



Automotive Component Manufacturers Association of India

ACMA Recommendations on GST

B. GST related issues:

1. 18% GST for Chapter 84, 85 and Chapter 87 auto components

In the 31st GST council meeting , held on 22nd December 2018, slashed tax rates on auto components which has brought great relief to the industry. Besides, certain auto parts yet have to be reconsidered by the council, as the component industry produces large variety of auto components that fall in various HSN chapters that attracts higher tax rates.

Under GST the Auto Components attract two different rates - 18% and 28%. Majority of auto components are at 18% GST. However, **36% of automotive components under chapters 84, 85 & 87 are still subject to 28% GST.**

Rationale and Justification:

- While the tax paid is cenvatable in the manufacturing supply chain **our concern pertains largely to sales of auto components in the aftermarket.**
- **With respect to B2B,** revenue to the Government will be neutral. 18% GST on auto components will also help in reducing the working capital for component suppliers. **The reduced working capital limit will help in getting higher term loans resulting in higher investments and better growth prospects.**
- The component industry has a very significant aftermarket – INR 67,491 crore (USD 10.1 billion). An estimated 35% of the manufacturers supplying aftermarket products are unorganized/indulge in grey operations.
- The rate of GST applicable on automotive components in India is higher to the tune of up to 2x - 3x the GST rates in these economies.

	India	Malaysia	Indonesia	Japan	Singapore	Canada
Rate of GST applicable for automotive components	18% - 28%	6%	10%	8%	7%	5-15% Incl. Provinc ial taxes

- Currently, the consumer is paying 18% GST for repair services and up to 28% for replacement parts and consumables. The difference in rates between services and parts has put pressure on the unorganized service sector in tracking and compliance aspects.
- While comparing the tax rates between services and components in the countries cited above, it is found that the rate for services and components is the same – and that having a one common tax rate is beneficial for the stakeholders.

GST for parts & Services (India vs. Others)

GST Rates	India		Malaysia		Indonesia		Singapore		Canada	
	GST		GST		GST		GST		GST+ Provincial tax	
	Parts	Services	Parts	Services	Parts	Services	Parts	Services	Parts	Services
	28%	18%	6%	6%	10%	10%	7%	7%	5-15%	5-15%

- Over 70% of the players in the aftermarket are MSMEs. Counterfeit products and spurious parts adversely affect these players. A higher GST rate compels smaller component manufacturers to gravitate towards non-compliance and survive by means of under-invoicing and producing sub-standard/spurious components. **Many of the safety-critical parts are in the higher bracket of 28% and are compromised, thus putting to risk the lives of drivers, passengers and pedestrians.**
- **A reduction in tax rate would incentivize the unorganized sector to undertake GST compliance** and it will also reduce the gap in the price between the standard vis-à-vis the sub-standards.
- Normalization of GST rate can potentially act as an incentive for vehicle owners - especially for the commercial vehicle owners & operators to avoid missing the OEM-prescribed maintenance schedules of their vehicles. **Higher frequency and timely maintenance of the commercial vehicles will help improve their average running condition – thereby having a positive impact on average pollution and vehicular safety on Indian roads.**

Rationalization of GST rate will help Government to generate revenue:

- **Sales to OEMs** – INR 3,46,052 crore / USD 49.5 billion- Input tax credit provision is under GST regime – **Impact will be Neutral**
- **Domestic Aftermarket-** INR 67,491 crore/ USD 10.1 billion- **GST rate of 28% puts higher tax burden on end consumers.**
- As per the AMP, it estimated aftermarket may touch USD 30-32 billion by 2026.
- Based on the assumptions, it is estimated that the Government may not face much revenue loss.
- 35% of Domestic Aftermarket is unorganized/grey market. It is estimated that 90% companies/units do not pay GST in unorganized sector; this translates to revenue loss to the tune of INR 5,000-6,000 crore to the Government.
- **A moderate rate of 18% will help enhance better compliance and expand the tax base which will further increase revenue collection.**
- Rationalizing the GST rate to 18% shall **increase the demand in the aftermarket** by an additional 12 % -15% annually. The current CAGR of the aftermarket is 14%.
- With such growing aftermarket, Government’s revenue collection will increase and neutralize any immediate revenue loss.

