	Since the notification allows exemption of goods for water supply projects (which is nothing but Irrigation Project) for Agriculture and Industrial use, the entry in 9801 covering Irrigation Projects has become redundant and a matter of controversy and dispute. In view of specific exemption by notification for Water supply projects for Agriculture, the entry of Irrigation Project under 9801 is required to be deleted to avoid ambiguity and provide clarity in the regulation.

II. GOODS & SERVICE TAX ACT:

Sr. No	Issue	Suggestion / Recommendation
1	***Covering services provided by Corporate Insurance Agents to Insurance Companies under FORWARD CHARGE Basis like done in the case of Goods Transport Agents (GTA)***	
	There are many IRDA registered Corporate Insurance Agents who are engaged in providing insurance Agency and auxiliary services of procurement of insurance business for the insurance companies. For providing the said services, they receive a commission from the insurance Companies. They also maintain large number of offices across the country to reach to the nearest people in the city/village to market the insurance products. In the process they incur huge cost both in terms of goods and services. In terms of GST Rules, services supplied by an insurance agent including Corporate Agent to any person carrying on insurance business are liable to GST under reverse charge in the hands of the person carrying on insurance business, that is to say the insurance companies. Now, in the course of providing such services, such Insurance Agents procure various types of services and goods from their vendors on which they either pay GST to the provider of such services or goods or discharge GST under reverse charge mechanism if so required under the law. Example of few such Goods/Services purchased by these agents is Renting of property, security services, telephone, business travel, stationery, audit fee, consultancy charges, manpower procurement charges, etc. The quantum of such GST paid by the agents (especially Corporate Agents) for the purpose of providing output services is quite large. Now, since output services of insurance agents are under RCM and paid by the Insurance Companies, these Corporate Insurance Agents cannot avail the ITC of the GST paid on goods/services purchased by them in the course	It is therefore just that the insurance auxiliary services being supplied by corporate agents may also be brought under forward charge or at least an option be given to these corporate insurance agents to come under forward charge just like GTAs. Further there is no loss to anyone including the Government if this option is provided. Also it is reiterated that this option is already available in case of GTA.

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	of providing the output services. Consequently all ITC become a part of their cost. . Needless to say it is a huge financial hardship for these insurance agents and against basic structure of GST system. Since the provision covers insurance auxiliary services by insurance agents, a large number of corporate agents who are fully organized also stand covered by such provision and therefore the GST in respect to the said services being provided by them are taxed under RCM in hand of the insurance companies	
2	***Domestic manufacturers of scientific Equipments are in difficult situations***	
	There are many manufacturing scientific and laboratory equipments which are being supplied to the large number of Research Institutes, Universities, hospitals etc. In view of the custom Notification No 51 dated 23.7. 1996 as amended vide amended notification 43/2017 dated 30.6.2017 all such import of equipments are exempted from the payment of custom duty including Integrated GST. Further note that even consumables will also cover under the above notification. As compared to the above, local industries manufacturing same product including consumables will be subjected to payment of full GST as under: 84211910 GST Rate 18% 84798200 GST Rate 18% Plastic consumables (Disposables Single Time Used) are classified under BTN 3926 GST Rate 28%, 3923 GST Rate 18%	The above exemption notification has made the Indian Industry completely unviable unless the similar exemption benefit is extended to the Indian Industry. While we do support the above exemption to the institutes , we request you to provide the similar support to the Indian manufacturing Industry.
3	***Supply of Labour by the Labour Contractor***	
	Under the above arrangement, Labour	To qualify as Pure agency, the Contractor has

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	contractor supplies the labour and raises two invoices per month i.e. for (a) actual cost of labour as reimbursement and (b) his commission. In the absence of the clarification, the cost of labour will be subject to charge of GST and would not come under the head of Pure Agent. As a result, both the above costs will come under GST	to be provide some other services. This will be a great hardship particularly to those who are using the above services, the output of which is non-taxable.
4	***CSR Expenses – application of RCM***	
	The Companies are required to spend annually about 2% of its average profits on account of CSR. Normally such expenses are made through authorised NGOs and sometimes directly by the Company.	A clarification is needed about the applicability of GST and RCM on such expenses for the benefits of the taxpayers.
5	***Third Party Exports under Back to Back L/C.***	
	3rd party exports are very common in the business under which materials are imported from one country and it is simultaneously exported to the other country by way of endorsement of Bill of Lading and other negotiable documents. Normally it is done through a back to back L/C.	It is a fact that the above transactions are outside the purview of the GST since all the transactions are done outside the territory of India. In view of the above, a clarification is needed as to whether such transactions are to be shown in the exempted category in GSTR 1 or it will not at all be shown in the GST returns.
6	***Supplies made by SEZ unit to DTA Unit***	
	Under the previous VAT laws, Supplies to DTA by SEZ unit were subject to payment of VAT/CST. Also the importer were subjected to payment of Custom duty as applicable under the Custom Act. Under the existing GST laws, SEZ units are outside the purview of the GST legislations although the importers of goods (DTA) from SEZ unit are subject to payment of IGST as it is considered as import under Customs. However, under IGST law, supplies made by SEZ unit to DTA unit are not considered as " export" in terms of section 2(5) of the IGST Act. As per the said provision export means taking of goods out of India in a place outside India. Hence, if	We are sure that the above double taxation is not the intention of the Revenue. We find some issues on the above subject in certain SEZs and hence request you to clarify the issue so that double taxation does not arise.

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	we go with the above provision, supplies made by SEZ unit to DTA Unit will not be considered within the purview of "Export" and it will be considered as "supply" and accordingly it will be subject to payment of IGST. At the same time the importer i.e. DTA unit will also be liable to pay IGST as applicable under the Custom Act.	
7	***Reverse Charge Tax for Exempted unit***	
	Tax is payable for RCM under two circumstances u/s 9(3) and 9(4) of the CGST Act as under: 9(3) – Applicable in respect of receipt of certain goods and services – This is payable by the recipient irrespective of status as registered or un-registered or exempted. 9(4) – Applicable for receipt of goods or services purchased/sourced from unregistered dealer by a registered dealer. In view of the above provisions, even the exempted unit (e.g. dealers of agricultural commodities under exemption category) will be liable to take registration and pay tax on receipt of certain services or goods under RCM although their output tax is ZERO. Further since they need to take registration in view of applicability of section 9(3), they would be required to pay RCM even in respect of purchases of goods and services from unregistered dealer under section 9(4).	This being a hardship and the fully exempted unit may be kept outside the purview of RCM;
8	***Credit Transfer Document in respect of imported goods with a value of more than Rs. 25000 per item***	
	While 100% Transitional credit is available under the above route in respect of goods manufactured in the country, such benefit has still not been extended to imported goods which suffered full rate of BCD, CVD and SAD. This matter was taken up several times in the past.	A suitable clarification may be issued on the above subject.

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9	***Transitional credit in respect of imported goods***	
	Finished items imported by Importers were normally sold under Commercial invoice by including the cost of import duty including CVD, SAD in the sale price under previous tax regime. As a result, the buyers of such items don't hold duty payment document and as a result they don't get full credit in respect of central taxes and only eligible for deemed credit.	Necessary clarification is required to get 100% credit where the dealers are able to co-relate its stock with the importer's bill of entry.
10	***Amendment to Not. No.8/2017-Integrated Tax (Rate) dated 28.06.2017 vide Notification No.20/2017-Integrated Tax (Rate) dated 22.08.2017 :***	
	By this notification, Government has reduced GST from 18% to 12% for supply of Composite Works Contracts Service for projects of high priority by amending original Not. No.8/2017-Integrated Tax (Rate) dated 28.06.2017. Consequently supply of composite works contract services by way of construction etc. for projects at item No. (iii) of Sr. No. 3 of Notification No. 20/2017-Integrated Tax (Rate) .would attract GST @12% instead of 18% It may be construed that the reduced rate of 12% under Sr. No. (iii) of Entry No. 3 would be applicable only if Composite Supply of works contract services are provided by the principal contractor to a Government, a local authority or a Governmental authority, for the specified projects where they are the recipient whereas no such restriction is casted for projects under sr. no. (iv) and (v) of Entry No.3. If so, then the amendment to Item No.(iii) of Sr. No.3 would result in inverted tax structure in the following manner: Principal Contractor billing to Governmental recipients would attract GST @12% whereas sub-contractors engaged by Principal contractor for providing Composite supply of works contract for the same projects at Sr. No.(iii) of	To remove the anomaly, it is requested to amend Not. No.20/2017-Integrated Tax (Rate) dated 22.08.2017 suitably so that sub-contractors providing composite supply of works contract services to the Principal contractor to whom project mentioned at Item. No. (iii) Of Sr. No. 3 of the said notification have been awarded by the Government, Local Authority/ Governmental Authority are also allowed to levy GST @12%. Even in the erstwhile Service Tax, at Sr. No.29 (h) of Mega Exemption No. 25/2012-S.T.dated 20.06.2012 sub-contractors providing services by way of works contract to another contractor providing works contract services were also exempt from service tax. Applying the same analogy, you will agree that sub-contractors should also be allowed to charge GST @12% in respect of composite supply of works contacts covered under item No.(iii) of Entry No.3 of Notification No.20/2017-Integrated Tax. (Rate) dated 22.08.2017. The above anomaly will have serious impact on the cash flow of infrastructure sector which is already reeling under financial crunch and hence it is requested that the sub-contractors are also allowed to pay GST @12% for supply of composite works

