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A Study of Issues and Challenges in the New Composition Scheme of GST

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Abstract: *This study observes the issues and challenges in the new composition scheme under GST regime in India. A registered dealer, whose aggregate turnover in the preceding financial year does not exceed Rs. 1.5 crore may opt for composition scheme. But, in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and Himachal Pradesh, this limit is Rs. 75 lakh. Any person who opts for this scheme shall mention "Composition Taxable Person" on notice or sign board displayed at a prominent place at his place of business. This study is purely descriptive in nature. The study suggests 5%/6% GST under composition scheme should be dropped. Otherwise, the composition scheme will be only an illusion and will not be able to give relief to the startups and small and medium enterprises. So, the GST council needs to give a second thought to the GST rates under composition scheme so far as 5%/6% GST rate is concerned.*

Keywords: *GST, composition scheme, India, startups start ups, small and medium enterprises*

1.1 BACKGROUND

In 2017 the GST Bill was passed in the Lok Sabha and Rajya Sabha. On 1st July 2017 the GST law came into force. Section 10 of the GST Act 2017 handles the Composition Levy Scheme. A registered dealer, whose aggregate turnover in the preceding financial year does not exceed Rs. 1.5 crore may opt for composition scheme. In its meeting held on 18th June, 2017, the GST Council has recommended that the aggregate turnover limit for composition levy for CGST and SGST purposes shall be Rs. 50 lakh (increased to Rs. 75 lakh) in respect of the special category States like Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, and Himachal Pradesh. Any person who opts for this scheme shall mention "Composition Taxable Person" on notice or sign board displayed at a prominent place at his place of Business. GST is mainly technologically driven. The GST Council in its 32nd Meeting held on 10 January, 2019 took two important decisions for the benefit of small and medium industry. One was, introduction of higher threshold limit for GST registration for supplier of goods and another was, revising the composition scheme by extending the benefit of scheme to all service providers and easing the compliance norms. Aforesaid amendments were made effective from 1st April, 2019. The decision regarding revised composition scheme which is currently available for all service providers along with a comparison under normal scheme is the principal objective of this paper.

1.2 OBJECTIVE OF STUDY

The objective of this study is as follows:

- To identify the relevance of New Composition Scheme under GST.
- To make a comparative study of Normal Scheme and Composition Scheme.
- To study the further prospect of New Composition Scheme.

1.3 REVIEW OF RELATED LITERATURES

I have studied some relevant literatures and research papers in the present context which are revealed in a nutshell though the following lines:

Shankar Acharya (May 14, 2005) has drawn a descriptive sketch of the reforms made during the last thirty years , starting from mid 1970s. The paper also points out that the key areas where further reforms is urgently needed are-complex exemptions plaguing customs tariff, low buoyancy of excise, integration of CENVAT with state VAT and the broad basing of direct taxes. Hlne Poirson (April, 2006) has highlighted the issues such as that the Indian Tax revenue is largely dependent on Indirect Tax,. The paper also reflects that the recent tax reforms may increase the tax productivity, lower the marginal tax burden and tax induced distortions. Raj Kumar S Adukia (November 20, 2009) has discussed the global experiences in Goods and Services Tax and the salient features of Goods and Services Tax in India and also the impact of Goods and Services Tax on various sectors. The book also throws light on the challenges in implementation of Goods and Services Tax in India and appropriate suggestions has been given for effective implementation of GST in India. R.K. Bhalla (September, 2010) has made a descriptive study and tried to identify the justification of GST at the Centre and State Level and has also discussed the emerging issues concerning GST. But the paper has not indicated on the issues like exclusion of too many items from the purview of GST. Prasanta Sahu (18 June, 2014) has argued that any delay in implementing the GST could affect the recovery of the India's gross domestic product growth. But according to officials in the ministry of finance it's unlikely that GST will be rolled out before the year beginning in April, 2016. Biswajit Choudhury (19

Aug. 2014) has thrown light on the issue that- state finance ministers having dropped the issue of compensation in lieu of a cut in the central sales tax from the agenda of their upcoming meeting on implementing the Goods and Services Tax (GST), the major hurdle appears to have cleared in reforming India's indirect tax regime. Economics Times Bureau (Aug. 21, 2014) published an article entitled, 'GST: Centre, State remove stumbling blocks, but differences still persist." In this article the demand of the Empowered Committee of state financial ministers so far as compensation is concerned due to reduction of CST from 4% to 2% over a period of five years, has been discussed in length and breadth.