Recommendation

The entire component industry should be bracketed under 18 per cent (GST) rate or lower, as a large aftermarket services almost all categories of products. The aftermarket is dominated by smaller players that is adversely affected by counterfeit products and spurious parts. With a higher GST rate it will compel spurious component manufacturers to gravitate towards non-compliance and survive by means of under-invoicing.

Annexure-I: List of Auto Components (Proposing reduction of Goods and Services Tax rate from 28% to 18% on auto-components used by Original Equipment Manufacturer and aftermarket)

2. Availment of Input Tax Credit in relation to the invoices which have been not been reported by the supplier in GSTR-1

As per newly inserted Rule 36(4) of the CGST Rules 2017 read with Section 16(1) of the CGST Act, the maximum ITC a taxpayer can claim in relation to the invoices not appearing in its GSTR-2A is 10% of the eligible credit in respect of the invoices appearing in GSTR-2A.

A circular issued in regard to applicability of Rule 36(4) of CGST Rule 2017, clarified that the input tax credit availed should be reconciled on a gross level, however, from a practical standpoint, computation of the 110% of the eligible credit is not possible without performing the monthly reconciliation.

The industry comprises of both organised and unorganised sector including the MSME's, wherein the unorganised sector and MSME's are usually not updated of the technological advancements being made on GSTN. The lack of access to the technology infrastructure poses challenges to the said sector to undertake compliance requirements timely and thereby increasing the stress on the organised sector due to denial of eligible credit.

Also, the aforementioned provisions are onerous to the recipient without casting any impact on the supplier, which is contrary to the scheme of Indirect Taxes. The Indirect Tax though borne by the recipient, the onus of depositing the same lies on the supplier. Further, by virtue of such payment, the recipient is entitled to avail the set-off of the said taxes to ensure that the credit doesn't become cost in the value chain.

In the instant case, while the recipient pays the amount of tax to the supplier, however due to non-compliance by the supplier, the recipient is unable to avail the credit of the same, thereby defeating the very intent of the GST law.

The Apex Court, has also passed a judgement on similar lines in case of ***Commissioner of Trade and Taxes, Delhi vs Arise India Limited, decided on 10 January 2018 [2018-TIOL-11-SC-VAT]*** wherein it held that the liability to deposit the tax collected from the recipient is of the seller of goods and the purchasing dealer who have entered into bonafide purchase transactions with validly registered selling dealers issuing tax invoice reflecting TIN number cannot be penalised for the failure of a selling dealer to submit the requisite records proving the genuineness of the transaction.

Recommendation

Input tax credit is a substantial right of the recipient, and it cannot be denied when recipient enabled fulfilment of the prescribed conditions of the law, while the supplier didn't comply with the responsibilities entrusted upon him under the GST law.

Accordingly, it is recommended that:

- The small suppliers may be exempted from collection and payment of tax in relation to the supplies made by them. Accordingly, the recipients in the organised sector can directly discharge the applicable tax under reverse charge and claim the input tax credit

thereof. Recipients in the organised sector should be given an option to deduct Tax Deducted at Source (TDS) from the payment made or credited to the supplier. Such supplier should subsequently be given an option to either take the credit or obtain a refund of such TDS without imposing any restrictions thereon; or

- Development of proper infrastructure by which the recipient is given the opportunity to upload the supply invoices which have been missed to be reported by the supplier and thus, increase the supplier's liability to pay tax thereon, similar to the concept of GSTR-1A; or
- Maintenance of two separate bank accounts by the supplier, one is the regular bank account and the other for GST payable, wherein the customer would split its payment into regular account and GST payable account and the amount so accumulated in the GST payable account would automatically get transferred to the tax authorities at the time of filing of return and thus, the recipient could avail the input tax credit of the same

3. Deliberation on GST rate structure to boost the Electric Vehicle sector

While the Government has introduced various schemes to boost the demand of Electric Vehicle (EV) in India, there is an adverse impact on the industry due to inherent inverted duty structure as the GST input on raw material and other overheads are on average of 18 % wherein the output tax payable on Electric Vehicles is pegged at 5%.