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	Entry No. 3 would have charged GST @ 18% to Principal Contractor. For obvious reasons, in Construction Sector, the Principal Contractor is required to sub-contract the works contract In some project, the Governmental authorities have been awarding contracts to Joint Ventures and JV in turn, sub-contracts the same work (back-to-back) to other contractor/s to meet the targeted schedule. Consequently, while 12% GST is applicable to the JV, its partners and all other sub-contractors will have to pay 18% GST, resulting in excess Input credit in the hands of the JV./ Principal contractor. As per Section 54 (3) of the CGST Act, refund shall be allowed only in cases where the credit has accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies. This implies that refund provision is not applicable where the rate of tax of input services is higher. This is a very serious proposition as input credit will be accumulated in the hands of the Principal Contractor / JV and would block the much needed cash follow thereby posing further hardship to the construction sector.	contract to the principal contractor.
11	***Amendment to Not. No.8/2017-Integrated Tax (Rate) dated 28.06.2017 vide Notification No.24/2017-Integrated Tax (Rate) dated 21.09.2017 :***	
	It is observed from the notification that though the Notification intends to levy reduced rate of 12% on supply of Composite Works contract as defined in clause 119 of Section 2 of CGST Act, 2017, it appears that inadvertently at the beginning of the Notification the following words are missing: "(vi) Composite supply of works contract as	To enable contractors supplying composite works contract services to pay GST @12% It is requested that the said notification is modified as under: (vi|) Composite supply of works contract as defined in clause (119) of Section 2 of the CGST Act, 2017 to the Central Government, State Government, Union Territory, a Local

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	defined under clause (119) of Section 2 of the Central Goods and Service Tax Act, 2017" Secondly, as stated hereinabove, Principal Contractor billing to Central Government, State Government, Union Territory, a Local Authority or a Governmental Authority as recipient of . composite works contract service would attract GST @12% whereas sub-contractors engaged by Principal contractor providing Composite supply of works contract for the same projects at Sr. No.(vi) of Entry No. 3 would have charged GST @ 18% to Principal Contractor. For obvious reasons, in Construction Sector, the Principal Contractor is required to sub-contract the works contract as more specifically stated hereinabove. The inverted tax structure would accumulate credit in the hands of principal contractors, resulting in severe impact on the cash flow of the infrastructure companies who have been reeling through cash crunch for the past few years As mentioned hereinabove as per Section 54 (3) of the CGST Act, refund shall be allowed only in cases where the credit has accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies and is not applicable where the rate of tax of input services is higher. This is a very serious proposition as input credit will be accumulated in the hands of the Principal Contractor / JV and would block the much needed cash follow thereby posing further hardship to the construction.	Authority, or Governmental Authority by ways of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of: (a) civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) clinical, or (iii) an art or cultural establishment; or (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the CGST Act, 2017 The above notification may be suitably amended so that sub-contractors providing composite supply of works contract as defined in clause (119) of Section 2of CGST Act, 2017, to the principal contractors for the projects mentioned at item No.(vi) of Sr. No.3 of the notification also pays reduced rate of 12%. Since the above ambiguities will have severe and serious impact on the infrastructure companies especially in respect of its operation, billing and timely discharge of GST, it is requested for urgent action for amending the notification as mentioned above.
12	***Amendment to Not. No.8/2017-Integrated Tax (Rate) dated 28.06.2017 vide Notification No.39/2017-Integrated Tax (Rate) dated 13.10.2017:***	
	As per Item No.(vii) of Sr. No.3 of Not.	To avoid ambiguity, it is suggested that that

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	No.39/2017, Composite supply of works contras as defined in clause (119) of Section 2 of the Central Goods and Services Tax Act, 2017 involving predominantly earth work (that is constituting more than 75% of the value of the works contract) provided to the Central Government, State Government, Union Territory, Local authority, a Governmental authority or a Governmental Entity, GST would be applicable @5%.. As it would be difficult to measure earth work constituting more than 75% of the value in a works contract, such pre-qualification would lead to unwarranted disputes and litigation. As per Item No.(viii) of Sr. No.3 of Not. No.39/2017, Composite supply of works contras as defined in clause (119) of Section 2 of the Central Goods and Services Tax Act, 2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line would attract GST @ 12%.	the wordings of notification be limited to "involving predominantly earth work" and the words " consisting of more than 75% of the value of the works contract ".- be deleted. Further in order to avoid ambiguity and unwarranted disputed it is suggested that the supply of composite works contract and other associated services covered under item No.(viii) of Sr,.No.3 of the Notification, provided by sub-contractor to principal contractor is also reduced to 12% to avoid inverted tax structure.
13.	***Refund of accumulated input credit where rate of input services is higher than rate of output supply - Amendment to Section 54 (3)(ii) of CGST Act, 2017***	
	Section 54 (3) (ii) of CGST Act, 2017 allows refund of unutilized input tax credit in case of (i) zero rated supply and (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. However, the provision is silent for refund of unutilized credit in respect of input services.	There is no provision to refund accumulated credit on account of rate of inputs services, if the same is higher than the rate of tax on output supplies. It is requested that suitable amendment / clarification is issued to include "input services" after the word "input".
14	***Exemption/Reduced rate of GST @12 % for supply of composite works for Metro & Mono Railways* - Item No.(v) of Item No.3 of Not. No.20/2017-Integrated Tax (Rate) dt.22.8.17**	
	Supply of composite works contract by way of construction etc. for projects mentioned under	Switching over these projects to levy higher rate of GST @18% would lead to huge cash

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	Item. No.(v) of Sr. No.3 of Not. No.20/2017-Integrated Tax (Rate) attracts reduced rate of GST @12% excluding Metro and Mono railways. While amending the entry it appears Government has overlooked the exemptions restored till 31.03.2020 under erstwhile Service Tax Not.No.9/2016-S.T. 1.3.2016 for projects falling under Section 12A, 14 & 14A of Mega Exemption Not.No.25/2012-S.T. for which contracts were entered prior to 1.3.2015 and for Metro and Mono railways prior to 1.3.2016.	burden on Construction companies already reeling under financial crunch due to heavy interest costs, blockage of funds due to delayed payments, etc. Most of these projects have been awarded by the Government, directly or indirectly, and thus levying higher tax on such projects would raise the infrastructure cost of the projects. For contracts without statutory variation clause, the burden on the contractors would be enormous. Thus, projects where tax exemption has been categorically bestowed till 31st March, 2020, levying higher tax @ 18% on the same is not in line with equity particularly so when other entries in relation to works contracts of the same Mega exemption notification 25/2012-ST under service tax regime have been now subjected to lower tax @ 12%. It is therefore, requested to ensure continuity of exemption for those on-going Metro Projects which were exempted prior to GST. This will ensure stability, uniformity and hassle free in tax application. For taxable projects, it is requested that the notification be amended suitably for levying GST @12% for supply of works contract services.
15	***Inter-state movement of construction equipment and spares from one branch to another: - Valuation under GST* (Rule 32 (7) of GST Valuation Rules)**	
	In EPC contracts, movement of construction equipment from one project to another is imperative to maintain continuous and uninterrupted flow of work process. These equipments are practically old and used and its movement are on principal to principal basis and there is no consideration or value addition.	To avoid hurdles and disputes over valuation of movement of equipments between distinct persons, it is requested to clarify that as provided under Rule 32 (7) value of inter-state movement of construction equipments and spares from one site to another is treated as NIL.

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	They were not qualifying as "Stock Transfer" even under Pre-GST regime. Spares are mostly charged off to expenses account at the point of purchase itself. Therefore at the time of transfer there will not be any value. Even if such movements constitute as supply and liable to levy of GST wherein the recipient is entitled to a full ITC which means it is Revenue Neutral transaction for the exchequer but the same leads to the following issues in every movement: • Valuation to be done for such movement • Additional compliance requirement • Unwarranted delay	
16	***Non-availability of ITC of GST paid on advances - Section 16 (2) of GST Act, 2017:***	
	Section 16(2) of the CGST Act mandates four conditions for availing Input tax credit. One of them being actual receipt of goods/ services. This results in a scenario wherein tax paid on advances is not eligible for ITC till the time of receipt of invoice/ goods or services leading to working capital blockage.	It is requested for appropriate amendment to the section so that issue of receipt voucher is treated as a document for availing ITC This would facilitate taxpayers reducing their working capital requirement As an example, in a ship building industry, it would take nearly 2-3 years to materialize the advance amount leading huge working capital blockage.
17	***Advance received for exempt projects prior to introduction of GST Act, 2017:***	
	Project Authorities/Project Owners have provided Advance by whatever name called prior to introduction of GST in respect of projects exempted from Service Tax. Explanation to Rule 3 of the Point of Taxation Rules, 2011 provides that where any advance is received by service provider towards any service, the point of taxation shall be the date of receipt of such advance.	In view of the facts, no GST is leviable on advances received in respect of exempt projects prior to introduction of GST. It is suggested that the relevant provision is suitably amended so that GST is paid/payable by the registered persons on the net value of the amount charged after adjusting the advance received on exempt projects prior to introduction of GST

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	Therefore, any advance received prior to GST for a taxable project would have been taxed. Applying the principle of Rule 3, the advances received for exempt project were exempt from payment of Service Tax prior to introduction of GST. In terms of Section 142 (11) (b) of the GST Act, 2017 ,GST shall not be payable on any supply of service to the extent service tax was leviable on such service under Chapter V of the Finance Act. In other words, for the portion already taxed, GST will not be once again be leviable. Applying the same analogy, since advance is received prior to the appointed date , same is not taxable post GST for exempt services, which means the advance received in the pre-GST period should be excluded for payment of GST when such service was exempt from Service Tax.	
18	***Exclusion of Interest, Late Fee and Penalty from Transaction Value* - Section 15 (1) (d) of GST Act, 2017**	
	As per the above proviso, interest, or late free or penalty for delayed payment of any consideration for any supply etc. is to be included in the Transaction Value.	Transaction value is the price actually paid or payable for supply of goods and or services. Interest, late free or penalty may arise due to contractual provisions or due to an issue between seller and buyer. Hence it is incorrect to add interest, or late fee or penalty for delayed payment of any consideration for any supply etc. in the Transaction Value. It is requested to delete the entry in Section 15 (1) of GST Act, 2017.
19	***Clarity on ITC credit of GST paid on Cranes, Dumpers. Grader, Tipper, Excavator etc - Section 17 (5) of CGST Act, 2017***	
	Equipments like, Grader, Cranes, Dumpers, Tippers etc. are construction equipments but require registration under the Motor Vehicles Act. because they are motor driven and capable	To remove unnecessary doubt and unwarranted disputes by the Revenue over availment of ITC on these equipments, it is suggested that after the entry of (ii) for

