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(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

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**The Chairman
Empowered Committee of State Finance Ministers
New Delhi**



Sir,

Sub: Suggestions on Model GST Law

Draft Model GST Law has been released by the Government in public domain for suggestions and comments of all the stake holders so as to finalise a better law for implementation of GST in India.

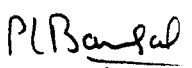
All India Federation of Tax Practitioners, a national level association of Tax Practitioners has compiled several suggestions on the said Model GST Law under the Chairmanship of Advocate Sh.Raj.K.Batra and CA Sh.H.L.Madan, Convenor, Law & Representation Committee, under the leadership of National President Dr.M.V.K.Moorthi and Deputy President Smt.Premlata Bansal.


The attached suggestions are in two parts. One containing summary of the suggestions and the other containing detailed suggestions giving section wise reasons for the same.


We will appreciate if an opportunity is given to us for further clarification, if any, needed on the said suggestions.

With regards

For All India Federation of Tax Practitioners


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Adv. Raj.K. Batra
Chairman,
Law & Representation Committee


CA H.L. Madan
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SUMMARY OF SUGGESTIONS

S. No.	Section No.	Subject matter	Suggestion (s)
1	2(20) (A) (i)	Capital goods means Goods falling under heading 6804 along with other chapters of the Schedule to this Act.	Schedule containing list of Capital Goods be annexed to the Draft Law and should include items newly included in recent amendments of CENVAT Credit rules, 2004.
2	2(6)	Aggregate Turnover	Definition be amended to exclude exempt and non-Taxable supplies.
3	2(31)	Continuous Supply of Services	The words "on recommendations of the Council" be added after the words "Central or State Govt. may"
4	2(52) (d)	Import of Services	The clause (d) needs to be drafted better to give intention of the Draft Law.
5	2(66)	Manufacturer	Should be defined in Model GST Law.
6	2(82)	Related Person	In clause (d) 5% should be replaced by 20%
7	2(82)	Related Person	➤ Legal Persons should be defined ➤ Word Control and Family used in the section should be defined.
8	2(96)	Taxable Person	An explanation should be provided below the definition of "Taxable Person" explaining the "Registered Taxable person" and "Registered Person".



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

9	8(1)	Composition Levy	Sec- 8(1) be suitably amended to provide that composition will be allowed automatically upon application of the “Registered Taxable Person”.
10	8(1)	Composition Levy	Sec-8(1) should be suitably amended that new registrants can also opt for composition scheme.
11	8(1)	Composition Levy	Section to provide that the turnover of previous year should be less than 50 lacs to apply for composition for next year or even a new registrant can also apply.
12	8(1)	Composition Levy	The section should provide that option once taken should be allowed to carry on till withdrawn by the taxpayer or till he crosses the limit of Rs50 Lacs.
13	8 (1)	Composition Levy	Word “Turnover” be defined in the GST law and should exclude exempt supplies, export of goods and non – taxable supplies
14	8 (3) Proviso	Composition Levy	<p>Provided that no tax or penalty shall be imposed without giving a notice to show cause and without affording a reasonable opportunity of being heard to the person proceeded against.</p> <p>In section 8(3) it should be provided that tax paid under</p>



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

			composition be adjusted against tax determined by proper officer under other provisions of the Act
15	9(1)	Taxable Person	Section should provide that a person shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds Rs. 20 Lacs.
16	9(3) (c)	Taxable Person	No Value should be prescribed and this sub-section be deleted.
17	10(3)	Power to grant exemption from Tax	Proviso should be added that no such notification shall be issued having its retrospective effect, if it is against the interest of the Tax payer
18	12(2) (ii)(d)	Time of Supply of Goods	Section-12(2)(ii)(d) be deleted.
19	12(6)	Time of Supply of Goods	It should be provided that the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal (If the said goods have not been returned within six months), whichever is earlier.
20	13(6)	Time of Supply of services	The words “partly supplied” shall be inserted after the word “such” and before the word “services”.



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

21	16(2), (2A) & (3)	Manner of taking Input Tax Credit	Suitable amendment be made in these sub sections (2), (2A) & (3) so that the supplier be entitled to ITC on inputs held in stock, semi-finished goods and finished goods, ITC on services used in semi-finished and finished goods and held in stock, capital goods available and used in business on the day immediately preceding the date from which the registered taxable person becomes liable to pay tax under GST Law.
22	16(2)	Manner of taking Input Tax Credit	Suitable words should be added in sub- section (2) so that the supplier making application for registration beyond 30 days from the date of his liability to registration, gets entitled to claim ITC on inputs, input services and capital goods held in stock, contained in semi-finished and finished goods.
23	16 (3A)	Manner of taking Input Tax Credit	The word tax invoice be replaced by “invoice/ bill”.
24	16(9)	Manner of taking Input Credit	Section 16(9) be deleted
25	16 (11) (c)	Manner of taking Input Tax Credit	Sub section (11)(c) needs reconsideration and preferably



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

			be deleted
26	20(2)	Amendment of registration	After the word “as may be prescribed” words “after affording a reasonable opportunity of being heard to registered taxable person” be added
27	21(1) (b)	Cancellation of registration	Sub-section (b) needs to be deleted.
28	21(2) (b), (c) & (d)	Cancellation of registration	The word “registered taxable person” be placed in clause (b), (c) & (d)
29	22	Revocation of Cancellation of Registration	Clause (5) be added in sec-22- that ITC reversed u/s 21(7) on cancellation of Registration be Credited in the electronic credit or cash Ledger on revocation of cancellation of registration.
30	23A	Tax Invoice	To indicate the amount of tax needs to be restricted mentioning in the Tax invoice only and words “in all documents relating to assessment and other like documents” be deleted.
31	25(1)	Furnishing details of outward supplies	The word “by GSTN” be added after the words such details shall be communicated.....



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

32	25(1) Explanation	Furnishing details of outward supplies	In Sec-25(1) explanation the word “revised invoices” be inserted after the word “supplementary invoices”.
33	25(1)	Furnishing details of outward supplies	Details of outward supplies be furnished by 10 th of the end of the Quarter.
34	26(2)	Furnishing details of inward supplies	The word “and goods” be added after the words- “including inward supplies of services” on which the tax is payable on reverse charge basis.
35	27(1)	Returns for every calendar month or part thereof.	The word “such month” be replaced by “such Quarter”
36	35(4)	Payment of Tax, interest, penalty and other amount	After the words “towards tax” interest, penalty and other sum be added.
37	35(5) (c)	Payment of Tax, interest, penalty and other amount	The CGST should be allowed to be utilized against SGST and vice –a-versa.
38	38(2)	Refund of Tax	1)The word “through return” be added after “at the end of any tax period”. 2)Sec- 38(11(B(f))) be deleted.
39	38(6)	Refund of Tax	After section 38(6)(b) “Refund out of advance tax paid by taxable



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

			persons u/s 19 A". be added
40	42(1)& (4) 42 (4)	Accounts & other records Audit of Accounts	“Registered person”& “Registered Taxable Person” be defined in GST Law. Tax Practitioners with a standing of 5 years shall also be included for audit purpose.
41	42 & 43	Account & other records	Books of accounts be defined.
42	43 C (8)	Collection of Tax at source	“After giving an opportunity of being heard to the supplier” be added after the end of sub-section 8of section 43C
43	43 C (11)	Collection of Tax at source	The word “ 5 working days” be replaced with “15 working days” or any other day as extended by the commissioner
44	44A (1)	Provisional assessment	Word “taxable person” be replaced by Registered Taxable Person
45	44A (1)	Provisional assessment	Word “May” to be replaced by “Shall”.
46	45(1)	Scrutiny of Return	The word “Taxable person be replaced by “Registered Taxable Person”.
47	45(3)	Scrutiny of Return	Word “Taxable person” be replaced by registered taxable