Since the parts and materials of Electric Vehicles are taxed at a higher rate in India, reduction in such rates is necessitated to boost localization levels across the value chains in a bid to curb imports and promote indigenous manufacturing.

Recommendation

It is recommended to deliberate the GST rate structure prevalent in the Electric Vehicles sector, thereby, reducing the GST rates applicable for components of Electric Vehicles. This would reduce the overall cost of production of such vehicles and provide impetus to OEM's to procure inputs locally from India.

This can be one of the solutions for the challenge of liquidity crunch in the business and would also facilitate ease of doing business. It also seeks to boost Make in India, with

benefits provided to manufacturing sector by way of reducing duties on certain inputs and raw materials.

4. Harmonize the rate of interest in case of delay/ disputes

In case of any disputes, the assessee is liable to pay interest and penalty @ 15% of applicable tax. However, where any claim of refund arises from an order passed by the adjudicating authority or appellate authority or court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order then, the assessee is eligible to receive interest on delayed refunds not exceeding 9%.

Recommendation

It is recommended that the interest rate payable by the assessee, in case of any dispute and interest rate payable by the Authorities, in case of delayed refunds should be same. There should be parity in the interest rate paid by the assessee and that payable by the authorities.

5. Refund of GST paid on capital goods to be available to the exporters

As per section 16 of the IGST Act, the exporters have an option not to pay any IGST on the exports and claim refund of the GST paid on procurement of inputs and input services.

However, no refund is available for GST paid on the capital goods per Section 54(8)(a) of the CGST Act. Since in case of exporters, there is no output GST liability, this results in blockage of credit of GST paid on capital goods, impacting the financial health of the exporters.

Recommendation

The provisions to grant refund of accumulated credits to the exporters should be amended to grant refund of GST paid on procurement of capital goods as well. There is no intention to make a distinction between capital goods and inputs in this regard.

6. Double Taxation of IGST paid by the importers in case of Ocean Freight

As per Notification No.8/2017 – Integrated Tax (Rate) dated 28th June 2017 and Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate) dated 28th June 2017, the importers are required to discharge IGST under reverse charge on ocean freight @ 5% GST.

The Notification No. 8/2017-Integrated tax (Rate) dated 28.06.2017 vide F. No. 334/1/2017-TRU dated 30.06.2017 whereby the following has been inserted:

“Where the value of taxable service provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India is not available with the person liable for paying integrated tax, the same shall be deemed to be 10 % of the CIF value (sum of cost, insurance and freight) of imported goods.”

Further, at the time of importing on CIF basis, the value of freight is included in the assessable value of imports on which IGST is discharged by the importer. Subsequently, as per the abovementioned notification, importer is again required to pay IGST under reverse charge mechanism on the freight component charged by foreign transporter from the foreign supplier. Hence, there is double taxation on the value of freight in case of CIF contracts.

The Gujarat High Court in the case of **Mohit Minerals Pvt. Ltd vs Union of India** with respect to levy of IGST under reverse charge on Ocean Freight in case of purchases made on CIF basis, pronounced that the impugned Notification No.8/2017 – Integrated Tax (Rate) dated 28th June 2017 and the Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate) dated 28th June 2017 are declared as ultra vires the Integrated Goods and Services Tax Act, 2017, as they lack legislative competency.

The effect of this judgement is that no IGST should be levied on ocean freight on reverse charge basis, if the imports are made under CIF contract, as the overseas supplier of goods is the receiver of the transportation service.

Recommendation

Though there are various High Court rulings in the favor of assessee in relation to the matter of double taxation in case of ocean freight, however, it is suggested that GST Council, in order to avoid double taxation on the ocean freight, should carry out appropriate amendments and specifically provide in law to remove GST applicability on the Ocean freight under reverse charge basis. This would avoid any confusion and unwanted litigations on this matter.

7. Allowing Input credit on Diesel

In GST regime, crude oil, petrol, diesel, etc are not included under GST. Hence, while various goods and services procured by the oil and gas industry are subjected to GST, the sale and supply of oil, and petroleum products continue to attract earlier taxes like excise duty and VAT. Unlike other industries which can take credit for any tax paid towards the furtherance of business, no credits on input GST will be available to the oil and gas industry leading to huge additional indirect tax burden. This is against the basic objective of GST which is to ensure that input taxes are not blocked in the system i.e tax cascading is eliminated.