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	of traveling on the road. However, these equipments are solely used for construction work such as earthwork, leveling, movement of goods from one place to another, excavation, etc As per Section 17 (5) of GST Act, Notwithstanding anything contained in sub section (1) of section 16 and sub section (1) of section 18, input tax credit shall not be available in respect of the following, namely: (a) motor vehicles and other conveyances except they are used: (i) for making the following taxable supplies, namely (A) for supply of such vehicles or conveyances; or (b)..... (C)..... (ii) for transportation of goods These equipments are solely used for construction work such as earthwork, leveling, excavation etc. though they are required to be registered under Motor Vehicles Act because they are motor driven for traveling on the road.	Transportation of goods" the following entry be incorporated: (iii) Construction equipment falling under any Chapter of HSN. For your information, in the questions and answers published by CBEC relating to Mining Sector, for Question 21: (Will GST charged on purchase of all earth moving machinery including JCB, tippers, dumpers by a mining company be allowed as input credit)? CBE&C answer is as under: Answer: The provision of Sec. 17(5) (a) of the CGST Act, 2017 restricts credit on motor vehicle for specified purposes listed therein. Further, in terms of the provision of Section 2(76) of the CGST Act, 2017 the expression 'motor vehicle' shall have the same meaning as assigned to it in Clause (28) of Section 2 of the Motor Vehicle Act, 1988, which does not include the mining equipment, viz., tippers, dumpers. Thus, as per present provisions, the GST charged on purchase of earth moving machinery including tippers, dumpers used for transportation of goods by a mining company will be allowed as input credit. Applying the same analogy, please clarify that ITC is allowed on Construction equipments used by the Companies in Construction Sector for construction work.
20	***Sharing of expenses/Allocation of cost between Group Companies/ Divisions/Sites etc. etc:***	
	Allocation of cost/sharing of expenses or sharing of cost incurred on common utilities between Group Companies/ JV/ Divisions/ sites/ etc. are common business practice and involved in mere accounting entries. Journal Vouchers/debit notes representing such sharing of expenses/allocation of cost on principal to principal basis without any consideration or value addition do not satisfy the definition of supply and hence would be	Since the provisions in GST are silent and allocation of cost/sharing of expenses or sharing of cost of common utilities between Group Companies/ Divisions/Sites etc. are common business practice and involved in mere accounting entries. And hence it is requested to clarify that in the absence of any consideration or value addition such journal vouchers/debit notes would not attract GST.

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	attract GST.	
21	***Benefit of zero rated to the sub-contractors of SEZ - Section 16 of IGST, 2017***	
	Under Section 16 of the IGST Act, supply of goods or services or both to a Special Economic Zone Developer or a Unit would be zero rated supply. The provisions are silent as to whether benefit of zero rated supply is available to sub-contractors supplying goods/services to SEZ.	It is suggested for inclusion of adequate provisions in the IGST so that the benefit of zero rated supply shall also be extended to sub-contractors providing supply of goods/services to SEZ Units/ Developers. It is also suggested that: To enable sub-contractor to supply goods/services without payment of GST, the LUT issued in favour of the principal contractor be allowed to be utilized by sub-contractor for the exemption goods/services. In the fact, Rule 10 of SEZ Rules updated upto 2010 states that: , Provided further that exemptions, drawbacks and concessions on the goods and services allowed to a Developer or Co-developer, as the case may be, shall also be available to the contractors including subcontractors appointed by such Developer or Co-developer, and all the documents in such cases shall bear the name of the Developer or Co-developer along with the contractor or sub-contractor and these shall be filed jointly in the name of the Developer or Co-developer and the contractor or sub-contractor, as the case may be GST process in a SEZ Unit is attached as Annexure-1.
22	***Provisions relating to refund of GST*** **- Section 54 (6) of GST Act, 2017**	
	Section 54 read with rules for refund of tax made there under allows 90% as provisional refunds for exports of goods/ services. The provisional refund is subject to various conditions including conditions on pending proceedings etc. which is totally unwarranted.	The assessee exporting goods and or services is claiming legitimate refund of tax suffered on such exports and hence the refund of the same should not be conditional which is very much necessary to encourage exports.

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23	***Withdrawal of concessions/exemptions to power sector under international/ National competitive bidding – Section 147 of GST Act, 2017***	
	Supply of specified goods to notified Power Projects have been considered as 'deemed exports' in Chapter 7 of the Foreign Trade Policy 2015-20 and benefits in the nature of advance authorization, duty drawback, terminal duty refund were extended to such supplies. The intention was to support the Power Sector which is considered as critical for development of the economy. The pre-GST exemptions on account of excise duty/CVD/ and SAD for eventual supply to these projects are not available in the GST regime. Suppliers/ importers of such goods are liable to pay IGST/ CGST+SGST from 18% to 28% which escalates cost to the power producers The cost of power projects will therefore increase significantly which may have ramifications not only for the power producers but also for EPC contractors. This will result in dispute between Power producers and EPC contractors on the question of reimbursement of GST and impact progress of projects.	It is requested to revive the tax exemptions for Mega Power Projects and Nuclear Projects for which necessary notifications under Section 147 of the CGST Act and under the Foreign Trade Policy 2015-20 are issued.
24	***Settlement of GST claims – Request Government to issue directions to Project owners (mostly Govt agencies) to settle claims on account of GST differential:***	
	It is observed that Project owners are taking time to amend/renegotiate the existing contracts due to change in cost and till then invoices are kept under hold. Public sector customers / Government agencies are not accepting the bills raised by the Construction Companies. Due to non-settlement of claims, the working capital position of all the Construction Companies is severely affected. Further it is also their contention that advances towards mobilization, equipment and inputs are not towards supply of service and hence GST is not applicable on such advances.	In view of various genuine difficulties faced by the contractors on account of frequent changes in tax laws and subsequent legislations and the reluctance to accept such changes by these project owners, it is requested Government' to direct the project owners to settle the claims arising on account of tax difference. It is also requested to ease the compliance in the initial stages so that contractors would not face any hurdle in work process, billing and discharge of GST.

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	On account of above issues bills are held up and the contractors are facing severe financial hurdles to keep continuity of work flow. Various Government, Local authority, Governmental authority/ Government Undertakings are expressing their inability to settle claims on account of GST differential, for the reason that they do not have any direction from the Government to do so.	For your information while introducing GST by the Malaysian Government, there was expressive direction to Government Agencies to settle claims on account of GST differential so that tax payers do not suffer on account of working capital blockage. It looks forward to similar positive action from the Government to overcome the hardship.
25	***Amendment to Section 140 (2) of Transitional Provision which is contrary to Rule 6 (4) of Cenvat Credit Rules, 2004:***	
	As per amendment dated 1.4.2016 to erstwhile Cenvat Credit Rules, 2004, No Cenvat Credit shall be allowed on Capital goods used **exclusively** in the manufacture of exempted goods or providing exempted services for a period of two years from the date of commencement of the commercial production or provision of service and the period is computed from the date of installation of such capital goods. As per Section 140 (2) such capital goods would not be eligible for Cenvat Credit if they have been installed prior to 30.6.2017 and used in providing taxable goods or services under GST.	Had there not been GST, any capital goods if used for manufacture of dutiable goods or for provision of taxable service even once during the period of two years from the date of installation an assessee would have been eligible for Cenvat credit of excise duty/cvd paid on the capital goods. Under GST most of the supplies of goods and services have become taxable and hence depriving such capital goods installed within two years before GST should be eligible for ITC credit since they are now used for providing taxable goods or services. In view provision 140 (2) should be amended accordingly.
26	***Amendment to Transitional provisions in Section 140(9) prescribing time limit of 3 months for reclaiming the credit and Section 140 (5) for receipt of tax paying documents in within 30 days:***	
	The transitional provisions under Section 140 (9) provides that where any Cenvat credit availed for the input services provided under the earlier law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day	With the modification made in second proviso to section 16(2) whereby pursuant to reversal, re-credit has been allowed upon payment by insertion of a third proviso, similar provision for re-credit should be incorporated u/s 140(9) without any prescribed time limit. Thus, both the provisions should be on equal footing. The period should be extended to at least 6 months.