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

			person” and word “in writing” be added after the word “informed”.
48	45(4)	Scrutiny of Return	- Reasonable period be specified in subsection 4. - Taxable person to be replaced by Registered Taxable person”
49	46(2)	Assessment of non-filers of Return	Word “Taxable person be replaced by registered taxable person”
50	49(1),(3), (4), (5), (6)	Audit by Tax Authorities	Word Taxable person” be replaced by “registered Taxable Person”
51	49(6)	Audit by Tax Authorities	Word in writing be added after the word “inform”.
52	50	Special audit	The word “normal limit” be replaced by more appropriate words like “ not in accordance with law”
53	50	Special audit	Words should be added after “with the prior approval of the commissioner” “and after an opportunity of being heard” to the taxable person direct....
54	51(A)(1)	Determination of Tax not paid or short paid or accordingly refunded	Words “within 1 st year or 2 nd year be added after “shall serve notice”.



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

55	52 (2)	Tax collected but not deposited with Central or State Govt.	If payment of amount collected is made within specified time after issue of SCN the penalty may be reduced as prescribed.
56	53	Tax wrongfully collected and deposited with Central or State Govt.	Section to provide that tax paid earlier as SGST/CGST be automatically adjusted as IGST through GSTIN
57	64	Access to business premises	Sec- 64(1) be deleted
58	66(1)	Offences and penalties	Word "Taxable person be replaced by "Registered Taxable Person".
59	66(2) Explanation	Offences and penalties	Words "Comprised in one year" be added after "six consecutive Tax Periods".
60	68(5)	General discipline related to penalty	Word "May" be replaced by "shall" after the words " the tax authority"
61	73(1) (i)	Prosecution and compounding of offences	The limit of 2.50 crore be raised to 5 crore and above and imprisonment be reduced to 3 years with fine
62	73(1) (ii)	Prosecution and compounding of offences	The limit of 2.5 crores be raised upto 5 crore and imprisonment be reduced to one year and fine
63	73(1) (iii)	Prosecution and compounding of	This limit be raised from 25 lacs to 50 lacs and imprisonment be



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

		offences	reduced to six months with fine
64	73(4)	Prosecution and compounding of offences	The maximum imprisonment be reduced to 3 years and section 73(4) be deleted
65	77(2)	Offences by companies and certain other persons	Word any negligence be replaced by "Gross Negligence"
66	79(4)	Appeals to First Appellate Authority - condition of 10% as per deposit	"Pre deposit condition of 10% for filing appeal before FAA be deleted"
67	79(5)	Appeals to FAA	Word "he" be replaced by "appellant"
68	82 (Explanation)	Related Person	"Legal Persons but excluding legal representatives doing profession.
69	82(3)	Appeal to the appellate tribunal	The word "communication" be replaced by "receipt" by the person preferring the appeal
70	82(2)	Appeal to the appellate tribunal	This subsection needs to be deleted
71	86(2)	Appearance by authorized representatives	After Sec- 86(2)(c) a clause be added as "any ITP or STP who holds a valid license from commissioner of income tax or commissioner of sales tax/Vat.



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

72	95(2)	Authority for advance ruling	If two members differ on any point under subsection (5), it shall be deemed that no advance ruling can be issued. In section-95(2) words “and one CA or an advocate having practice of 10 Years” be added.
73	96	Appellate Authority for advance ruling	This Authority shall comprise of two state Tribunals
74	97	Application for Advance Ruling	Clause (h) be added in subsection (2) as “any other aspect of implementation of Act”
75	99(2)	Appeal to appellate authority	- The word communicated be replaced by “served” - “ provision for condonation of delay be provided at least by 30 days
76	116	GST Compliance Rating	This section needs to be deleted
77	117	Obligation to furnish information return	“Subject to maximum penalty of Rs.10,000/-“ be added at the end of section.
78	122	Drawl of Samples	After the words “so taken” the words “and will be returned within days or cost of samples be paid if-not returned withindays”



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

79	129	Rectification of mistake or error apparent from record	<ul style="list-style-type: none"> - Word “service” be replaced in place of “issue” of order. - In proviso also word “issue” be replaced by “ service”. - In proviso (1) words “and the application will be deemed to be allowed” be added after “any other document”. - Time limit for making application in cases of mistakes of purely clerical nature etc be provided as 3 years from receipt of the order.
80	131	Levy of fees	The heading of this section “levy of Fess” be changed to Fee for providing copy of document or order”
81	136	Service of notice in certain circumstances	Modes of service mentioned at (c) to (g) in section 136 be deleted.
82	140 (2)	Repeals & Savings	Sub clause (f) under section 140(1) be added after section 140(2)(e)
83	140 (2) (e)	Repeals & Savings	Word enacted be replaced by "repealed"
84	140 (2)	Repeals & Savings	After (c) of 140(2) word 'Octroi' be added. Repeal of Central Sales Tax is also not mentioned in 140(1) or 140(2) The same needs to be added at appropriate place.



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

85	141 (b)	General Provisions	Words "On the recommendation of GST Council" be added after the words " the Central Govt. ----- may issue orders-
86	144 CGST & SGST	Unavailed Cenvat credit on capital goods not carried forward in a return	- It should be provided in this section to allow tax credit on capital goods purchased in earlier tax regime and being used in manufacture of taxable goods in GST regime. - mechanism to claim such credit be also prescribed in this section.
87	146 SGST & CGST	Unavailed Cenvat credit on capital goods used when opted composition scheme in earlier law but shifted now to normal scheme in GST Law.	- It should be provided in this section to allow tax credit on capital goods as being used in manufacture of taxable goods. - Mechanism to claim such credit be also prescribed in this section.
88	147	Amount payable in the event of a taxable person switching over to composition scheme	The input tax credit if any left in electronic credit ledger be allowed to be set off against future liability or be refunded.
89	150, 151, 152 and	Input or Semi finished goods removed for job work/ any other process and	It should be provided in these sections to avoid double taxation on the same activity.



All India Federation of Tax Practitioners (AIFTP)
Suggestions On Model GST Law

	162 D	returned after the appointed day.	
90	154	pending refund claims to be disposed of under earlier law	Section should provide for dealing with refund claims made after appointed date but related to earlier period. This is not provided yet in the transitional provisions
91	159	Treatment of long term construction works contracts.	Section 159 should provide that tax payable on goods/services supplied within 2 years in case of long term contracts entered into prior to appointed date both under normal scheme or under composition scheme, shall not be more than the tax due under repealed Acts
92	162 A(iii)	Tax paid on goods lying with agents	The language of the clause (iii) be made more clear to explain invoices issued by the principle or received by the principle prior to appointed day.