With international crude prices on the rise, big oil importers like India are feeling the heat. Hence, the petroleum products too should be brought under the ambit of GST. Credit of duty paid on diesel procured for use in the generators/ as fuel in the factories is not allowed. All medium & small scale factories face acute power cut on an average of 35% to 50%. In order to manage the power shortages, the only option left for such factories is to use diesel generators. Denial of input credit on diesel results in increase in cost of production thereby reducing competitiveness.

Recommendation

It is recommended that manufacturing units should be allowed to avail input credit on diesel procured for use in generating alternate power to run the manufacturing facility.

8. Relaxation in provisions in relation to Input tax credit (ITC) restrictions contained in Section 17(5) of CGST Act, 2017

Section 17(5) of the CGST Act 2017 prescribes certain inward supply of goods and services in respect of which input tax credit is not available to the assessee. In view of the same, we have recommended various supplies in respect of which input tax credit should be allowed to the recipient:

S.No.	Nature of inward supply	Justification	Recommendation
1.	Input credit in respect of supply of Goods and Services received for Corporate	The CSR activity has been obligated under Companies Act and expenses made against above activity is from the profit made in the course of business. GST Law is not clear whether input credit is available in respect of expenses made	We recommend that GST credit should be allowed on the same

S.No.	Nature of inward supply	Justification	Recommendation
	Social Responsibility activity (CSR)	on CSR activity obligated under Companies Act	
2.	Input credit on GST paid on services such as repair & maintenance, etc. relating to motor vehicles	<p>The CGST (Amendment) Act, 2018 dated 29 August 2018 made amendments in Section 17 of CGST Act, 2017 and provided that credit shall not be available on services of general insurance, servicing, repair and maintenance services in relation to motor vehicles, vessels or aircraft.</p> <p>It is pertinent to note that Motor vehicles are purchased by the Company and given to employees which are used for Company business purpose. Hence, disallowing credit of GST paid on repair & maintenance services related to motor vehicles is not in line with the spirit of GST Law.</p>	Necessary amendments be made to allow GST credit on repair & maintenance services, general Insurance etc. relating to Motor vehicles used in the course of business
3.	Input credit on GST paid on Canteen and other employee related services	<p>Section 17(5)(b)(i) of CGST Act, 2017 provides that credit shall not be available for food and beverages, outdoor catering, renting or hiring of motor vehicle except when inward supply is used for making an outward taxable supply of the same category or as an element of taxable composite or mixed supply.</p> <p>However, employee facilities such as transportation and canteen services provided to the employees are for the</p>	GST credit of the services and benefits which are mandatory to be provided to the employees in pursuance of any law for the time being in force, should be allowed to the recipient since they are construed in the course of business.

S.No.	Nature of inward supply	Justification	Recommendation
		welfare of the employees and hence, are required for the furtherance of business.	
4.	Input credit in respect of works contract services	<p>The Construction/ extension of factory building involves huge capital investments and disallowance of credit on Works Contract service is leading to cascading of taxes and becomes cost to the Company.</p> <p>Section 17(5)(d) of CGST Act, 2017 reads that <i>goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business</i></p> <p>The GST paid on investments undertaken is not eligible for input credit in present GST Law. Ultimately, the GST paid amount becomes cost to the Company leading to cascading of tax which is not the spirit of GST Law as to provide seamless credit.</p>	The restriction of ITC in respect of all works contracts resulting in Immovable property at large should be removed as in large number of contracts qualifying as Works Contracts, the end result would be immovable property.
5.	Input tax credit of GST paid on Rent-a-cab services received	Rent-a-cab today has become a significant mode of transport of employees for business purpose. It is being used for taking part in business meetings, etc. Hence, it is business expenditure.	It is suggested that restriction of availing credit on Rent-a-cab services be dispensed with and credit be allowed for a Rent-a-cab used in course of business.