Sr. No	Issue	Suggestion / Recommendation
	Under Section 140 (5) person shall be entitled to credit of duty or tax paid under the existing law but the tax invoice was recorded in the books of account of such person within a period of 30 days from the appointed day..	Further as prescribed in second proviso to section 16(2), there should not be any liability of interest on account of such reversal inasmuch as there is no default on the part of the recipient since the payment may not have been made in terms of the business policies which in any case shall not be binding on the availment of credit. With regard to Section 140 (5), for various practical reasons it is not always possible to receive/record tax invoices in the books of account within thirty days from the appointed day. It is requested that the time period is at least extended to 3 months from the appointed day.
27	***Levy of GST on transactions happening outside India: Section 10 (1) (b) of IGST Act,* 2017**	
	Section 10 (1) (b) of IGST Act mentions that supply of goods on the direction of third party would deemed to be made to said third party even if goods are delivered to any other person at different location except in case of import and export outside India. Due to this provision it appears that if Indian Vendor is billing to Indian Customer against the supply made from one location to another location other than in India as per direction of Indian Customer, GST is leviable on transaction though goods have been moved within non taxable territory. Further it appears this error happened unintentionally by the Govt. during drafting of law. This issue is creating confusion in merchant trading activity about applicability of GST.	Requested for suitable amendments to ensure non-applicability of GST on transactions which take place outside Indian territory.
28	***Filing of Returns on Quarterly basis instead of monthly***	
	The date of filing Returns as proposed under the GST regime, i.e., GSTR1 by 10th; GSTR2 by 15th & GSTR3 by 20th, is impractical and unworkable, particularly, for infrastructure companies working on PAN India basis having remote	Since GST laws prescribes the payment of tax on monthly basis by 20th of next month, there is a fit case that filing of returns be made quarterly so that businesses can devote their time and energy to carry on their business

Sr. No	Issue	Suggestion / Recommendation
	working sites. Construction sector comprises of a large no. of unorganized work force with several unregistered suppliers /vendors and compliance from them under GST regime would be a herculean task. To obtain details from such subcontractors spread across the length and breadth of the country and collation of the same would be a task easier said than done and not realistic within the time frames as prescribed. In view of the complex billing pattern followed in the Construction Industry coupled with unavailability of details from suppliers/subcontractors end as above, the due date of filing GSTR1 (i.e., Return for output services) as 10th of the subsequent month & GSTR2 as 15th of the subsequent month is simply not feasible. Inevitably, non filing of GSTR 1 & 2 would lead to consequential delays in filing corresponding GSTR3.	smoothly instead of getting busy throughout the year in returns on monthly basis. Since tax is being received on monthly basis, there will be no loss to the Government but will be an ease of compliance burden on the assesses. It is requested that parity be kept between limited review/audit dates (as prescribed under SEBI guidelines) and return filing dates under GST regime so as to ease the compliance burden on the Construction sector. Accordingly, instead of monthly returns, quarterly returns may please be prescribed with due dates in sync with the above so as to ensure harmony between books and returns. This will go a long way in easing administrative burden and increasing compliance procedures. As a matter of fact, as already reported in certain sections of media, the group of state Finance Ministers (GoM), led by Assam Finance Minister Himanta Biswa Sharma, has already recommended that all GST payers be allowed to file quarterly returns (including those with an annual turnover of above Rs. 1.5 Cr). Further, tax payments for taxpayers with turnover above Rs. 1.5 Cr. may be fixed monthly. This will ensure easing of compliance burden on all assesses while ensuring continuous stream of revenue for the Government.
29	***Reduction of rate on Construction Equipments from 28% to 18%***	
	Still many earth-moving and construction equipments have been placed under the 28% GST slab rate.	Under the earlier indirect tax regime, earth-moving and construction equipment were levied central excise duty @12.5% (with cenvat beenfits) and 5-6% VAT. In effect, construction equipment attracted 18% duty across different parts of the country. The move to impose 28% GST is a setback for the industry, on account of the expected price increase of 8-10% even after considering increased input credits. This is undoubtedly

Sr. No	Issue	Suggestion / Recommendation
		detrimental to the infrastructure sector as a whole. The higher rate of GST on domestically manufactured equipment has also to be seen in the context of making imported equipment more competitive. The global construction equipment industry is facing headwinds and the increased price of domestic equipment will make the Indian market more attractive to imports. Thus, this will also negatively impact the Govt.'s 'Make-in-India' campaign. Moreover, most capital goods are now in the 18% GST bracket. But, earth-moving and construction equipment (which are also capital goods) is being seen as clubbed with automobiles at 28%. Although the GST council has shifted many items from 28% to 18% rate, It is therefore recommended to put Remaining earth-moving and construction equipments in the 18% GST slab.
30	***GST on Instant Coffee – Chapter 210111***	
	For "Instant Soluble Coffee" and Preparations with a basis of instant coffee, commercially known as "Coffee Premixes", the GST Council has decided to charge the tax under 28% category whereas for Roasted and Ground (R&G) Coffee and Tea the Council has fixed the rate @5% GST. Both R&G and Instant coffee has same end use, thus high differential of tax prescribed on these products is not appropriate and justified. Rationale: Tea and Coffee are the common man's beverage in India. Instant Coffee is gaining some acceptance due to ease of preparation when compared with R&G Coffee. Charging GST rate of 28% and differential GST of 23% when compared with R&G Coffee and Tea, will negatively impact growth of Instant Coffee and	Recommendation: In view of the above facts, in order to make the product competitive besides providing a level playing field with R &G coffee and Tea, it is strongly suggested that for Instant Soluble Coffee and Preparations with a basis of Coffee, the GST rate should be kept at the same rate like R&G Coffee and Tea @ 5% or at most under 18% and not under the category of 28%.

Sr. No	Issue	Suggestion / Recommendation
	also impact investment in manufacturing capacity.	
31	***GST on water based non-aerated beverages – Chapter 22021090***	
	Post the GST roll out, non-carbonated drinks which are flavoured, irrespective of whether they contain zero or low sugar or have added nutrients and minerals, attract the highest tax rate including the 12% cess similar to that of carbonated soft drinks. This representation is to request for a review of the rates for these drinks classified under HSN 22021090. The broad intent of GST was to keep the tax rates close to the earlier effective rates. In this case the earlier effective rates were 24-26% however the current GST rate coupled with the compensation cess takes the total tax rate to 40%; this is classified as a sin product inspite of our intent of offering consumers healthier alternatives to carbonated soft drinks. There was no inkling of the additional 12% cess component, as the notification on 12th April, 2017 had mentioned only aerated waters to be classified under this category. However, with the revised notification on 28th June, 2017, other healthier products irrespective of the low sugar content and health benefits also got included.	Recommendation: To clarify that 'Waters, containing added Sugar or other Sweetening Matter or Flavored' covered under HSN 2202 10 90 is not subject to GST compensation cess.
32	***Distribution of input tax credit on central spends under Input Service Distributor (ISD) model***	
	The GST law provides that input tax credits accumulated by an ISD should be distributed in the ratio of amongst other distinct person based on 'Turnover'. Further, the term 'Turnover' is defined to include sale and stock transfer between distinct persons. Since, GST is a consumption based tax, it is recommended that an option be provided to the tax payer to distribute ISD credits based on sales or 'turnover'. The tax payer should be allowed to structure his operation in such a way that he does not end up with high GST refund in one state and output liability in the others.	Recommendation: Tax payer should be allowed to distribute ISD credits based on sales or 'turnover'.

Sr. No	Issue	Suggestion / Recommendation
33	***GST on Agricultural Implements***	
	Agricultural sector is the largest contributing sector to the overall Indian GDP. There are various types of agriculture implements like hoes, shovels, sickles, crowbars etc. which cater to the needs of agriculture. Currently there is an exemption of GST on the supply of these implements falling under HSN code 8201. However, there is no exemption of GST on purchase of input raw material used for manufacturing these agriculture implements. As there is no GST applicable on finished products, input tax credit of GST paid on purchase of input raw material used for manufacturing these agriculture implements becomes cost in the value chain which results in the increased manufacturing cost. Similarly there is no exemption of GST on the services provided by service provider/Job workers for manufacturing of these agricultural implements due to which these tools, implements are becoming expensive under GST regime. Due to this agricultural implements have become costlier which is creating additional cost burden on the farmer.	It is suggested that GST should be applicable on agricultural implements at lower rate i.e. 5% so that Tax credit on input material, input services used for manufacturing of agricultural implements can be availed to avoid cascading effect.
34	***Transitional Provisions-ITC on Capital Goods***	
	Section 140(5) of the CGST Act covers transitional provision which is as under: A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of **inputs or input services** received on or after the appointed day but the **duty or tax in respect of which has been paid by the supplier** under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day: Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not	It is suggested that the provision should be amended to include "capital goods".

Sr. No	Issue	Suggestion / Recommendation
	exceeding thirty days: Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section. As per above provision, grace period of 30 days is available only in respect of input and input service. It does not cover Capital Goods as defined in cenvat Credit Rules, 2004. In a large manufacturing unit, huge amount of capital goods will be in transit as on the date of transition.	
35	***Pre-Deposit in case of filling of appeal***	
	Section 107 (6) of the CGST Act dealing with the appeal provides for a pre-deposit of 10% of the Tax in dispute for filing an appeal. As per Section 35F of the Central Excise Act, 1944 for appeal proceedings before the Commissioner (Appeals) and CESTAT the assesses is required to make a mandatory pre-deposit of 7.5% of the duty, in case where duty or duty and penalty are in dispute, or 7.5% of the penalty, where such penalty is in dispute for filling appeal at first stage after adjudication before Commissioner (Appeal) or CESTAT and 10% of the duty, in case when the duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute for filling second stage appeal before the CESTAT after order by Commissioner Appeals. **The total pre deposit under the Section is subject to a ceiling of Rs 10 Crores.** This provision is effective from 06.08.2014 Prior to 06.08.2014, at the time of hearing of stay application as per Section 35F of the Central Excise Act the appellate authority was having power to waive the pre deposit if there is a prima facie good case in the favour of the	It is suggested that provision of Section 35 F applicable prior to 06.08.2014 should be adopted in GST also, alternatively the pre deposit in any case should not exceed Rs 10 Crs as applicable presently as per Section 35F.