All India Federation of Tax Practitioners (AIFTP) Suggestions On Model GST Law

93	Article 366 (29A)	Not deleted	Article 366(29A) be deleted
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S. No	Section No.	Provision in Brief	Issue	Suggestion	Reason For Suggestion
1	2(20) (A)(i)	Capital goods means Goods falling under heading 6804 along with other chapters of the Schedule to this Act.	No Schedule is yet annexed with the CGST/SGST Draft Law containing List of Capital Goods.	Schedule containing list of Capital Goods be annexed to the Draft Law and should include items newly included in recent amendments of CENVAT Credit rules, 2004.	It appears that definition of capital goods mentioned in Model GST Law has been taken from CENVAT Credit Rules, 2004 but items newly included in recent amendments are not included in the definition provided in GST Law.
2	2(6)	Aggregate Turnover	Whether Aggregate Turnover should include exempt supplies and non Taxable supplies	Definition be amended to exclude exempt and non-Taxable supplies.	Presently in Service Tax Law exempt services are not included for the purpose of Turnover and it gives a good relief to small service providers. Further if a supplier carrying on business mostly of exempt supplies but makes a very little taxable supply, he will have to seek registration under GST Law which may be avoided
3	2(31)	Continuous Supply of Services	Central or State Govt. may notify to specify supply of certain services to include in continuous supply of services	The words “on recommendations of the Council” be added after the words “Central or State Govt. may”	From the Definition it is evident that Central or State Govt. gets the power to notify certain services in the definition of “Continuous supply of services” and both the Govt. may make different rules unless they act as per the recommendation of the council.

S. No	Section No.	Provision in Brief	Issue	Suggestion	Reason For Suggestion
4	2(52)(d)	Import of Services	Clause (d) and explanation-I	The clause (d) needs to be drafted better to give intention of the Draft Law.	The language used in clause (d) and explanation-I is not sounding proper to give the intended meaning of import of services and needs clarification/ improvement.
5	2(66)	Manufacturer	Definition	Should be defined in Model GST Law.	“Manufacturer” word has been defined in GST Law as having meaning from Central Excise Act, 1944 which is mainly going to be subsumed in GST. Hence definition of “manufacturer” be given in GST Law itself.
6	2(82)	Related Person	In clause (d) holding of outstanding voting stock or shares is fixed at 5%	In clause (d) 5% should be replaced by 20%	Holding of 5% or more of the outstanding voting stock is too low as compared to existing limit under Income Tax Act as well as Accounting Standards issued by ICAI. Hence the same needs to increased to 20%
7	2(82)	Related Person	<ul style="list-style-type: none"> ➤ Explanation-I includes legal persons ➤ Meaning of the 	<ul style="list-style-type: none"> ➤ Legal Persons should be defined ➤ Word Control and Family used in the 	➤ The explanation-I – The term Person also include Legal Persons but the said word has not been defined in Model GST Law

			word Control and Family	section should be defined.	and will create litigation in future. Hence the same should also be defined. ➤The word “Control” has been used in (d), (e), (f), (g) and “Family” in (h) but their meanings are not given either in the Section or the Explanation. This needs to be clarified.
8	2(96)	Taxable Person	Registered Taxable Person and Registered Person not defined in the Model GST Law.	An explanation should be provided below the definition of “Taxable Person” explaining the “Registered Taxable person” and “Registered Person”.	The word “Taxable Person” has been defined in this section but Sec-16(1) talks of “Registered Taxable Person” and Sec-42(1) talks of “Registered person” as well which have not been defined anywhere in the Draft GST Law and may create confusion and litigation in future.
9	8(1)	Composition Levy	Permission required from Proper Officer	Sec- 8(1) be suitably amended to provide that composition will be allowed automatically upon application of the “Registered Taxable Person”.	Since composition permission is granted to a registered taxable person, his application alone for opting composition scheme be sufficient and no permission from the proper officer be required as is being allowed in the present

					DVAT Act, 2004
10	8(1)	Composition Levy	Option for composition scheme for a new supplier	Sec-8(1) should be suitably amended that new registrants can also opt for composition scheme.	The section does not provide as to how a supplier who is applying for new registration/ voluntary registration can opt for composition scheme.
11	8(1)	Composition Levy	Turnover less than 50 lacs should be for which Year. Whether in the current year or of the previous year to opt for composition scheme.	Section to provide that the turnover of previous year should be less than 50 lacs to apply for composition for next year or even a new registrant can also apply	The section does not provide whether turnover of the previous year is to be seen to apply for composition in the subsequent year or it can be opted based on the current year turnover only
12	8(1)	Composition Levy	Option/Permission whether yearly or till it is withdrawn	The section should provide that option once taken should be allowed to carry on till withdrawn by the taxpayer or till he crosses the limit of Rs50 Lacs.	As in the present DVAT Act, 2004, the taxpayer should be allowed to continue in future the composition scheme once opted till he withdraws or his turnover crosses the threshold limit of Rs 50 lacs.

13	8 (1)	Composition Levy	Definition of the word Turnover and inclusion of exempt, non tax and exports supplies.	Word “Turnover” be defined in the GST law and should exclude exempt supplies, export of goods and non – taxable supplies.	<p>Section 8(1) provides that registered taxable person can be permitted by proper officer on an applicable to pay tax @ 1% of the turnover during the year.</p> <p>In section 2(6) word “aggregate turnover” and in section 2(104) the word “ turnover in a state “ has been defined but word “ turnover” is not defined anywhere in the Model GST Law .</p> <p>Hence, the same needs to be defined for the purpose of composition and should not include exempt supply, non taxable supplies and exports and other strict restrictions.</p> <p>Experience shows that in DVAT Act 2004, tax payer were afraid of Sopting composition scheme due to many restrictions which cannot be complied with. Accordingly the scheme was almost a failure.</p>
14	8 (3) Proviso	Composition Levy	Provision of notice to tax payer before determining tax under other provisions of the Act where proper	Provided that no tax or penalty shall be imposed without giving a notice to show cause and without affording a reasonable opportunity of being heard	Section 8(3) provides that if the proper officer has reason to believe that taxable person has wrongly opted for composition scheme, such person shall pay tax as per provisions of the Act and be

			officer is of the view that tax payer has wrongly opted composition.	to the person proceeded against. In section 8(3) it should be provided that tax paid under composition be adjusted against tax determined by proper officer under other provisions of the Act.	liable to pay penalty. However, no opportunity has been provided to the tax payer before determining tax under normal scheme which needs to be provided. In addition, it is not mentioned in this section that tax already paid under composition be adjusted against tax liability determined under normal scheme.
15	9(1)	Taxable Person	Basic Exemption for Registration Rs. 10 or Rs. 5 lacs	Section should provide that a person shall not be considered as a taxable person until his aggregate turnover in a financial year exceeds Rs. 20 Lacs.	The Limit of Rs. 10 lacs or Rs 5 lacs as provided in GST Law is too low and should be raised to Rs 20 Lacs as already applicable in Delhi and looking to the inflation in the country.
16	9(3)(c)	Taxable Person	No value has been prescribed and left as Rupees in a year for personal use.	No Value should be prescribed and this sub-section be deleted.	If a person is receiving services for his personal consumption and not for use in the course or furtherance of his business, he should not be made responsible under RCM.
17	10(3)	Power to grant exemption from Tax	Issue of notification to clarify the scope or applicability of any notification issued earlier.	Proviso should be added that no such notification shall be issued having its retrospective effect, if it is against the interest of the	The Central and State Govt. has been given the power to clarify the scope of any notification issued earlier within one year of the date of such notification. This should

				Tax payer	not be allowed without the approval of the GST Council and it should not be against the interest of taxpayer.
18	12(2)(ii)(d)	Time of Supply of Goods	Whether time of supply of goods can be the date on which the recipient shows the receipt of goods in his books of accounts (if it is the earliest of four conditions)	Section-12(2)(ii)(d) be deleted.	Since the supplier has no control on the recipient as to when he will record the goods in his books of accounts, this condition needs to be deleted as the same is not practical at all.
19	12(6)	Time of Supply of Goods	If the goods are sent on approval and are returned within six months whether it will be treated as supply.	It should be provided that the time of supply shall be at the time when it becomes known that the supply has taken place or six months from the date of removal (If the said goods have not been returned within six months), whichever is earlier.	The section provides that time of supply shall be when it becomes known that the supply has taken place or six months from the date of removal whichever is earlier. However nothing has been provided that if the goods are received back within six month. This needs to be incorporated in this subsection.