S.No.	Nature of inward supply	Justification	Recommendation
6.	Non-reversal of credit in case of goods lost, destroyed or stolen	<p>Section 17(5)(h) of CGST Act, 2017 provides that credit shall not be available in case the goods are lost, stolen, destroyed, or written off or disposed of by way of gift or free samples.</p> <p>It is pertinent to note that while storing of goods before their supply, losses are bound to happen due to natural reasons such as evaporation. Further, free samples are required to be given to customers for getting orders and are used for furtherance of business. In such cases the law provides that ITC availed on such goods is required to be reversed.</p>	<p>The provisions should be amended to exclude:</p> <ol style="list-style-type: none"> a. loss of goods because of natural reasons within a permissible limit expressed based on nature of goods. b. goods sold as free samples.
7.	Input Tax Credit of GST paid on Insurance services	<p>Section 17(5)(b)(i) of CGST Act, 2017 provides that credit shall not be available for life insurance and health insurance except when inward supply is used for making an outward taxable supply of the same category or as an element of taxable composite or mixed supply.</p> <p>However, employee insurance facilities provided to the employees are for the welfare and wellbeing of the employees during such pandemic times and hence, are necessary for sustenance and furtherance of the business.</p>	<p>GST credit of all types of insurance services which are necessary to be provided to the employees during such unprecedented pandemic times, should be allowed to the recipient since they are construed necessary and in the course of business.</p>

9. Notification of utilization of unutilized balance of Education Cess, Secondary Education Cess Service tax, Krishi Kalyan Cess in the books of Accounts

Pursuant to the Union Budget 2015-16, 'Education Cess' and 'Secondary and Higher Education Cess' were abolished. Section 140 of CGST Act, 2017 specifies that eligible duties for the purposes of GST did not include Education Cess and Secondary Higher Education Cess. In view of the same, the Closing balance of Education Cess and Secondary Higher Education Cess prior to 1st Mar 2015 cannot be carried forward in GST. There are several judicial precedents wherein the accumulated credit of Krishi Kalyan Cess is not admissible as a part of Input tax credit under GST some of which are as below:-

- i. Authority for Advance Ruling ('AAR') vide Order No. GST-ARA-18/2017-18/B-25 (Maharashtra State) dated 5 April 2018 in M/s Cellular Operators Association of India v. Union of India Writ Petition (Civil) No. 7837/2016 dated 15 February 2018.
- ii. Delhi High Court in Cellular Operators Association of India

Further, the government vide Notification No. 02/2019 – Central Tax has notified Section 28 of the CGST Amendment Act, 2018 which disallows the transitional credit of cess (including Education Cess and Secondary Higher Education Cess) retrospectively w.e.f. July 1, 2017.

The Jharkhand High Court in Timken India Limited vs. UOI and Anr. [W.P. (T) No. 1541 of 2019] has issued notice to the Revenue in respect of the writ challenging vires of Section 28 of CGST Amendment Act, 2018.

Recommendation

It is recommended that changes in statutes should not result into foregoing eligible benefits. Hence, a circular should be issued clarifying that the dealers should be allowed to utilize the unutilised portion of Education Cess, Secondary Higher Education Cess and Krishi Kalyan Cess, under GST to eliminate the impact to the P&L due to write off of the unutilised Cess balances of the prior years This would also help the businesses to sustain during such unprecedented pandemic times.

10. Penalty on non-updation of part B of E-Way bills

The E-way Bill System under the Goods and Services Tax (GST) regime replaces manual or paper-based Way Bills (commonly known as road permits) that were required for movement of goods in most states under the erstwhile VAT regime.

Part A of the E-way bill contains the details of the goods transported, the nature of supply, location of consignor/ consignee, the applicable tax thereon, the distance and validity of e-way bill and such other details as are required. Part B of the e-way bill contains the details of the transporter and of the vehicle vide which the goods are transported. Explanation 2 to Rule 138(2)(3) provides that the e-way bill shall not be valid for movement of goods by road unless the information in Part-B of FORM GST EWB-01 has been furnished.