Sr. No	Issue	Suggestion / Recommendation
	assesse and unconditional stay is granted. The provision laid down in the CGST Act does not talk about any ceiling limit. Presently, in many cases huge unnecessary demands are created and rate of success in litigation at CESTAT in favour of assessee is very high. Mandatory payment of pre-deposit in all the cases that too without any ceiling limit will result in unnecessary financial hardship in the form of outflow of amount on account of pre-deposit. Since final disposal of the litigation takes time due to the pendency of the cases at CESTAT/Commissioner Appeals, the funds gets blocked for a long period of time. Further, it has also resulted in increased procedural work at the time of making payment and also while claiming the refund when the issue is decided in favour of the assessee. In the existing indirect tax regime, in many states, in case of VAT/CST appeals (VAT) the pre-deposit amount for filing an appeal before the first appellate authority is 20% of the tax assessed or the full amount of admitted tax, whichever is greater. At the Commercial Taxes Tribunal there is no such provision for pre-deposit.	
36	***Input tax credit(ITC) on steel and cement used in construction of immovable property***	
	Clause 17(*5*) of the CGST Act provides list of various exclusions on which input tax credit shall not be available out of which one of the important item is given below. ➢ goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.	It is suggested that there should not be any restriction in the admissibility of tax credit on any goods and services used in the construction of immovable property since the buildings, civil structures are also integral part of the factory and plays a important role in the business operations.

Sr. No	Issue	Suggestion / Recommendation
	Explanation.— For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes— (*i*) land, building or any other civil structures; From the above exclusion, input tax credit on goods such as steel and cement used for construction of immovable property other than P&M will not be available. The immovable properties are the essential part of the factory and required for managing the operation of the factory. Without incurring such expenditure a factory cannot be built up and production cannot be started. Any restriction in input tax credit will result into cascading effect of taxes and directly affect the cost of goods and services. Essence of the GST is to allow full tax credit and hence there should not be any restrictions as exist in the present system of indirect tax in India. As per definition of "input tax" any assesse who is in the business of supply of goods/services will incur expenditure only in "furtherance of business or commerce" and the immovable property are also constructed to run the business of the supplier.	
37	***Procurement of HSD at concessional rate of CST***	
	With introduction of GST in India, the definition of 'Goods' u/s 2 (d) of the CST Act has been amended to include only 6 items i.e. Petroleum Crude, High Speed Diesel (HSD), Motor Spirit, Natural Gas, Aviation Turbine Fuel, Alcoholic Liquor for Human Consumption. HSD is one of main input being used in Iron &Steel , Mining Industries and Power Plant. In previous tax	Suitable steps should be taken by Government to ensure that benefit of purchase at concessional rate of CST is available.

Sr. No	Issue	Suggestion / Recommendation
	regime, purchase of HSD at concessional rate of CST was permitted in CST Act, 1956. In GST regime, there is lack of clarity as to whether the items mentioned above can still be purchased at concessional rate of CST, if conditions specified in CST Act, 1956 are satisfied. Presently, States are interpreting the Law differently and there is a lot of ambiguity. Recently, one of the State has issued notification where it has been mentioned that goods (as per the amended definition) can be purchased at concessional rate of CST only if such goods are used in manufacturing and processing of the same goods. For manufacturer of other items, mining industries and power plants the benefit will not be available as these industries have ceased to be dealer under the CST Act. Interstate or Intrastate Purchase of HSD without tax concession or Input Tax Credit involves huge cost in terms of Sales Tax and is going to significantly increase cost of finished goods. It will have an adverse impact on the domestic market and will also defeat the very objective of GST which has been brought in order to transform the country into a single common market.	
38	***Document required for availing input Tax credit(ITC)***	
	Rule 36 of the CGST Rules provides that Input Tax Credit can be availed by a registered person on the basis of following documents, namely: a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31; b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax; c) a debit note issued by a supplier in accordance with the provisions of section 34; d) a bill of entry;	In the document mentioned in ITC Rules, Service Tax certificate and Challan for RCM and Unregistered person should be included.

Sr. No	Issue	Suggestion / Recommendation
	e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub rule (1) of Rule 54. However, following documents are not included in the Rule: a) Service tax certificate for transportation of goods by rail (STTG certificate) issued by the India Railways, along with the photocopies of the railway receipts mentioned in the STTG certificate.\ b) A challan evidencing payment of Tax by the recipient under reverse charge. The Rule provides that in case of reverse charge credit will be available on the basis of an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31. Section 31(3)(f) provides that provides that a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both; Section 9(3) provides that the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. Section 9(4) provides that the central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the	

Sr. No	Issue	Suggestion / Recommendation
	recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. In view of the above, in GST regime each registered person has to raise invoice for each transaction under reverse charge and for each transaction with unregistered person and avail cenvat credit on the basis of that invoice. Currently, in case of reverse charge cenvat credit is availed on the basis of single challan. Availment of tax credit on the basis of each invoice raised under reverse charge and from unregistered vendor will create difficulty for the assessee. e.g. in case of GTA a large manufacturing company deals with thousand of transporter who raises lacs of transaction. As per section 31(3)(f), registered person has to raise invoice for each transaction and avail credit on the basis of that invoice. Currently, cenvat credit is availed on the basis of a single challan.	
39	***Export : details of multiple invoices against one shipping bill***	
	Under GST law supply for export is zero rated provided certain conditions are fulfilled, like furnishing information such as name and address along with country of the recipient on the invoices. In the case of large manufacturer exporter, a number of GST invoices are raised from the factory/mines based on which goods are first moved to the port which may be situated within the State or outside the State thereafter after custom compliances including filing goods are loaded in to the vessels for dispatch to other country. As per the new format of Shipping Bill (copy enclosed) released in GST regime, details of all	A clarification may please be issued or format of shipping bill may please be revised to take care of such mismatches.

Sr. No	Issue	Suggestion / Recommendation
	GST invoices are required to be mentioned in the shipping bill. Further, while filing the GSTR-1, details of all GST invoices including the respective Shipping Bill no. is also required to be uploaded in to GSTN (Goods and Service Tax Network). However, at the time of filing Shipping Bill in the Customs EDI website, the option of mentioning multiple GST invoice details is not being provided in the case of Export under Bond or LUT. **Issues/Concerns:** The manufacturer exporters raising multiple GST invoices as explained above are facing difficulties and it is being felt by them, that since all the GST invoices in not being mentioned in shipping bill, a mismatch may happen between the GST invoices uploaded in to GSTN and GST invoices uploaded in EDI website. As a result of such mismatch, there can be an issue in claiming export benefit.	
40	***Sale of old cars to employee***	
	Section 7(1) of the CGST Act defines the term "Supply" which includes: a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; b) import of services for a consideration whether or not in the course or furtherance of business; c) the activities specified in Schedule I, made or agreed to be made without a consideration; and d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II. Supply also include supply of goods or services	It is suggested that necessary amendment should be made in the valuation rule so that sale of used car to employee can be made on written down value.

Sr. No	Issue	Suggestion / Recommendation
	or both in all the forms, made by a person in course and furtherance of business for consideration; activities mentioned under Schedule - I without consideration; and activities mentioned under Schedule – II. Further, as per section 7(2) of the CGST Act, activities and transaction specified in Schedule III shall be treated as neither as a supply of goods nor a supply of service. In terms of Entry 1 of Schedule III, "Services by an employee to the employer in the course of or in relation to his employment" shall be treated neither as a supply of goods nor a supply of service. From the above it is clear that GST will not be leviable on supply of services by an employee to the employer in the course of or in relation to his employment. **But, it does not cover within its ambit the supply of goods or services by an employer to the employee.** As per explanation to section 15 of the CGST Act, employer and employee are considered as related person. Entry 2 of Schedule I provides that supply will include "Supply of goods or services or both between related persons or distinct persons as specified in section 25, when made in the course or furtherance of business" even if made without consideration. As per the above provisions, even if a supply is made without consideration by an employer to the employee, such transaction will be covered within the ambit of section 7(1) of the CGST Act and will be leviable to GST. As per section 15(1) of the CGST Act, the value of supply shall be the **transaction value** (price	

Sr. No	Issue	Suggestion / Recommendation
	actually paid or payable) where the supplier and recipient are **not related** and the price is the sole consideration for the supply. Rule 28 of CGST Rules provides for determination of 'Value of supply of goods or services or both between distinct or related persons, other than through an agent which is as under: a) be the open market value of such supply; b) if open market value is not available, be the value of supply of goods or services of like kind and quality; c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 30 or rule 31, in that order. So from the above it is clear that in case of related parties, GST is payable on open market value of the goods and services. In a large manufacturing organisation, company owned used car is provided to the employee after certain specified period (say 5 years). Car is sold at written down value (WDV). As per above provision, employer and employee are related party and accordingly as per Rule 28 of the valuation rule, GST will be applicable on open market value. Open market value of the used cars is much more than the WDV. Although, in case of sales of such goods to unrelated parties, GST is applicable on the sales price, if no input tax credit has been availed. In case of sale of second hand goods by an individual, CBEC has already notified that transaction will be exempted from payment of GST. Payment of GST at "open market value" will be	

Sr. No	Issue	Suggestion / Recommendation
	difficult to determine and will also result in huge increase in the cost in the hands of the employee.	
41	***Purchases from vendors having a turnover below Rs 20 Lacs***	
	As per section 9(4), if a person who is registered under this Act procures goods or services or both from any unregistered supplier then such registered person shall have to pay the Central Taxes in respect of such supplies as the recipient on reverse charge basis. In a large industry there are various types of small value supplies received from various unregistered suppliers. For example, supply of stationery, books and periodicals, tea coffee etc. As per above mentioned provision the registered recipient person shall have to keep the record of every such supplies and shall have to discharge the Central Tax liability on reverse charge basis. Keeping record of such a huge number of transactions will be a difficult task. Secondly, when the Act itself grants the exemption to the supplier from registration under this Act, the aggregate taxable value of whose supplies in a year does not exceed rupees twenty lakhs then putting burden on recipient to pay taxes for supplies made by such supplier does not seems logical. Further, As per section 31(f), the person liable to pay tax under sub section (3) and (4) of section 9, which deals with payment of taxes by the recipient on reverse charge basis, shall have to issue an invoice in respect of goods or services or both received by him. As mentioned in above para the number of transactions will be huge hence issuing invoice for all such cases would be a tedious, time consuming and impracticable task.	It is suggested that payment of taxes on reverse charge basis as well as requirement for issue of invoice for above mentioned type of supplies should be removed.