20	13(6)	Time of Supply of services	Contract of supply of service ceases before completion of supply	The words “partly supplied” shall be inserted after the word “such” and before the word “services”.	Language of the section is not very clear that whether the part supply of service before ceasing of the contract, will be considered as supply for levy of tax. Therefore , the word partly supplied should be inserted in this subsection
21	16(2), (2A)& (3)	Manner of taking Input Tax Credit	ITC on inputs held in stock, on services and inputs in semi-finished goods & on services and inputs in finished goods held on the date immediately preceding the date of registration	Suitable amendment be made in these sub sections (2), (2A) & (3) so that the supplier be entitled to ITC on inputs held in stock, semi-finished goods and finished goods, ITC on services used in semi-finished and finished goods and held in stock, capital goods available and used in business on the day immediately preceding the date from which the registered taxable person becomes liable to pay tax under GST Law.	In these sub-sections, the draft law is allowing ITC only in respect of inputs on goods, semi-finished goods and finished goods held in stock. However, the semi-finished and finished goods contain not only inputs but labour charges also on which the supplier might have paid service tax. In addition, capital goods must have been used in manufacturing/ processing of such semi-finished and finished goods. Hence supplier should be allowed ITC on such services and capital goods also as in GST seamless credit of ITC is ensured by the Govt.

22	16(2)	Manner of taking Input Tax Credit	Late registration	Suitable words should be added in sub-section (2) so that the supplier making application for registration beyond 30 days from the date of his liability to registration, gets entitled to claim ITC on inputs, input services and capital goods held in stock, contained in semi-finished and finished goods.	In case the supplier applies for registration beyond 30 days from the date of his liability, the draft law does not allow Input Tax Credit on the stocks held by him. In GST seamless input tax credit has been promised and the supplier should not be punished for late registration. Accordingly, suitable amendment be made in sub-section (2).
23	16(3A)	Manner of taking Input Tax Credit	ITC to be allowed based on tax invoices	The word tax invoice be replaced by "invoice/ bill".	Since the suppliers do not issue tax invoices to an unregistered person, therefore the said person will be having only invoice/bill in his possession on the date when he apply for registration. Therefore, he should be allowed ITC based on such invoice/bills instead of asking for tax invoices.
24	16(9)	Manner of taking Input Credit	Artificial restrictions on allowing input tax credit on employees related services and	Section 16(9) be deleted.	Subsection (9) provides artificial restriction on taking input tax credit on motor vehicles, catering, motor cab, employee related expenses and other services which

			construction of business premises.		are based on the concept of “manufacture” in the existing law of allowing Cenvat Credit. In GST Law, concept of manufacturing disappears with enlarged canvas of supply being taxed, there is no room for any artificial restrictions in GST credit and therefore subsection (9) needs to be deleted. Subsection 9(c) & (d) also places restriction on goods /services used in the constructions of factory building , offices, warehouse or malls as existed in the present Law. This is not a best practice and needs to be deleted.
25	16(11)(c)	Manner of taking Input Tax Credit	Tax on supply has been paid by the supplier to Govt.	Sub section (11)(c) needs reconsideration and preferably be deleted	The section provides that ITC will be allowed to the recipient only if the supplier has actually paid the output tax to the credit of Govt. either in cash or through utilization of input tax credit admissible. If a genuine recipient makes the payment of tax to his supplier and the supplier due to any reason does not pay to the govt. the recipient will not get the

					credit for none of his fault. The recipient may not be able to force the big suppliers and the Govt. has a full machinery to recover the amount from such supplier. In such circumstances, if ITC is denied to a genuine recipient, it will be a total injustice to the recipient.
26	20(2)	Amendment of registration	Rejection of amendment applied	After the word “as may be prescribed” words “after affording a reasonable opportunity of being heard to registered taxable person” be added	The section provides that the proper officer may reject amendment in the registration on the basis of information furnished by the registered taxable person or as ascertained by him.
27	21(1)(b)	Cancellation of registration	On change of constitution of business	Sub-section (b) needs to be deleted.	If there is a change in the partners of a partnership firm it will amount to change in the constitution of the business and the proper officer will cancel the registration although the partnership firm continues and its PAN will also remain the same and therefore its registration should not be cancelled.

28	21(2)(b), (c) & (d)	Cancellation of registration	Person, taxable person, any person has been used in clause (b), (c) & (d)	The word “registered taxable person” be placed in clause (b), (c) & (d)	In clause (b), (c) & (d) words a person, taxable person & any person has been used respectively but it should be registered taxable person in all these clause otherwise it will not give the correct meaning
29	22	Revocation of Cancellation of Registration	Upon revocation, the Taxable Person should be allowed to take ITC which has been reversed/ Paid on Cancellation under Sec-21(7)	Clause (5) be added in sec-22- that ITC reversed u/s 21(7) on cancellation of Registration be Credited in the electronic credit or cash Ledger on revocation of cancellation of registration.	On cancellation of Registration, Sec-21(7) provides that ITC on Inputs held in stock and Inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date of such cancellation shall be paid by way of debit in electronic credit or cash ledger but nothing provided in Sec-22 as to the reversal of such Input Tax if the Cancellation is revoked.
30	23A	Tax Invoice	To indicate the amount of the tax in all documents relating to assessment and other like	To indicate the amount of tax needs to be restricted mentioning in the Tax invoice only and words “in all documents relating to assessment and other like	It will not be practically possible to prominently indicate the amount of tax in all documents relating to assessment and other like documents and will create lot of difficulties for the Tax payers and

S. No	Section No.	Provision in Brief	Issue	Suggestion	Reason For Suggestion
			documents in addition to Tax invoice	documents” be deleted.	the Tax Professionals and will also not serve any purpose. Hence the same needs to be dropped from the section.
31	25(1)	Furnishing details of outward supplies	Communication of details of outward supply to recipient	The word “by GSTN” be added after the words such details shall be communicated.....	From the section, it is not clear, as to who will communicate the details of outward supply to the recipient (whether GSTN through its computer system or the supplier of Goods/Services). Since it will not be practically possible for the supplier to do so, the same should be done by GSTN.
32	25(1) Explanation	Furnishing details of outward supplies	Detail of outward supplies includes zero rated supplies.... and supplementary invoices issued during the tax period but does not include revised invoices.	In Sec-25(1) explanation the word “revised invoices” be inserted after the word “supplementary invoices”.	Sec-23(explanation) dealing with Tax invoices deemed to include any supplementary or revised invoice issued by the supplier for supplies made earlier. However explanation to Sec-25(1) includes details of Debit notes, Credit notes and supplementary invoice issued during the Tax Period. It appears that “revised invoices”

