GST relief 2.0

G GOKUL KISHORE
Advocate Views are personal

Govt can provide relaxations with respect to certain measures under GST

The Government has brought an ordinance to extend due dates for compliances under various tax laws. In CGST Act, new Section 168A empowers it to extend the time-limit specified or prescribed in respect of actions which cannot be completed or complied with due to force majeure. Epidemic has been included in the new definition of force majeure. Notifications have been issued relaxing due dates for filing returns, granting interest waiver, reduced interest for delayed payment and waiver of late fee. A second round of GST relief is due.

The time for payment of tax can be extended, or payment in instalments can be allowed as per Section 80 of CGST Act. A maximum of 24 instalments can be permitted. For such payment, interest will be applicable. CBIC may issue a circular highlighting the provision. Commissioners may be instructed to take a liberal view for permitting instalments. No amendment to law is required, and simple instruction with wider publicity is sufficient. Reduced rate of interest can be provided in such cases.

Exemption or rate reduction can be considered for goods used for Covid-19 treatment. Construction concerning hospitals, pharma packaging, services delivered through online mode, particularly in education, and other such services when movement is restricted, need concessional tariff. Sectors severely impacted like travel, tourism, etc., may also need tariff concessions. Exemption to output supply may lead to accumulation of input tax credit on purchases. Refund of unutilised credit admissible in cases of inverted tax structure can be extended to such supplies. The tax relief can be for limited period.

Current relaxations, prospective exemptions, and time taken to restore normalcy may depress tax collections. An increase in the tax rate of certain goods can compensate for losses. Article 279A of the Constitution lets GST Council to recommend any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster. This is suggested because the powers of the Union to impose surcharge or cess under GST is not beyond doubt after amendments made to the Constitution for levy of GST.

Section 17(5) of CGST Act restricts input tax credit on free supplies. Goods distributed free for Covid-19 relief will require ITC reversal. Such ITC restriction is applicable to services like construction (except sub-contractors), putting up telecom towers and pipelines outside factories. The list needs to be revisited. With relaxation of tax credits, the industry can use more credits to set-off liability instead of relying on cash. The disruptions in distribution chain may result in goods becoming obsolete compelling write-off of such inventory. Reversal of ITC is required at the time of write-off. This can be liberalised along with certain safeguards. Provisions like receipt of consideration from buyers within 180 days for retaining ITC availed should be suspended for this FY.

Firms cannot comply with statutory conditions like the existence of prior agreement and linkage with invoices for the exclusion of post-supply discounts. The CBIC can issue appropriate orders to remove difficulties in implementing such provisions. Stock transfers between states attracts IGST. Such supplies can be exempted. As taxes paid are availed as credit by recipient-units, the situation is largely revenue-neutral. Support provided by head office to branches or own units in different states is deemed as taxable supply and liable to GST. While there is no circular providing clarity, most of the members of trade and industry are paying tax on such deemed supplies. Exemption to such intra-company supply of services will provide significant relief.

CBIC may issue unambiguous instructions to defer visits by audit teams and suspend or detain persons or seize goods with circumstances. Issue of demand notices and recovery proceedings can wait. Coercive action like attachment of bank account should not be used sparingly. Invoking penal provisions when revenue collections slip in the coming months should be avoided.