Sr. No	Issue	Suggestion / Recommendation
42	***Reverse charge on Goods and Services***	
	Section 12 (*3*) of the CGST Act provides the in case of **supplies of Goods** in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:— a) **the date of the receipt of goods**; or b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier: Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*) or clause (*c*), the time of supply shall be the date of entry in the books of account of the recipient of supply. Further 13(*3*) of the CGST Act provides that in case of **supplies of services** in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:— a) the **date of payment** as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or b) the date immediately following **sixty days from the date of issue of invoice** or any other document, by whatever name called, in lieu thereof by the supplier: Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*), the time of supply shall be the date of entry in the books of account of the recipient of supply: Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of	It is suggested that liability under RCM for goods and services both should arise at the time of payment only.

Sr. No	Issue	Suggestion / Recommendation
	payment, whichever is earlier. In a large manufacturing company, following different process for RCM for Goods and services will create difficulty in implementing the process. In case of Goods, RCM arises at the time of receipt of goods whereas in case of services it is at the time of payment. Liability of Tax should arise in both case at the time of payment only which is currently mentioned in the existing law.	
43	***Tax Credit under GST***	
	Clause 17(*5*) of the CGST Act provides that input tax credit shall not be available in respect of the following, namely:— a) motor vehicles and other conveyances except when they are used— *(i)* for making the following taxable supplies, namely:— A. further supply of such vehicles or conveyances ; or B. transportation of passengers; or C. imparting training on driving, flying, navigating such vehicles or conveyances; *(ii)* for transportation of goods; b) the following supply of goods or services or both:— *(i)* food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply; *(ii)* membership of a club, health and	It is suggested that there should not be any restriction in the admissibility of tax credit on any goods and services and further clarification should be provided on the meaning of "furtherance of business" to avoid any dispute in future. Further there should not be any restriction that the goods should be used in factory.

Sr. No	Issue	Suggestion / Recommendation
	fitness centre; *(iii)* rent-a-cab, life insurance and health insurance except where A. the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or B. such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and *(iv)* travel benefits extended to employees on vacation such as leave or home travel concession; c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service; d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. e) goods or services or both on which tax has been paid under section 10; f) goods or services or both received by a non-resident taxable person except on goods imported by him; g) goods or services or both used for personal consumption; h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free	

Sr. No	Issue	Suggestion / Recommendation
	i) samples; and j) any tax paid in accordance with the provisions of sections 74, 129 and 130. Further Section 17(*6*) provides that the Government may prescribe the manner in which the credit referred to in subsections (*1*) and (*2*) may be attributed. *Explanation.*— For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes— (*i*) land, building or any other civil structures; (*ii*) telecommunication towers; and **(*iii*) pipelines laid outside the factory premises.** Essence of the GST is to allow full tax credit and hence there should not be any restrictions as exist in the present system of indirect tax in India. Any restriction in input tax credit will result into cascading effect of taxes and increased cost of goods and services. As per definition of "input tax" any assesse who is in the business of supply of goods/services will incur expenditure only in "furtherance of business or commerce". For example a manufacturer is required to have a canteen in its factory for its employees and he engages an outdoor caterer for supplying foods who charges him GST. Such expenditures are also incurred in furtherance of business or commerce only. Further In the CGST Bill Government has also disallowed the Tax credit for pipeline laid outside the factory premises. In a large manufacturing company huge pipeline are commissioned for various purposes i.e. for taking water from river for directly used in the manufacturing purpose etc. In Such cases part	

Sr. No	Issue	Suggestion / Recommendation
	of the entire pipeline system is inside factory and part remain outside factory. However it is a part of entire pipeline system which is used for furtherance of business only. Further In GST regime State wise Registration is allowed. So for the purpose of availing tax credit there should not be any restriction of any factory. It will increase the cost of product which is against the basic purpose of GST.	
44	***Reversal of Input tax credit***	
	Clause 16(2) of the CGST Act provides that No registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,— (*a*) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed; (*b*) he has received the goods or services or both. (*c*) subject to the provisions of section 41,the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and (*d*) he has furnished the return under section 39: Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment: Provided further that where a recipient **fails to pay to the supplier of goods or services or both**, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon **within a period of one hundred and eighty days from the date of issue of invoice by the supplier**, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be	It is suggested that the condition of payment to vendor within 180 days on goods should be removed.

Sr. No	Issue	Suggestion / Recommendation
	prescribed: Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon. Further, Rule 37 o**f the CGST Rule provides that** 1) A registered person, who has availed of input tax credit on any inward supply of goods services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply and the amount of input tax credit availed of in **FORM GSTR-2** for the month immediately following the period of one hundred and eighty days from the date of issue of invoice. 2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished. 3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid. It will have significant impact on the large industries. In case of execution of the major engineering, procurement and construction (EPC) type of the contract certain portion of the payment is made to the vendor only after satisfactory completion of the project which may take even more than two years. In the existing tax regime, there is no condition of payment to supplier for availment of cenvat credit in case of goods. Further, in GST regime tax credit will be allowe3d to the recipient when	

Sr. No	Issue	Suggestion / Recommendation
	the supplier will paid the tax to the Government. So when credit is being allowed on the basis of matching concept then reversal on the basis of payment to vendor should not be a condition. It will create difficulty for the assesse.	
45	***Maintenance of Accounts and Records***	
	Section 35(1) of CGST Act, 2017 prescribes that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of— (*a*) production or manufacture of goods; (*b*) inward and outward supply of goods or services or both; (*c*) stock of goods; (*d*) input tax credit availed; (*e*) output tax payable and paid; and (*f*) such other particulars as may be prescribed: Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business: In GST, each taxable person has to take state-wise registration and each place of business of the taxable person in the state has to be added as place of business. Hence, there will be a single registration in each state including all place of business situated within the state. In a large manufacturing organisation, there are multiple places of business in one state which includes job workers, storage points, factory, mines, depots etc. In such cases, it is not possible to maintain accounts at each place of business. Since there will be one registration\in each state, there is no requirement to maintain the accounts at each place of business. Maintaining accounts at each place of business will require huge changes in the system of accounting which will ultimately impact the operation of the companies.	It is suggested that the provision should be amended so as to maintain accounts with respect to 5 items mentioned in section 35(1) of CGST Act 2017, at principal place of business only and not at all the place of business. This will promote ease of operation. Secondly regarding profit and loss accounts, it is suggested that requirement of furnishing state-wise gross and net profits as per profit and loss accounts in annual return GSTR-9 should be removed. Regarding Rule 56(12), requirement of maintenance of production accounts for raw material and services, finished goods should be removed since GST is applicable on supply and not on manufacture unlike excise. It will promote digitalisation of the economy of the country.

Sr. No	Issue	Suggestion / Recommendation
	Further as per rule 80 of the CGST rules, Every registered person shall furnish an annual return in Form GSTR-9 in which details regarding profit as per profit and loss account, gross profit, profit after tax and net profit is required to be furnished. In a large industry, profit and loss accounts are being maintained for the company as a whole. It will not be possible to maintain profit and loss accounts and derive gross profit and net profit for each state. Further Rule 56(12) of the CGST Rules prescribes that every registered person manufacturing goods shall maintain monthly production accounts, showing the quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof. In a large manufacturing organisation, there are many types of raw materials or services which are used directly or indirectly in the manufacture of a product. Hence keeping accountal of quantitative data of each raw material or service used in the manufacture will be a difficult task for the organisation. Secondly, GST is supposed to bring so much of transparency through upload of inwards, outward details, matching concept etc, then it seems no requirement for maintenance of so much of accounts and records relating to raw material, finished goods, services etc at such detailed level.	
46	***Accounts and Records: Digitization of invoices***	
	As per Rule 16(2) of the CGST Act, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,— (*a*) **he is in possession of a tax invoice or debit note issued by a supplier** registered under this Act, or such other tax paying documents as may	A clarification may be issued regarding maintenance of records in electronic form and all types of documents should be allowed to be kept in electronic form (may be scan copy of the invoices etc). It will promote digitalisation of the economy of the country.

Sr. No	Issue	Suggestion / Recommendation
	be prescribed; It appears from the condition mentioned in the above section that the tax invoices, debit note, credit note should be kept physically for availment of credit. However, Rule 56(15) prescribes that the records under the GST rules may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature. But the rules does not clarify whether the invoices, debit notes, credit notes, vouchers etc can be kept in electronic form or not. Large business organisation with presence in multiple locations is rapidly adopting the concept of " shared service" . A shared service centre works as a central office engaged in performing the activities related to payments to vendors , sales invoicing , tax payments , salary processing etc with an objective of standardizing the processes , improving efficiency and quality of services. In this model, transactions are processed on the basis of the scanned copies of the invoices and hard copy is stored in one place which can be different from the registered premises. Therefore, it is important the "input tax credit "of GST should be allowed on the basis of the scanned copies of the invoices. Further, CBEC has already introduced the concept of matching of the invoices which will ensure the genuiness of the tax credit availed by the purchaser and in case hard copies of the invoices are required to be checked on sample basis the tax payer should be allowed to produce the same within a reasonable period of time say 15 days.	
47	***Interstate supplies to Job Work:***	
	Section 143 of the GST Act provides for special procedure for removal of goods. As per the Act,	It is suggested that the provision should clearly define the supplies to the job worker

Sr. No	Issue	Suggestion / Recommendation
	the principal may under intimation and subject to conditions as may be prescribed , send any inputs and / or capital goods , without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise. Provided that the "principal" shall not supply the goods from the place of business of a job worker in terms of clause (b) unless the said "principal" declares the place of business of the job-worker as his additional place of business except in a case- (i) where the job worker is registered under section 23 ; or (ii) Where the "principal" is engaged in the supply of such goods as may be notified by the Commissioner in this behalf. Due to complex business scenario and other financial constraints job work has become one of the major activity for any big manufacturing Company. The job workers are situated within the State as well as outside the State, due to the different business requirements. As per the provision, it is very clear that the supply of goods from the place of principal to the job workers can be done without payment of GST .However, it is not clear from the law whether supplies to the jobworker situated outside the State can also be done without payment of GST.	situated outside the State without payment of tax.
48	***Reverse Charge on CIF contract***	
	Section 5(3) of the IGST ACT provides that The Government may, on the recommendations of the Council, **by notification, specify categories of supply of goods or services or both**, the tax on which shall be paid on reverse charge basis **by the recipient of such goods or services or both** and all the provisions of this Act shall apply to such recipient as if he is	It is suggested that the necessary amendment in the ACT should be made so that Government through notification can define recipient of service through notification.