1.4 DATA AND METHODOLOGY

The study was based on the secondary data collected from the different online resources, research papers, conference documents, and other publications. The data have been compiled from two types of sources: published documents and reports and the World Wide Web. In the course of analysis in this study, various accepted Accounting tools were used. The use of all these tools at different places was made in the light of requirement of analysis. Logical inferences were arrived at on the basis of analysis of data. Accordingly, suggestions and recommendations have been made in the right places.

1.5 ANALYSIS & FINDINGS

This paper seeks to highlight the significant issues suggested by the GST Council regarding the Composition Scheme. In the foregoing discussion attempt has been made to determine the impact of reverse charge mechanism on the composition scheme of GST.

1.5.1 Scope of Composition Scheme

Businesses dealing only in goods can only opt for composition scheme. Services providers have been kept outside the scope of this scheme. However, restaurant sector taxpayers may also opt for the scheme. This holds true if your aggregate annual turnover is below Rs. 1.5 crore and Rs. 75 lakhs for Special Category States as mentioned before. Aggregate Turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

As per section 10(2) of the GST Act , the following people cannot opt for composition scheme:

- Taxpayer supplying exempt supplies i.e. supply of goods which are not taxable under CGST/SGST/UTGST.
- Manufacturer of ice cream, pan masala, or tobacco
- Casual taxable person or a non-resident taxable person
- Businesses which supply goods through an e-commerce operator(such as Flipkart)

1.5.2. Number of Returns under composition scheme

Under normal scheme thirty seven returns that is total thirty six monthly returns and one annual return have to be submitted by a tax payer. Many startups and Small and Medium Enterprises (SMEs) may struggle to comply with these provisions. To resolve this issue, the government has introduced Composition Scheme under GST. When opting for the Composition Scheme under GST, a taxpayer will be required to file summarized returns on a quarterly basis, instead of three monthly returns as applicable for normal scheme.

1.5.3 Tax Rate applicable on a Composition Dealer

Categories of registered person	*Central Rate*	*State / UTGST Rate*	*Total Rate*
Manufacturer other than goods notified and other Supplier like agent, Traders (Goods)	0.50%	0.50%	1.00%
Composite supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) **Example: Restaurants, Eating Joints, Mess, Canteens, Outdoor Caterer, etc**	2.50%	2.50%	5.00%
Other Service Provider	3%	3%	6%

1.5.4 Input Tax Credit and Bill of Supply

Composition Dealer is not allowed to avail input tax credit of GST paid to their supplier. A buyer from composition dealer will also not be able to claim input tax on such goods. The registered person will not be also able to carry forward the excess ITC of VAT to GST if he opts for composition scheme. Since a Composition Dealer is not allowed to avail input tax credit, such a dealer cannot issue a tax invoice rather he will issue bill of supply. The contents of Bill of Supply are as follows:

1. Name, Address & GSTIN of the supplier
2. A consecutive serial number, can be in one or more multiple series but unique for a FY **(NOT EXCEEDING SIXTEEN CHARACTER)**
3. Date of its issue
4. Name, Address & GSTIN/UIN of the recipient
5. HSN Code /SAC
6. Description of goods or service
7. Total Value
8. Discount or Abatement
9. Taxable Value
10. Signature or digital signature of supplier or his authorised representatives

1.5.5 Harmonised System Nomenclature (HSN) and Service Accounting Code (SAC)

HSN is an internationally standardized system of names and numbers to classify traded products. In Indian context it is proposed to use HSN codes at invoice level to make taxation system of international standard. Under GST Bill of Supply will be made by capturing HSN codes. Similar to the International HSN Codes, India has adopted a Service Accounting Code (SAC) for all its services. Indian manufacturers under GST shall be required to follow a 3-tiered structure of HSN.