					have been inadvertently left to be written after the word “Supplementary Invoices”. which should be inserted.
33	25(1)	Furnishing details of outward supplies	Details of outward supplies required to be furnished by 10 th of the next month on monthly basis.	Details of outward supplies be furnished by 10 th of the end of the Quarter.	Details of outward supplies required to be furnished by 10 th of the next month on monthly basis. Under the existing service tax law and VAT laws returns are required to be filed on half yearly or Quaterly basis but Tax is being deposited on monthly basis and this system is working very well without any loss to revenue . If the returns are required to be filed on monthly basis in GST law, it will be against ease of doing business and therefore, needs to be avoided.
34	26(2)	Furnishing details of inward supplies	Details of inward supply of goods under reverse charge basis are not required to be furnished although service under RCM	The word “and goods” be added after the words- “including inward supplies of services” on which the tax is payable on reverse charge basis.	As per sec-26(2) every registered taxable person is required to furnish the details of inward supply of services under RCM but goods received under RCM are not mentioned- may be inadvertently. Since, GST Law provides for

			are to be furnished		supply of Goods under reverse charge also, the words “and goods” be added in this subsection.
35	27(1)	Returns for every calendar month or part thereof.	Every register dealer requires to file the return every month by 20 th of the end of the month.	The word “such month” be replaced by “such Quarter”	Under the existing service tax law and VAT laws returns are required to be filed on half yearly or Quarterly basis but Tax is deposited on monthly basis and this system is going very well without any difficulty. If the returns are to be filed on monthly basis under GST Law it will be against ease of doing business and needs to be avoided by prescribing Qtrly Returns for all registered taxable persons.
36	35(4)	Payment of Tax, interest, penalty and other amount	The amount available in the electronic credit ledger may be used for making payment of tax only and not other dues.	After the words “towards tax” interest, penalty and other sum be added.	For Ease of doing business the amount available in the electronic credit ledger (which is tax paid on purchases) should be allowed to pay tax, interest, penalty and any other sum instead of payment of tax only this is a harsh provision and needs reconsideration

37	35(5)(c)	Payment of Tax, interest, penalty and other amount	The ITC of CGST shall not be utilized against SGST and vice –a- versa.	The CGST should be allowed to be utilized against SGST and vice –a- versa.	This provision is harsh and is against ease of doing business. The ITC whether of CGST or SGST should be allowed to be adjusted against each other and the Govt. should develop a mechanism to make adjustments between Central and State through GSTN and the Tax payer should not be made to suffer.
38	38(2)	Refund of Tax	A taxable person may claim refund of unutilized ITC at the end of any tax period.	<p>1) The word “through return” be added after “at the end of any tax period”.</p> <p>2) Sec- 38(11(B(f))) be deleted.</p>	<ul style="list-style-type: none"> - The language of the section “at the end of any tax period” needs clarification- whether the refund will be claimed in the return or to be claimed by separate application in view of section- 38(11(B(f))). - Refund should be allowed to be claimed in the return itself and section 38(11(B(f))) be deleted as the word “Relevant Date” has not been used in sec-38(2). - In GSTR- 3 (GST return form) column - 12 also deals with refunds claimed of excess ITC

					in specified cases.
39	38(6)	Refund of Tax	Refund to taxable persons u/s 19 A	After section 38(6)(b) "Refund out of advance tax paid by taxable persons u/s 19 A". be added	This section does not deal with the refund due out of the advance Tax paid by a casual taxable person and non-resident taxable person u/s 19 A if his actual tax liability is lower than the advance tax paid by them.
40	42(1)& (4)	Accounts & other records	"Registered person"& "Registered Taxable Person" not defined	"Registered person"& "Registered Taxable Person" be defined in GST Law	- Section- 42(1) requires every registered person to keep and maintain a true and correct account of production, inwards and outward supply, stock of goods etc. However, word "Registered person" has not been defined either in Sec-2 or elsewhere. - Section- 42(4) requires every registered taxable person whose turnover exceeds prescribed limit to get his accounts audited. But "Registered Taxable person" has not been defined either in Sec-

40A	42(4)		“audit”	Words “ or a qualified and licenced tax practitioner either by the Central or State Government now undertaking audit of non corporate assessee’s accounts with a standing of 5 years” be added aftercost accountant.	2 or elsewhere. Therefore, both these words need to be defined in GST law to remove any confusion. Section-42(4) shall include tax practitioners also who are presently given the opportunity of audit of non corporate assesses under existing Indirect Taxes Acts, or else all these tax practitioners along with their staff and families would become unemployed as all existing indirect taxes such as various state VAT Acts, Central Excise and Service Tax, Entry Tax etc...will be subsumed in GST Law.
41	42 & 43	Account & other records	Books of accounts not suitably defined in section 42 & 43.	Books of accounts be defined.	Sec- 42(1) requires to maintain correct account of production.....etc. and Sec- 43 talks of to maintain and retain books of accounts . But books of accounts are not defined in these

					sections or elsewhere. This needs to be defined/clarification.
42	43 C (8)	Collection of Tax at source	Value of discrepancy reported by the operator if not cleared by the supplier in subsequent month will be added in the value of supplies of the supplier.	“After giving an opportunity of being heard to the supplier” be added after the end of sub-section 8of section 43C	It is provided that if details given by the supplier in his return are not matching with the information given by the operator in his statement, the deficiency will be added to the value of supplies of the supplier in the subsequent month of the month in which deficiency is communicated. Since, the supplier has no control over the payment made to Govt. by the e-commerce operator, therefore he should not be penalized without giving an opportunity of being heard. Accordingly the subsection be amended.
43	43 C (11)	Collection of Tax at source	Operator to furnish information within 5 working days of the service of notice.	The word “ 5 working days” be replaced with “15 working days” or any other day as extended by the commissioner.	It is provided that operator should furnish the information required in the notice within 5 working days of the service of notice issued by the commissioner. The time provided is too short to furnish the information and needs to be prescribed at least 15 days and be extended based on reasonable

					cause and facts and circumstances of the case on request of the supplier.
44	44A(1)	Provisional assessment	Use of words “Taxable Person”	Word “taxable person” be replaced by Registered Taxable Person	A person who is not registered is not entitled to take benefit of payment of Tax on provisional basis. Therefore, the word “Taxable Person” needs to be replaced by registered taxable person as used in section 44.
45	44A(1)	Provisional assessment	Whether proper officer may pass an order or shall pass an order	Word “May” to be replaced by “Shall”.	If Registered Taxable person makes request to proper officer for payment of tax on provisional basis, then, proper officer has to pass an order and he cannot refuse to do so. However, section has used the words “may” which should be replaced by “shall”.
46	45(1)	Scrutiny of Return	Whether return filed by taxable person or Registered Taxable person as in sec-44.	The word “Taxable person” be replaced by “Registered Taxable Person”.	Section 45(1) authorize the proper officer to scrutiny the return furnished by the “Taxable person” instead of Registered Taxable Person as specified in section 44. This needs to be corrected.