A practical difficulty is being faced by the industry, wherein, during movement of goods where all relevant details are filled in the e-way bill but to due to an apparent clerical error, the vehicle details are not mentioned in Part-B of such E-way bill, due to which the goods are detained by GST Mobile Squad Authorities.

Section 122(1)(xiv) of CGST Act, 2017 provides that penalty shall be applicable where any taxable person transports any taxable goods without proper document. The quantum of penalty specified under Section 122(1) of CGST Act, 2017 provides that a taxable person shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

Further, Section 126 of CGST Act, 2017 states the general disciplines related to penalty and provides that no officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Accordingly, since the Part A of e-way bill and the supporting invoice contains the tax particulars and the value of invoice, non-updation of Part B of e-way bill can be considered only as a minor procedural lapse.

Recommendation

Consideration of this representation is requested with an expectation to revisit the GST penalty on such clerical errors apparent on the face of record.

Therefore, such detention of goods without considering relevant facts is inappropriate and resistance in ease of doing business. Our suggestion in this regard is that where it is prima facie evident that the mistake is a clerical error, a nominal penalty upto Rs. 5,000/- may be levied and goods shall be released.

Such move would help industry to be aligned with growth part of India leading to successful implementation of GST and making significant contribution to “Make in India” project of Hon’ble Prime minister of India.

11. Issuance of notice for Detention, Seizure and Release of Goods in Transit to be issued in English in addition to the vernacular language

Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty. With the introduction of E-way bill mechanism for supply of goods across the country, the proper officer of various state jurisdictions might use their local/ vernacular language to correspond/ issue notices to the assessee.

In such a scenario, the assessee located in a particular state may face difficulty in understanding the notice issued by the proper officer in the vernacular language of the other state and accordingly face issues in make any further correspondences.

Recommendation

Therefore, it is recommended that necessary amendment be made in the Act itself, to provide that notices and orders should be issued in English in addition to the vernacular language and hence, the authorities to uniformly correspond in English language with the assessee while issuing Notices and Orders.

12. Time of Supply of services under reverse charge mechanism specified under Section 13(3) of the Central Goods and Services Tax Act, 2017

As per Section 13 (3) of the CGST Act, in relation to the time of supply of services in respect of supplies for which tax is paid or liable to be paid on reverse charge basis, the time of supply is earlier of the following dates, namely:

(a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) the **date immediately following sixty days** from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

However, various organized, large and process driven corporates experience that RCM Invoices may not get processed within 60 days, which is resulting into additional interest burden. Invoices may not get processed within 60 days as it has to pass through various clearance process. RCM is not a straight transaction and it requires additional accounting entries to be posted to create GST payable in the books of accounts.

Recommendation

Therefore, it is recommended that the time limit of 60 days should be enhanced to at least 6 months.

13. Non reversal of Input Tax Credit (ITC) in case of non-payment by the recipient within 180 days from the date of issuance of invoice in respect of Capital goods

As per Section 16 of the CGST Act, where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a **period of one hundred and eighty days from the date of issue of invoice by the supplier**, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon.

However, in case of purchase of capital goods, normally certain portion of money is retained to ensure the performance in real time of the capital assets. Sometimes, it may exceed 1 year to settle the final settlement.

Recommendation

Since the supplier is paid the full invoice amount only upon completion of the service/delivery terms as per contract, input tax credit should be fully allowed irrespective of the time of payment.

Therefore, it is recommended that the said provision of reversal of credit upon defaulting in making payment to the supplier with 180 days from the issue of invoice should be removed in case of capital goods.

14. Refund of Input Tax Credit (ITC) balance in case of closure of business

As per Section 54(3) of the CGST Act, a registered person can claim the refund of unutilized ITC only in the following cases:

1. zero rated supplies made without payment of tax;
2. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies)

However, where the business of a registered person is getting closed, there is no provision regarding refunding the ITC balance available in the Electronic Credit Ledger (ECL) of the assessee on the date of closure of business and hence, such amount becomes a cost to the assessee.

Recommendation

Therefore, it is recommended that the accumulated input tax credit balance available with the assessee on the date of closure of its business should be allowed as refund to the assessee.