Sr. No	Issue	Suggestion / Recommendation
	the person liable for paying the tax in relation to the supply of such goods or services or both. Section 2(93) of the CGST Act defines "recipient" of supply of goods or services or both, means— a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration; b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied; Section 2(98) of the CGST Act defines "reverse charge" as the liability to pay tax by the **recipient of supply of goods or services or both** instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under **sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act**; From the above it is clear that Tax under Reverse charge liability is required to be paid only by the recipient. Further, recipient has been defined under section 2(93) of the CGST Act as a person who pays the consideration to supplier of goods or service.	

<table>
<tr><th>Sr. No</th><th>Issue</th><th>Suggestion / Recommendation</th></tr>
<tr><td></td><td>
CBEC has specified the category of services falling under reverse charge vide Notification No. 10/2017- Integrated Tax (Rate) dated 28.06.2017. In the notification, CBEC has also defined the recipient.

In the case of import of goods under CIF contract, CBEC vide Sl. No 10 of Notification No. 10/2017- Integrated Tax (Rate) dated 28.06.2017 provides that
Importer will be considered as recipient of service.

<table>
<tr><th>Category of Supply of Services</th><th>Supplier of service</th></tr>
<tr><td>Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.</td><td>A person located in non-taxable territory</td></tr>
</table>

In case of CIF contract, there are three parties involved :
a) Vessel Owner who is providing service for transportation of goods from outside India to Indian Port to Seller of Goods.
b) Seller of Goods who is selling the goods to an importer in India.
c) Importer who is buying goods from Seller of goods.

Vessel Owner (service provider) is providing service of transportation of goods in a vessel to the Seller of Goods (service recipient). Both the service provider and the service recipient are located outside India. As per section 2(93) of CGST ACT, recipient i.e. the person who makes payment to the service provider is the seller of
</td><td></td></tr>
</table>

Sr. No	Issue	Suggestion / Recommendation
	goods but as per Sl. No 10 of the notification no 10/2017, importer is the recipient. Section 5(3) of IGST act provides that Government can **only** notify the specify categories of supply of goods or services or both which will fall under reverse charge. Recipient cannot be notified through as notification as it has already defined under section 2(93) of the CGST ACT. So as per section 2(93) of CGST ACT, recipient is the seller of goods who is located outside India. Accordingly no GST should be payable under reverse charge in case of CIF contract.	
49	***Goods and Service Tax on PDA Charges***	
	CIF contract comprises of cost of the imported material, insurance and ocean freight. In the case of CIF import, the obligation to arrange for transportation rests with the Exporter who enters into a chartered party agreement with the shipping line for agreed amount of ocean freight. The service provider (the shipping line) and the service recipient (exporter) both are located in non-taxable territory. Further, Ocean freight interalia includes the following charges called PDA Charges: ▪ Pilotage & Towage ▪ Berth Hire ▪ Shifting & Anchorage fees ▪ Port Dues ▪ Cold Movement ▪ Fresh Water Supply Out of the aforesaid, charges for pilotage & towage, berth hire, shifting and anchorage constitutes "Port Disbursement A/c Charges ('PDA')" and forms major component of ocean freight. Port issues a tax invoice for PDA charges in the form of "Marine Dues Bill" along with Goods & service tax @ 18%. The Goods &	We suggest the following mechanism: It is suggested that GST should not be levied on the PDA charges as it results into double payment of tax which result in escalating the cost of CIF import into India. **OR,** An appropriate mechanism should be devised to enable the importer to avail the Tax Credit of GST on PDA charges in the case of CIF import into India. Deeming fiction may be created with respect to Port services (particularly those services against which PDA charges are paid by steamer agent to Port) rendered by Port to foreign shipping line through the agency of steamer agent in order to enable the importer to avail credit of GST paid by Steamer agent on PDA charges.

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<tr><td></td><td>service tax is charged by Ports for rendering “Port Services”. The invoice issued by the Port for Port DA charges reflects the name of the Vessel carrying the cargo and the name of the steamer agent. Suppose ocean freight amount is Rs. 100 including PDA charges of Rs 20. Port Authorities charges GST on Rs. 20 as the service is provided in Indian Territory by the Port. <u>GST on PDA charges is noncreditable as the vessel owner is a foreign party and does not have an output GST liability and hence is not in a position to claim input tax credit.</u>

Section 5(3) of the IGST Act provides that

“The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Sl. No 10 of the Notification No.10/2017 integrated tax (rate) dated 28.6.2017 provides that importer will pay Goods and Service Tax (GST) under reverse charge in case of CIF contract.

<table><tr><th>Category of Supply of Services</th></tr><tr><td>Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India</td></tr></table>
Further, corrigendum to Notification no 8/2017-Integrated Tax (Rate), dated the 28th June, 2017</td><td></td></tr>
</table>

Sr. No	Issue	Suggestion / Recommendation
	provides that GST will be payable @ 10% of the CIF value of imported goods. From the above it is clear that in case of import of goods, GST is payable under reverse charge by the recipient for transportation of goods by a vessel from a place outside India up to the customs station of clearance in India and tax credit of GST paid under reverse charge is available to importer. As mentioned above, in case of ocean freight the "Importer" has a liability to pay IGST under reverse charge. Ocean freight charges which is ultimately borne by the importer also includes the element of IGST paid by vessel owner on PDA charges and to this extent there is a double taxation of GST on PDA charges. We would like to bring to the attention of your goodself the definition of "**input service** "as defined in section 2(60) of the CGST Act which is as under: ***"input service" means any service used or intended to be used by a supplier in the course or furtherance of business;*** ***In the instant case, there is no doubt that the expenditure of IGST on PDA charges is an expenditure in furtherance of business but importer is but importer is unable to get input tax credit of the same only due to the reason that direct payment has not been made by importer. .*** ***In view of the above, the IGST paid on the PDA charges is becoming a cost in the system which is unfair and against the basic spirit of Goods and Service Tax to provide seamless flow of input tax credit.***	

Sr. No	Issue	Suggestion / Recommendation
50	***Matching of Tax credit***	
	42(1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched— a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period; b) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and c) for duplication of claims of input tax credit. (2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient. (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed. (4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.	It is suggested that the matching concept should be removed and full tax credit should be allowed to the purchaser if he has received the goods/service and is having a valid tax invoice.

Sr. No	Issue	Suggestion / Recommendation
	(5) the amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated **shall be added to the output tax liability of the recipient**, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated. From the above it is clear that in case of any mismatch, output liability of the recipient will be increased and tax along with interest will be payable. CBEC vide notification no 18/2017 dated 8th Aug has extended the date of filling of GSTR-1 for the month of July 17 to 5th Sept 17 which was further extended to 10th Sept. GSTN site was crashed during details of invoice wise upload by the tax payers due to which it was decided in the GST council meeting that a major change in the GSTN is required and date of GSTR-1 was extended by almost 1 month i.e. 10th Oct, 2017. Further, on 12th Sept, 2017, Union Finance Minister constituted a Group of Ministers (GoM) under the convenorship of the Deputy Chief Minister of Bihar, Shri Sushil Kumar Modi,in order to monitor and resolve the IT challenges faced in the implementation of GST. Due to issue in GSTN server tax payers are unable to upload the details. Further, if the details will not be uploaded correctly then the recipient will not be able to avail tax credit. Tax credit to the purchaser should not be denied, as in such a situations the purchaser has no fault. Further, in the erstwhile Cenvat Credit Rules, 2004 or in the State VAT Rules also there is no provision which debars the tax credit to the purchaser on account of error at the end of	

Sr. No	Issue	Suggestion / Recommendation
	the supplier/vendor.	
51	***Export promotion capital goods scheme and its implication in GST regime.***	
	There are various exemption/benefit schemes available under foreign trade policy which are provided to industries with the objective to strengthen India's presence in the global business scenario and to promote export led growth of the Country. One of such scheme is Export promotion capital goods (EPCG) scheme under which capital goods are allowed to be imported in India at concessional customs duty (presently 0%) subject to fulfilment of export obligations. The provisions governing the EPCG scheme are contained in Foreign Trade Policy (FTP). Currently, Export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme needs to be fulfilled in 6 years. There may be a situation where the manufacturer who has imported the capital goods but may not be able to fulfil the export obligation. In such a situation, he has to pay the amount of "duty saved". The "duty saved" normally includes Basic customs duty(BCD), Cess on Customs duty, Countervailing duty(CVD), Cess on countervailing duty, Special Additional duty(SAD) out of which CVD, Cess on CVD and SAD is cenvatable and the same can be utilised against payment of excise duty. There can be a scenario in which a manufacturer decides to pay the "duty saved" in GST regime due to non-fulfilment of export obligation. There is no specific provision in the GST Act/Rules to deal with this situation . It is not clear whether the same duty (CVD, Cess on CVD and SAD) as mentioned above will be payable or IGST will be payable. Secondly, Act/Rules is also salient as to whether the input tax credit of such tax/ duties paid in GST regime in case of non-fulfilment of export obligations	It is suggested that suitable provision should be made in the GST Act/Rules to deal with such situations. The provision should also allow input tax credit of the taxes/ duties (CVD, Cess on CVD and SAD) or IGST paid on such cases. There is an immediate need for this clarification as it has created a state of confusion in the minds of the tax payers .Provision should allow the input tax credit of taxes/duties paid otherwise it will result in huge increase in the cost in the hands of importer which is unfair.