47	45(3)	Scrutiny of Return	Information to taxable person.	Word “Taxable person” be replaced by registered taxable person” and word “in writing” be added after the word “informed”.	Since the returns are filed by registered Taxable person u/s 44. Therefore, the word taxable person be replaced by registered taxable person. Further the information of the acceptance of explanation should be sent to the tax payer in writing.
48	45(4)	Scrutiny of Return	“Reasonable Period” and “Taxable person”	- Reasonable period be specified in subsection 4. - Taxable person to be replaced by Registered Taxable person”	Section requires the taxable person to take corrective measures “within a reasonable period”. This period should be specified in the GST law and should not be left to the proper officer. The word “Taxable person” also to be replaced by registered Taxable person.
49	46(2)	Assessment of non-filers of Return	“taxable person to “furnish return against the assessment order.	Word “Taxable person be replaced by registered taxable person”	Word registered taxable person be used as in section 46(1)
50	49(1), (3), (4), (5), (6)	Audit by Tax Authorities	“Audit of business transaction of a taxable person”	Word Taxable person” be replaced by “registered Taxable Person”	This section deals with audit of business transaction of a taxable person which includes person who is required to be registered but

					may not have got registered. However tax authorities will not conduct audit for those who are not registered. Therefore the word “taxable person” needs to be replaced by registered taxable person.
51	49(6)	Audit by Tax Authorities	Information to taxable person whose records are audited	Word in writing be added after the word “inform”.	Information should be given in writing by the proper officer to taxable person.
52	50	Special audit	If Credit availed is not within “normal limit”, special audit can be directed	The word “normal limit” be replaced by more appropriate words like “not in accordance with law”	The word normal limit” not sounding proper and needs more clarification and should be replaced by more appropriate words like “not in accordance with law” word “Normal limit” is not defined in section 2 or in this section.
53	50	Special audit	Direct such taxable person by notice in writing to get his records audited by CA or ICWA	Words should be added after “with the prior approval of the commissioner” “and after an opportunity of being heard” to the taxable	In similar provision under DVAT Act and under income Tax Act courts have “directed Authorities” that direction can be given to the taxable person only after affording him an opportunity of being heard.

				person direct....	Accordingly similar opportunity should be provided in GST Law also so that matters should not travel to courts.
54	51(A)(1)	Determination of Tax not paid or short paid or accordingly refunded	Time limit within which the proper officer shall serve notice not prescribed	Words “within 1 st year or 2 nd year be added after “shall serve notice”.	In this section no time limit is prescribed with in which proper officer shall serve the notice on the person chargeable with tax although the same is prescribed under existing Law of service tax. This limits needs to be prescribed.
55	52 (2)	Tax collected but not deposited with Central or State Govt.	If amount collected from any person has not paid to Central or State Govt. proper officer may serve notice to show cause why penalty equivalent to the amount be not imposed.	If payment of amount collected is made within specified time after issue of SCN the penalty may be reduced as prescribed.	If any amount collected from any other person is not paid to Central/State Govt., the proper officer can levy the penalty equivalent to the amount after issuing show cause notice and giving an opportunity of being heard to the person .Since the penalty 100% of the amount due is very harsh as the person has to pay interest also on the outstanding demand, therefore, some provision should be there in the Act so as to reduce the penalty incase payment of collected amount is made within

					specified time after issue of SCN. This may prompt a person to pay amount and also reduce the litigation and person may not go in appeal.
56	53	Tax wrongfully collected and deposited with Central or State Govt.	If intrastate transaction held interstate - whether tax again to be paid	Section to provide that tax paid earlier as SGST/CGST be automatically adjusted as IGST through GSTIN	This section provides that tax payer has to pay tax again if his intrastate supply is held as interstate and he has to claim refund of earlier tax paid under SGST/CGST. GSTN SHOULD PROVIDE A SYSTEM FOR automatically adjustment of easier tax paid and tax payer should not be asked to claim refund as the same is against ease of doing business and blocking of working capital of the tax payer.
57	64	Access to business premises	Whether access to business premises be allowed in addition to powers of inspection of any place of business u/s 60.	Sec- 64(1) be deleted	The power u/64(1) of access to any premises are already available in sec- 60 and inspection for the purpose of audit is available in 64(2) hence sec- 64(1) is not required and be deleted.

58	66(1)	Offences and penalties	Sections deals with “Taxable Person” who may be registered or required to be registered but not registered.	Word “Taxable person be replaced by “Registered Taxable Person”.	Section 66(2) talks of registered taxable person while sec-66(1) only taxable person. It appears to be written inadvertently and needs to be corrected as any person who is not registered will not be covered in this section.
59	66(2) Explanation	Offences and penalties	Short payments in 3 returns during any 6 consecutive Tax periods.	Words “Comprised in one year” be added after “six consecutive Tax Periods”.	Working of three returns during any six consecutive tax periods without any restriction will be a very long process and will be practically difficult to ascertain. Hence six consecutive tax periods be restricted to comprised in one year.
60	68(5)	General discipline related to penalty	Voluntary disclosure by a tax payer needs to be considered by the tax authority as a mitigation factor when establishing a penalty	Word “May” be replaced by “shall” after the words “the tax authority”	Sec-68(5) state that when a person voluntary discloses to a tax authority the circumstances of a breach of tax law, the tax authority may consider this fact. This cannot be left to the discretion of tax authority and therefore word “may” be replaced by “shall”.

61	73(1)(i)	Prosecution and compounding of offences	Where amount evaded exceeds 2.50 crore, imprisonment of 5 years and fine	The limit of 2.50 crore be raised to 5 crore and above and imprisonment be reduced to 3 years with fine	Limit of Rs 2.50 crores is too low for imprisonment of 5 years and should be raised to atleast 5.00 crores and period of imprisonment should also be up-to 3 years only so that the same is bailable as the offence is not criminal but a tax offence which may be even due to high pitched assessments by the officers of dept.
62	73(1)(ii)	Prosecution and compounding of offences	When amount evaded exceeds 50 lacs and less than 2.5 crores imprisonment of 3 years with fine	The limit of 2.5 crores be raised upto 5 crore and imprisonment be reduced to one year and fine	Period of imprisonment upto tax evaded from 50 lacs to 5 crore should not be more than one year with fine
63	73(1)(iii)	Prosecution and compounding of offences	When amount evaded exceeds 25 lacs but does not exceed 50 lacs	This limit be raised from 25 lacs to 50 lacs and imprisonment be reduced to six months with fine	Period of imprisonment upto tax evaded form 25 lacs to 50 lacs should not be more than six months with fine
64	73(4)	Prosecution and compounding of offences	Where offences relating to goods/ services exceeds Rs. 2.5 crore shall be cognizable and non-	The maximum imprisonment be reduced to 3 years and section 73(4) be deleted	This offence being not criminal it should be bailable and non-cognizable and therefore sec-73(4) be deleted.

			bailable		
65	77(2)	Offences by companies and certain other persons	Offences committed by a company is attributable to any negligence on the part of any director/officer.	Word any negligence be replaced by “Gross Negligence”	If it is proved that the offences committed by a company is attributable to “any negligence of a director then director shall be liable to be proceeded against. The word any negligence may include little negligence on the part of a director which may not be that fatal that prosecution proceeding be initiated against him. Hence word “any negligence should be replaced by Gross negligence”.
66	79(4)	Appeals to First Appellate Authority - condition of 10% as per deposit	Whether pre deposit for filing appeal before FAA desired.	“Pre deposit condition of 10% for filing appeal before FAA be deleted”	This section provides appellant to deposit 10% of disputed demand of Tax, Interest & Penalty for filling appeal before FAA. Such provision is not there in U.P and in Delhi also word “may” has been used for FAA to prescribed such a condition for which he has to pass a reasonable order. In order to collect 10% AA may make high pitched assessment order and will