- Those with a turnover of less than INR 1.5 Crores need not follow HSN
- Those with a turnover exceeding INR 1.5 Crores but less than INR 5 Crores shall be using the 2 digit HSN codes
- Those with a turnover exceeding INR 5 Crores shall be using the 4 digit HSN codes
- Those dealers who are into imports or exports shall mandatorily follow the 8 digit HSN codes

1.5.6 Return Filing

The taxable person is required to furnish only one return i.e. GSTR-4 on a quarterly basis by the 18th of the month succeeding the quarter and an annual return in FORM GSTR-9A to be filed within 31st December, 2018. So, total of five returns to be filed by a taxable person under composition scheme.

Under Normal Scheme Three Monthly Returns and one Annual Return that is total thirty seven returns to be filed as shown below:

Form No.	*What should be filed?*	*Filed By Whom?*	*Date of Filing*
GSTR-1	Details of outward supplies of taxable goods and/or services effected	Registered Taxable Supplier	10th of the next month
GSTR-2	Details of inward supplies of taxable goods and/or services effected claiming input tax credit.	Registered Taxable Recipient	15th of the next month
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax.	Registered Taxable Person	20th of the next month
GSTR-9	Annual Filing of Return	Registered Taxable Person	31st December of the next financial year

1.5.7. Some major highlights of new composition scheme

1.5.7.1 Service providers – Eligible person for composition scheme

Following registered persons having aggregate turnover up to INR 1.5 crores w.e.f 1-4-2019 by virtue of Notification No. 14/2019 dated 7-3-2019 –Central Tax (INR 75 lakhs for Special Category States) in preceding financial year are covered in the composition scheme:

(i) Manufacturers other than manufacturing tobacco and manufactured tobacco substitutes, pan-masala and ice-cream and other edible ice, whether or not containing cocoa.

(ii) Traders

(iii) Restaurants not serving alcohol

(iv) Manufacturers and traders having a turnover of services of up to INR 5 lakhs or 10% of total turnover from 1st February, 2019 (Vide Central GST (Amendment) Act, 2018).

What follows from the above is that post CGST Amendment also, only manufacturers and traders having a turnover of services of up to INR 5 lakhs or 10% of total turnover, were able to opt composition scheme and the same is not available to a person who is only a service provider other than a restaurant service provider. Therefore, in order to provide the benefit of composition scheme, a decision was announced in favour of service providers in GST Council's 32nd meet. Accordingly, a new composition scheme is made available to services providers (or mixed suppliers), with an aggregate turnover in the preceding financial year up to INR 50 lakhs.

The methodology to compute aggregate turnover is given in Section 2(6). Accordingly, 'aggregate turnover' means value of all outward supplies (taxable supplies+ exempt supplies+ exports + inter-state supplies) of a person having the same Permanent Account Number (PAN) and it excludes taxes levied under central tax (CGST), State tax (SGST), Union territory tax (UTGST), integrated tax (IGST) and compensation cess. Also, the value of inward supplies on which tax is payable under reverse charge and value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account for calculation of 'aggregate turnover.

It is to be noted that all registered persons having the same PAN are required to opt composition scheme. If one registered person opts for normal scheme, others become ineligible for composition scheme.

1.5.7.2 Conditions/Restrictions under composition scheme for service providers

(i) A service provider (or mixed supplier) registered under composition scheme should not be engaged in making any supply of goods which are not leviable to tax under the GST laws [Section 10(2) of CGST Act, 2017].

(ii) A service provider (or mixed supplier) registered under composition scheme should not be engaged in making any inter-state outward supply of goods. [Section 10(2) of CGST Act, 2017]

(iii) A service provider (or mixed supplier) registered under composition scheme cannot make any supply of goods through an electronic commerce operator [Section 10(2) of CGST Act, 2017].

(iv) A service provider (or mixed supplier) registered under composition scheme shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax [Section 10(4) of CGST Act, 2017].

(v) A service provider (or mixed supplier) registered under composition scheme shall pay tax on reverse charge basis under sub sections (3) or (4) of section 9 on inward supply of goods or services or both [Rule 5 of CGST Rules, 2017].

(vi) A service provider (or mixed supplier) registered under composition scheme is required to mention the words —composition taxable person, not eligible to collect tax on supplies at the top of the bill of supply issued by him [Rule 5 of CGST Rules, 2017].