Sr. No	Issue	Suggestion / Recommendation
	will be available or not.	
52	***Self-Declaration for claiming Duty Draw Back***	
	As per notification no. 131/2016- Customs (N.T.) dated 31.10.2016, the exporter needs to submit a declaration specifying the status of availment of Cenvat credit on input/input services on the export goods/input or input service used in the manufacture of export goods. It has been clarified vide the circular no. 32/2017- Customs dated 27th July 2017 that an exporter has to submit a declaration claiming that: a) (i) no input tax credit of the Central Goods and Services Tax or of the Integrated Goods and Services Tax has been and shall be availed on the export product, OR (ii) no input tax credit of the Central Goods and Services Tax or of the Integrated Goods and Services Tax has been and shall be availed on any of the inputs or input services used in the manufacture of the export product, OR (iii) no refund of Integrated Goods and Services Tax paid on export product shall be claimed; b) CENVAT credit on the export product or on inputs or input services used in the manufacture of the export product has not been carried forward and shall not carry forward in terms of the Central Goods and Services Tax Act, 2017. As per above mentioned notification and circular, an exporter has to submit a declaration opting either of any three option provided from point no. (a) and he has to mandatorily submit the declaration given in (b). **Issues/Concerns:** In many cases the manufacturer exporter engaged in selling in the course of exports as	A clarification should be issued on specifying the intention of the circular.

Sr. No	Issue	Suggestion / Recommendation
	well as in the domestic market using common input in pre GST regime will be having a problem in submitting the declaration given in point no. (b) above because such manufacturer exporter might have the unadjusted Cenvat credit of input/input services on the date of transition i.e. 1st July-2017 which shall be carried forward in terms Central Goods and Service Tax Act, 2017. In such cases, it is being felt by the manufacturer exporters that rate of draw-back will be reduced if such declaration is given.	
53	***Export Obligation under EPCG Benefits***	
	As per the Annual supplement to Foreign Trade policy dated 18th April 2013, Export obligation discharge by the export of alternate products as well as export of group companies has been withdrawn under EPCG Scheme.	It is suggested to restore the old provision to facilitate the exports.
54	***Reduction of Multiple GST Rates:***	
	When the GST was conceived it was supposed to be a single uniform rate across all product categories, but the shape that the GST has taken is far removed from the actual concept of ONE COUNTRY-ONE TAX. What instead we have got is a Multi-Ties Tax Structure with 8 different tax rates - i.e. @0%, @1%, @2%, @3%, @5%, @12%, @18% and @28%	which should be eliminated/clubbed into maximum Two Types like the GST Rate prevails in most of the developed foreign countries
55	***Anti-profiteering measures/Lack of Clarity*:**	
	The government has set up an authority to see if any reduction in tax rates after the introduction of GST is passed on to the consumer by companies or not. The industry and businesses are not taking this idea kindly and they see it as a backdoor entry of inspector raj. Prices should be market determined and no government authority has the business of deciding prices for goods and services. GST's anti-profiteering clause requires companies to pass on the benefit of lower taxes to consumers but little clarity over anti-profiteering clause has	A clarification is needed in this regard

Sr. No	Issue	Suggestion / Recommendation
	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. Many feel the possible savings in one category will offset increases elsewhere and there is no mechanism yet to compute that. Many companies are producing two sets of price tags for the same product to avoid confusion. But comparison of profit or loss for pre- and post-GST period would be difficult for companies. More clarity will emerge only when the National Anti-Profiteering Authority determines the methodology and procedure for taking up cases. Under this law, businesses can be closed down by government if it finds that companies are not passing on the benefits of lower tax slabs to the consumers. Industry and traders are concerned about tax terrorism and arbitrary reasoning of profit and loss in a pre- and post-GST era. Such anti-profiteering laws were introduced in Malaysia and proved to be a disaster.	
56	***Taxation of free supplies between related parties*:**	
	The GST law proposes to tax any free supplies between two related parties. The problem arises especially in case of related parties located in different states. Such transactions between related parties in different states mean each party would have to generate invoice, maintain documents, etc.	There is no centralized registration system under GST and therefore, this would create compliance issue for companies.
57	***Anti-competition and Protectionism by State governments*:**	
	Section 22(1) of the CGST Act allows a registration waiver for small traders having a turnover of less than 20 lacs per year. So, small traders who earn below this threshold don't need to register for GST. However, two sections later, 24(1) immediately denies this 20 lacs threshold exemption for those small traders who perform inter-state trade. Now, this clause	where each state indirectly subsidizes small traders in its own state for a GST waiver up to this threshold, but traders from other states are denied this benefit.

Sr. No	Issue	Suggestion / Recommendation
	creates some undesirable effects on our economy.	
58	***Quarterly Returns***:	
	Return filling be made quarterly, *(for traders having turn-over up to 10 crores a year)*.	GST payment monthly, There is no loss or delay of revenue receipt to the Government but to ease the statutory compliance.
59	***Provision for Revised Return***:	
	Rectification of Return is needed for earlier periods	There should be a provision for rectification of return by way of filing Revised Return
60	***Penalties & Prosecution***	
	All provisions of penalty/prosecution must be set aside for at least one year.	As the tax payers are not familiar with the Provisions of GST act so it is recomanded that set aside all the penal provision of this act.
61	***Time Limit to Sale Stock-in-Trade***:	
	The time line for ONE YEAR OLD STOCKS as well as restriction of SELLING the same in the next SIX MONTHS to avail Cenvat credit/ ITC is also impractical	Ruling with better / practical time line should be reviewed.
62	***HSN Code Confusions***:	
	Though HSN codes are meant to be harmonized, we find that they have many anomalies. Similar items are having different codes and rate of taxes. At times, with just change of description or measurement. It makes it very difficult for traders to understand or follow.	Usage of HSN Code for the traders may create confusion. So clarity is needed on this Matter.
63	***Clubbing of CGST & SGST in GST Invoice:***	
	Since the equal bifurcation of GST (between SGST & CGST) is prerecorded	we believe GSTN is capable to auto bifurcate and allot the amount separately, in totality, without needing traders to do so, invoice wise.
64	***ITC in Relation to Expenses***	
	Sec 17(5) of the CGST Act, 2017 ('Act') restricts credit in respect of Motor Vehicles except in few cases.	Expenses incurred in relation to motor vehicle, eg repair & maintenance, insurance etc. should be allowed as credit

Sr. No	Issue	Suggestion / Recommendation
65	***GTA SERVICE***	
	Security agency carrying currency for RBI should be regarded as a GTA?	Goods u/s 2(52) of the Act "goods" as every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.
66	***Bad Debt***	
	In case of Bad debt the amount of GST shall be borne by the assessee from his own pocket.	Indirect tax is a tax which charge from the customer, in case if assessee has to pay it from his own pocket then Relief from payment of GST should be allowed in cases of Bad Debt.
67	***Pure Agent***	
	a) Can a travel agent booking only a hotel for a client, act in capacity of a pure agent while booking the hotel. In other words, is it important for the supplier of service to provide a service other than that for which it acts as a pure agent? b) Is it mandatory for the bill to be in the name of the service recipient and not in name of supplier acting as a pure agent? c) A travel agent (Mr. B) is booking a hotel for a client through a supplier of hotels (say Mr. A). Mr. B fulfills all the conditions of being a pure agent to its client. Mr. A in turn books the hotel directly through the hotel (say Taj Hotel). Can in such a case, Mr. B be called a pure agent of its customer considering the fact that the hotel service it procures is not directly through the hotel but through a vendor?	Clarity is required on the matters
68	***Travel Agent***	
	a) Can a air travel agent change the valuation method in the middle of the year? b) Does the valuation prescribed under Rule 32(3) of the CGST Rules, 2017 ('Rules') cover both the commission earned by an air travel	Clarification is required on the matter.

Sr. No	Issue	Suggestion / Recommendation
	agent from the airlines and also the service charge it charges it customers? A travel agent in India getting a booking done by another travel agent abroad in respect of a hotel located abroad. Will reverse charge apply on the travel agent of India u/s 13(4) of the IGST Act?	
69	***FINANCIAL INSTITUTION***	
	In case of banks and NBFCs, it is impractical to do a one-to-one correlation between the supplies used for earning the exempt income (interest income) and taxable income (service fee, operating lease rental, etc.). Thus, NBFCs would be obligated to pay an amount equal to 50% of the credit availed. Hence, the taxes paid on procurement (CGST+SGST or IGST) will be available for setoff only to the extent of 50%. As a result, GST credit attributable to goods procured for leasing business would be reduced to an extent of 50% instead of 100% as available presently under the State VAT laws. This will push up the cost of procurement of assets for leasing significantly. It will have an adverse impact on the leasing business and especially affect the MSME and agriculture sectors which heavily depend on procurement of equipment through lease. Further, since leasing of assets to infrastructure players happens to be the core business of NBFCs, if the credits on procurement of infrastructure assets are restricted only to the extent of 50%, the same will push up the cost of supplies for NBFCs too.	The term "inputs and capital goods" should be excluded from Section 17(4) of the CGST Act, 2017 OR A specific proviso should be added under Section 17(4) as under: "Provided further that the restriction of fifty per cent shall not apply to the tax paid on goods and services procured for leasing" 50% credit reversal should be restricted only on input services to keep the provisions at par with the current regime. OR 100% credit should be granted on goods and services purchased for leasing