					be difficult for the small & medium tax payer to comply with 10% pre deposit condition. The same therefore needs to be deleted. Further Interest, Penalty is never admitted. Therefore, condition of 10% should not be applicable on disputed interest and penalty amount.
67	79(5)	Appeals to FAA	If he so desire – whether used for FAA or the appellant.	Word “he” be replaced by “appellant”	The word “he” used in this section gives and impression as if the same has been used for the FAA while the same is for appellant. Hence, the same be replaced by the word “appellant” for better clarification/ understanding .
68	82 (Explanation)	Related Person	Definition of Legal person.	“Legal Persons but excluding legal representatives doing profession.	In explanation (1) of section 2(82) the word “person” includes “legal persons” also. This language is sounding as if legal representative doing professional practice are also included which is not the intention of law. The word “Legal Persons” therefore be suitably worded in the explanation 1.
69	82(3)	Appeal to the appellate tribunal	Appeal to be filed within 3 months from the date of	The word “communication” be replaced by “receipt” by	The word “communicated” is giving an impression the date on which order appealed against

			communication of the order appealed against	the person preferring the appeal	issued to the tax payer. It will be better if this word is replaced by the word “receipt” of the order by the person preferring the appeal to give clear meaning of the section.
70	82(2)	Appeal to the appellate tribunal	Section provides that tribunal may refuse to admit any such appeal where disputed demand is less than Rs. One Lac	This subsection needs to be deleted	In case of small tax payers there may be many cases where disputed demand may be less than Rs. one lakh and the said amount is quite a big amount for the taxpayer and he wants to fight in appeal. Such a power to tribunal to refuse to admit an appeal is against the principles of natural justice and detrimental to small tax payers and this discretion to tribunal needs to be dropped.
71	86(2)	Appearance by authorized representatives	Authorized representatives have been defined as an advocate, CA, ICWA, CS and any person who has acquired such qualification as	After Sec- 86(2)(c) a clause be added as “any ITP or STP who holds a valid license from commissioner of income tax or commissioner of sales tax/Vat.	In many states of India there are large no of tax practitioners who appear as authorized representatives and are so authorized by commissioner of income tax and/or commissioner of sales tax/VAT authorities. After clause (c) in sec- 86(2) ITP & STP

			Central Govt. / State Govt. may on the recommendation of the council prescribe.		should be added by inserting a new clause (cc). Since they are already authorized by commissioner of income tax and commissioner of VAT/Sales Tax no further recommendation of GST council is required in such cases.
72	95(2)	Authority for advance ruling	Authority shall comprise one CGST member and one SGST member appointed by Central and State Govt.	If two members differ on any point under subsection (5), it shall be deemed that no advance ruling can be issued. In section-95(2) words “and one CA or an advocate having practice of 10 Years” be added.	If two members differ on any point under subsection (5), it shall be deemed that no advance ruling can be issued. This will defeat the purpose of authority of advance ruling and therefore this authority should comprise of three members and the 3 rd member should be CA or an advocate having 10 years practice and should get sitting fee towards his services.
73	96	Appellate Authority for advance ruling	The AA shall comprise of the chief commissioner of CGST and commissioner of	This Authority shall comprise of two state Tribunals	If Members of A.A are commissioners of CGST/ SGST, they will always give ruling in favour of Govt. being Govt. officials It is therefore, suggested

			SGST having jurisdiction over the tax payer.		that two state tribunals should comprise the appellate authority.
74	97	Application for Advance Ruling	In sub section (2) questions on which advance ruling can be sought are mentioned as (a) to (g)	Clause (h) be added in subsection (2) as “any other aspect of implementation of Act”	The question given in (a) to (g) in subsection (2) are quite restrictive and therefore words “any other aspect of implementation of the Act” be added after clause (g). Question like “location of any sale or purchase” the application of composition scheme in the circumstances of tax payer and rate of tax payable on goods supplied etc... are not addressed in this subsection.
75	99(2)	Appeal to appellate authority	Under this subsection appeal can be filed within 30 days from the date on which ruling sought is communicated to the applicant or to CGST/SGST officer	- The word communicated be replaced by “served” - “ provision for condonation of delay be provided at least by 30 days	Filing of appeal be allowed within 30 days or extended period from the date of receipt of the order by the applicant or CGST/SGST officer instead of date of communication. This needs to be corrected.

76	116	GST Compliance Rating	Assigning a GST compliance rating score to every taxable person based on his record of compliance.	This section needs to be deleted	There does not appear to be any utility of assigning GST compliance rating to Taxable persons as the old experience Shows that such persons have been surveyed, Raided and lot of harassment caused to them inspite of the fact they were rated as “ Good dealers” under VAT Act and Income Tax Act at Vishakapatnam and Delhi.
77	117	Obligation to furnish information return	Prescribing of maximum penalty for late furnishing of information return.	“Subject to maximum penalty of Rs.10,000/-“ be added at the end of section.	Taxable persons and 13 Govt. agencies mentioned in (a) to (n) in this section are required to furnish an information return as prescribed. In case of failure penalty of Rs. 100/- per day has been provided without any maximum limit which is harsh and needs to be limited to maximum of Rs. 10,000/- . In addition. Govt. may think of non levy of such penalty on Govt. agencies.
78	122	Drawl of Samples	Authorization to CGST/ SGST officers to take	After the words “so taken” the words “and will be returned within days or	The CGST/SGST officers have been given power to take samples of goods supplied by any taxable

			<p>samples from any taxable person against receipt.</p>	<p>cost of samples be paid if not returned withindays”</p>	<p>person against receipt issued. However no time limit or procedure is prescribed for return of the same or payment of cost of samples particularly in case of precious metals.</p>
79	129	<p>Rectification of mistake or error apparent from record</p>	<ul style="list-style-type: none"> - Mistake or error to be brought to the notice of CGST/SGST officer within a period of 3 months from the date of issue of the order - Further if officer does not dispose off the rectification application within 6 months nothing provided. - Proviso-2 provides that period of six months shall not apply where rectification is 	<ul style="list-style-type: none"> - Word “service” be replaced in place of “issue” of order. - In proviso also word “issue” be replaced by “service”. - In proviso (1) words “and the application will be deemed to be allowed” be added after “any other document”. - Time limit for making application in cases of mistakes of purely clerical nature etc be provided as 3 years from receipt of the order. 	<ul style="list-style-type: none"> - Section provides that the mistake or error needs to be brought to the knowledge of the officer who has passed the order within 3 months of the issue of the order. - In the interest of justice the same should be permitted within 3 months of receipt of the order by the taxable person. Accordingly word issue be replaced by “service” of the order. - Further proviso one provides that no such rectification shall be done after a period of 6 months. Which will mean that application will stand allowed after 6 months this should be clarified in the proviso itself by adding suitable words.

			purely of the nature of clerical or arithmetical error etc but it does not provide that for such a case application can be made in how much time.		- Further proviso 2 provides that rectification in case of purely a mistake of clerical/ arithmetical nature be rectified even after 6 months but nothing provided within how much time application can be made in such a case. Time of atleast 3 years be provided in such cases for making a rectification application.
80	131	Levy of fees	Whether heading of this section Levy of Fees is appropriate.	The heading of this section “levy of Fess” be changed to Fee for providing copy of document or order”	The section provides for issue of copy of an order or document on an application made by any person and on payment of prescribed fee. Heading of the section is “Levy of Fee”. It is suggested that this heading be replaced by Fee for copy of documents “ as only taxes are levied and not any fee”
81	136	Service of notice in certain circumstances	Mode of service by electronic means- whether acceptable .	Modes of service mentioned at (c) to (g) in section 136 be deleted.	Mode of service mentioned in section 136(1) at (c) to (g) are not acceptable as per decision of Hon’ble Andhra Pradesh High Court in SOA software Engg (P) Ltd. V/s CTO (2013) 57APSTJ 103, the same therefore be deleted.