(vii) A service provider (or mixed supplier) registered under composition scheme shall also mention the words —'composition taxable person' on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business [Rule 5 of CGST Rules, 2017].

(viii) A mixed supplier, engaged in the manufacture of goods as notified under section 10(2)(e) of CGST Act, 2017, during the preceding financial year is not eligible to get himself registered under composition scheme [Section 10(2) of CGST Act, 2017 read with rule 5 of CGST Rules, 2017].

(ix) A service provider should neither be a casual taxable person nor a non -resident taxable person in order to become eligible for registration under composition scheme [Rule 5 of CGST Rules, 2017].

(x) A service provider (or mixed supplier) registered under composition scheme cannot issue tax invoice as they are not eligible to collect taxes on the supplies made by them.

1.5.7.3 Registration under composition scheme for new service providers

[Section 10 of CGST Act, 2017 and Sub rules (2), 3(3A) and (5) of Rule 3 of CGST Rules, 2017]

(a) Intimation regarding opting composition scheme: – Any service provider (or mixed supplier) who applies for registration under GST for the first time may choose an option to pay tax under composition scheme in Part B of FORM GST REG-01, which shall be considered as an intimation to pay tax under the said scheme. Any intimation regarding opting composition scheme in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

(b) Effective date: The intimation shall be considered only after the grant of registration to an applicant and his option to pay tax under composition scheme will be applicable from the 1st day of next month in which intimation has been filed. E.g. If a registered taxpayer submits the form on 15th March, then, composition scheme will apply from 1st April.

(c) **Frequency of intimation:** The registered service provider (or mixed supplier) paying tax under composition scheme may not file a fresh intimation every year and he may continue to pay tax under the said scheme subject to the provisions of the Act and Rules.

(d) **Furnishing details of Input tax credit**: A service provider (or mixed supplier) is also required to furnish the statement in FORM GST ITC-03 for details of input tax credit relating to inputs lying in stock, inputs contained in semi-finished or finished goods within a period of one hundred and eighty days from the day of commencement of composition levy.

1.5.7.4 Existing registered service provider (or mixed supplier) switching from normal scheme to composition scheme [Section 10 and Sub rules 3(3) and 3(5) of CGST Rules, 2017]

(a) **Intimation regarding opting composition scheme:** Any registered service provider (or mixed supplier) who opts to pay tax under composition scheme shall electronically file an intimation in FORM GST CMP-02, prior to the commencement of the financial year for which the option to pay tax under the aforesaid scheme is exercised. Further, any intimation regarding opting composition scheme in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN. The last date for opting composition scheme for service providers in respect of FY 19-20 has been extended to 30-9-2019.

(b) **Effective date**: The composition scheme will be applicable from the 1st day of the next month in which registered service provider (or mixed supplier) files an intimation in Form GST CMP-02.

(c) **Frequency of intimation:** The registered service provider (or mixed supplier) paying tax under composition scheme may not file a fresh intimation every year and he may continue to pay tax under the said scheme subject to the provisions of the Act and rules.

(d) **Furnishing of input tax credit details**: A registered service provider or mixed supplier is required to furnish the statement in FORM GST ITC-03 for details of input tax credit relating to inputs lying in stock, inputs contained in semi-finished or finished goods within a period of sixty days from the commencement of the relevant financial year. It is to be remembered that such registered service provider (or mixed supplier) is not allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC-03 has been furnished.

1.5.7.5. Switching from composition scheme to normal scheme [Rule 6 of CGST Rules, 2017]

(i) Voluntary withdrawal of the scheme*:* A service provider (or mixed supplier) who wants to withdraw from the composition scheme is required to file an application in FORM GST CMP-04, duly signed or verified through electronic verification code, electronically on the common portal, before the date of such withdrawal.

(ii) Denial of composition scheme: Where the proper officer has reasons to believe that the registered service provider (or mixed supplier) was not eligible to pay tax under composition scheme or has contravened the provisions of the Act or Rules, he may issue a notice to such person in FORM GST CMP-05 to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under composition scheme shall not be denied.

Upon receipt of the reply to the show cause notice issued from the registered person in FORM GST CMP-06, the proper officer shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

Every person who has filed an application for withdrawal from the scheme or a person in respect of whom an order of withdrawal of option has been passed in FORM GST CMP-07, may electronically furnish at the common portal, a statement in FORM GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn or from the date of the order passed in FORM GST CMP-07, as the case may be.