82	140(2)	Repeals & Savings	Sub clause (f) under section 140(1) is missing under section 140(2)	Sub clause (f) under section 140(1) be added after section 140(2)(e)	In Section 140(2) - The effect on proceeding to an appeal, revision, review -----etc. as mentioned in section 140(1)(f) is not provided – may be inadvertently. The same may now be provided.
83	140(2) (e)	Repeals & Savings	Sub clause (e) uses the word "enacted" at the end of subsection.	Word enacted be replaced by "repealed"	Subsection (e) talks of that repeals referred to in Section 140(2) shall not affect any investigation ----- - etc as if these acts had not been enacted. In our View this word enacted needs to be replaced by repeals to give the correct meaning of subsection (e).
84	140(2)	Repeals & Savings	Octroi is also going to be subsumed but not mentioned in 140(2)	After (c) of 140(2) word 'Octroi' be added. Repeal of Central Sales Tax is also not mentioned in 140(1) or 140(2) The same needs to be added at appropriate place.	"Octroi" is also being Subsumed under GST but same is not mentioned in Section 140(2) apart from 5 Taxes(a) to (e), the same needs to be included in the list.
85	141(b)	General Provisions	The Central Govt. or State Govt. may make rules or issue orders	Words "On the recommendation of GST Council" be added after the words " the Central Govt. -	In order to have similar rules and orders throughout the country. Similar rules and orders be issued by all States and therefore the said

				-----may issue orders-	rules be made only after approval of GST council.
86	144 CGST & SGST	Unavailed Cenvat credit on capital goods not carried forward in a return	No input tax credit claimed on capital goods used in manufacture of exempted goods in previous law but goods taxable in GST law-whether input credit unavailed be available under GST Law	- It should be provided in this section to allow tax credit on capital goods purchased in earlier tax regime and being used in manufacture of taxable goods in GST regime. - mechanism to claim such credit be also prescribed in this section.	- Since in the old law the goods manufactured were exempt, no input tax credit has been allowed on capital goods used by the tax payer which was absolutely justified. But now, the goods manufactured are taxable under GST Law, the tax payer should be allowed to claim the unavailed ITC on such capital goods and the law should not deny the same for the reason that ITC was not admissible in the earlier law. Since, the manufactured goods are now carrying tax for the Govt. on value addition, ITC on capital goods be allowed without any restriction and in the interest of justice and equity with the tax payer. - The eligibility of this ITC also

					get strengthen by the provision of sec- 145 where ITC on inputs which were used in manufacture of exempted goods earlier now held in stock for manufacture of taxable goods and ITC on the same is eligible.
87	146 SGST & CGST	Unavailed Cenvat credit on capital goods used when opted composition scheme in earlier law but shifted now to normal scheme in GST Law.	Capital goods held in business but no input claimed as tax payer opted composition scheme earlier law. In GST law he switched to normal scheme-whether ITC on capital goods be available as same is generating revenue.	- It should be provided in this section to allow tax credit on capital goods as being used in manufacture of taxable goods. - Mechanism to claim such credit be also prescribed in this section.	Since taxpayer opted composition scheme is old law and therefore, did not claim/entitled for ITC on Capital goods. In GST Law he switched over to normal scheme and generating revenue for the Govt. on value additions. Accordingly he should be entitled to ITC on capital goods used in his business and C/f from earlier regime. Reason given in section 144 applies in this section also.
88	147	Amount payable in the event of a taxable person switching over to composition scheme	The taxable person to pay the ITC on stock held on the day immediately preceding the date of such switch over	The input tax credit if any left in electronic credit ledger be allowed to be set off against future liability or be refunded.	If a taxable person switches over to composition scheme he needs to pay the ITC availed by him on the inputs held in stock or inputs contained in semi- finished or finished goods on the day

					immediately preceding the day of switch over by debit to his electronic credit/cash ledger. However there can be a possibility that some amount may be left in the electronic credit ledger. The GST Law provides that such balance will lapse which is not correct. Instead, such balance either be refunded or be allowed to be set off against future liability as the entire ITC on stocks held has been debited to electronic credit/cash ledgers.
89	150, 151, 152 and 162 D	Input or Semi finished goods removed for job work/ any other process and returned after the appointed day.	Tax is payable under this Act by the job worker/ person returning the goods after 6 months or extended period and by the manufacturer if – goods not returned within 6 months or extended period.	It should be provided in these sections to avoid double taxation on the same activity.	In proviso of these sections if inputs removed for job work/ finished goods removed for any other process/ semi finished goods removed for some manufacturing process by the manufacturer to an outside premises and such goods are not received in six months or extended period of 2 months then manufacturer will pay the tax under this act and if goods are sent

			Whether it is case of double taxation for the same activity.		back after six months or extended date then job worker / other person who returned the goods shall pay the tax under this Act. Thus tax is payable twice but there is no proviso to state that ITC of such tax paid can be claimed by manufacturer or job worker. Hence, it is case of double taxation and needs to be corrected by appropriate provision in these 3 sections.
90	154	pending refund claims to be disposed of under earlier law	If claim for refund for earlier period made after the appointed day, how the same will be dealt with?	Section should provide for dealing with refund claims made after appointed date but related to earlier period. This is not provided yet in the transitional provisions	This section provides for disposal of refund claims for the periods covered in earlier law but made before appointed day. However, it does not provide for, if the refund claim is made after appointed day. Refund claim is the right of the taxpayer and should be suitably dealt with in the transitional provisions. Section 154 be suitably amended otherwise it will lead to litigations in future.

91	159	Treatment of long term construction works contracts.	Goods/services supplied on or after appointed day in pursuance of contract entered into prior to appointed day shall be taxed as per this Act.	Section 159 should provide that tax payable on goods/services supplied within 2 years in case of long term contracts entered into prior to appointed date both under normal scheme or under composition scheme, shall not be more than the tax due under repealed Acts	In a case where the contract is inclusive of all taxes has been entered into prior to the appointed day and goods/services are being supplied in GST Law, this section provides that tax is payable as per this Act. Such a contractor may be at disadvantage as he cannot increase the value of contract being all tax inclusive, but has to pay higher tax say @ 18% as against earlier 12.5% on goods and 15% on services. Such situations had also arisen when VAT was implemented in Delhi and to protect the interest of such contractors, Sec-105 was inserted in DVAT Act, 2004 wherein it was provided that tax payable under new law will not be more than the tax due under repealed Act both under regular scheme as well as under composition scheme. This was allowed for 2 years after the implementation of VAT Act,
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					2004. As the position is same now while implementing GST Law, such contractors be protected by inserting such a provision u/s 159 of Draft GST Law.
92	162 A(iii)	Tax paid on goods lying with agents	Sub clause (iii) provides that the invoices of such goods had been issued not earlier than 12 months	The language of the clause (iii) be made more clear to explain invoices issued by the principle or received by the principle prior to appointed day.	The section provides that the agent shall be entitled to take credit of tax paid on goods sent to him prior to the appointed day subject to clause (iii) “the invoices for such goods had been issued not earlier than 12 months”. This language does not make clear as to whether invoices issued by the principle for goods sent to agent or invoice received by the principle for goods sent to agent. This needs clarification by suitably amending the language in the section 162A(iii).
93	Article 366 (29A)	Not deleted	Whether required.	Article 366(29A) be deleted.	Works contract, transfer of right to use has been defined as “service” in GST Law but section 366(29A) has not been deleted. This needs to be deleted.