1.5.7.6 Comparison between normal service provider and service provider under composition scheme

Particulars	*Normal service provider*	*Service provider under composition scheme*
Registration threshold	Threshold registration limit for normal service provider is aggregate turnover exceeding INR 20 lakh in a financial year (INR 10 lakhs in case of Special Category States)	Threshold registration limit under composition scheme for service provider (or mixed. suppliers) is annual turnover in preceding financial year not exceeding INR 50 lakh. In case of restaurant services, threshold registration limit under composition scheme is annual turnover in preceding financial year not exceeding Rs. 1.5 crore w.e.f 1-4-2019.
Tax rate	For a normal tax payer, higher rate of tax is applicable as per the GST rate tier structure 0%, 5%, 12%, 18% and 28%.	For restaurant services, the rate is 5%. Whereas, it is 6% for other service providers (or mixed suppliers).
Tax collection from service recipient	A normal service provider collects tax from service recipient and deposit it to the Government	The burden of tax is kept on the service provider (or mixed supplier) himself. He cannot collect taxes from the service recipient as in case of normal tax payer
Input tax credit	A normal service provider is eligible to take input credit on his inward supplies and he can pass the same to service recipient by issuing tax invoice.	Any composition service provider (or mixed supplier) cannot avail the benefit of taking credit of input tax on inward supplies. Also, the service recipient even if registered will not get the input tax credit on his input supplies.
Returns	Currently, a normal service provider has to file 2 monthly returns (namely, GSTR-1 where turnover exceeds INR 1.5 crore & GSTR-3B) and one annual return, totalling to 25 returns in a year	A composition service provider has to file just single annual return in GSTR4 and a quarterly Statement for payment of self-assessed tax in GST CMP 08, totalling to 5 returns.
Tax payment	A normal service provider having turnover upto INR 1.5 crore is required to pay tax at quarterly intervals. On the other hand, service providers having turnover exceeding INR1.5 crore are required to make monthly tax payments.	Quarterly tax payment is allowed in case of composition service provider (or mixed supplier).
Restriction on interstate supplies	A normal service provider can make inter and intra-State state supplies of goods and or services.	A composition mixed service provider is barred from making inter-state supplies of goods.

1.6 CONCLUSION AND RECOMMENDATIONS

The present rate of GST collection after adjusting for refunds, works out to around Rs. 89,600 crore against a monthly target of Rs. 1.04 lakh crore as observed by Sumit Dutt Majumder, former chairman of the CBEC, whose book GST: Explained for Common Man released at last year's Calcutta Book Fair. Majumder in his book has pointed out that GST has affected small business the most. According to him, two critical policy decisions have hit the micro, small and medium sector enterprises and traders the most. First, those who have not registered for the GST because they are below the tax threshold limit cannot sell their products outside their state limit. Thus, a small producer in Noida, Uttar Pradesh, which is few kilometers from Delhi, cannot sell in the capital. The other policy decision is the application of reverse charge mechanism for a transaction between a GST registered firm and an unregistered firm. He pointed out that in practical sense this has meant that no big company is willing to do business with a small GST unregistered firm.

However, the Government's decision of allowing composition scheme to all service providers (or mixed suppliers) is a welcome move. It will benefit small and medium players in industry.

On one side, composition scheme has merits of low tax rate, reduced compliances, etc. but on the other side, it has few disadvantages like no tax collection from service recipient, no input tax credit, restriction on inter-state supplies, etc. It may also be argued that composition scheme may not be beneficial so far as profitability is concerned if the taxpayer is to pay 5% /6% on sale price directly to the Government. Therefore, it is recommended that for Micro, Small and Medium enterprises the composition scheme will be suitable and beneficial if and only if one tax rate of 1% is kept. It is suggested that 5 %/6% GST under composition scheme should be dropped. Otherwise the composition scheme will be only an illusion and will not be able to give relief to the startups and Small and Medium Enterprises (SMEs). So the GST Council needs to give a second thought to the GST rates under composition scheme so far as 5%/6% GST rate is concerned.

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