Annexures

Annexure-I
Proposing reduction of Goods and Services Tax rate from 28% to 18% on auto-components used by
Original Equipment Manufacturer and aftermarket

Sr. No.	HS Code	HSN 4	Items	Current GST rate	ACMA Recommendation
1	84073110	8407	For motor cycles-(Spark	28%	18%
2	84073210	8407	For motor cycles	28%	18%
3	84073290	8407	Other	28%	18%
4	84073310	8407	For motor cars	28%	18%
5	84073320	8407	For motor cycles	28%	18%
6	84073390	8407	Other	28%	18%
7	84073410	8407	Spark Ignition Reciprocating Piston Engine of a Cylinder for motor cars	28%	18%
8	84073490	8407	Other	28%	18%
9	84082010	8408	Of cylinder capacity not exceeding 250 cc	28%	18%
10	84082020	8408	Engines of cylinder capacity exceeding 250 cc	28%	18%
11	84099111	8409	Valves, inlet and exhaust	28%	18%
12	84099112	8409	Pistons	28%	18%
13	84099113	8409	Piston rings	28%	18%
14	84099114	8409	Piston assemblies	28%	18%
15	84099120	8409	Fuel injection equipment excluding injection pumps	28%	18%
16	84099191	8409	Other :Of petrol engines for motor vehicles	28%	18%
17	84099194	8409	Other :Of gas engines	28%	18%
18	84099199	8409	Others (Parts of petrol and gas engines+Guide and	28%	18%
19	84099911	8409	Valve, inlet and exhaust	28%	18%
20	84099912	8409	Pistons	28%	18%
21	84099913	8409	Piston rings	28%	18%
22	84099914	8409	Piston assemblies	28%	18%
23	84099920	8409	Fuel nozzles	28%	18%
24	84099930	8409	Fuel injection equipment excluding injection pumps	28%	18%
25	84099941	8409	Other parts of diesel engine:Of diesel engines for	28%	18%

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Sr. No.	HS Code	HSN 4	Items	Current GST rate	ACMA Recommendation
26	84099949	8409	Other (Parts of diesel	28%	18%
27	84099990	8409	Other parts of diesel engine: Other	28%	18%
28	84133010	8413	Injection pumps for diesel engines	28%	18%
29	84133020	8413	Oil pump	28%	18%
30	84133030	8413	Water pump	28%	18%
31	84133090	8413	Other	28%	18%
32	84138120	8413	Hydraulic Ram (Power Steering Pump Assembly)	28%	18%
33	84139190	8413	Others (Parts of Steering Pump Assembly	28%	18%
34	84152010	8415	For buses	28%	18%
35	84152090	8415	Other	28%	18%
36	84159000	8415	Parts-air conditioning	28%	18%
37	85111000	8511	Sparking plugs	28%	18%
38	85112010	8511	Electronic ignition magnetos	28%	18%
39	85112090	8511	Other	28%	18%
40	85113010	8511	Distributors	28%	18%
41	85113020	8511	Ignition coils	28%	18%
42	85114000	8511	Starter motors and dual purpose starter-generators	28%	18%
43	85115000	8511	Other generators	28%	18%
44	85118000	8511	Other equipment	28%	18%
45	85119000	8511	Parts	28%	18%
46	87060011	8706	For the tractors of heading 8701 :Of engine capacity not exceeding 1,800 cc	28%	18%
47	87060019	8706	For the tractors of heading 8701 :Other	28%	18%
48	87060021	8706	For the vehicles of heading 8702: For transport of not more than thirteen persons, including the driver	28%	18%

Annexure-I
Proposing reduction of Goods and Services Tax rate from 28% to 18% on auto-components used by
Original Equipment Manufacturer and aftermarket

Sr. No.	HS Code	HSN 4	Items	Current GST rate	ACMA Recommendation
49	87060029	8706	For the vehicles of heading 8702: Other	28%	18%
50	87060031	8706	For the motor vehicles of heading 8703:For three-wheeled vehicles	28%	18%
51	87060039	8706	For the motor vehicles of heading 8703:Other	28%	18%
52	87060041	8706	For the motor vehicles of heading 8704:For three-wheeled motor vehicle	28%	18%
53	87060042	8706	For the motor vehicles of heading 8704:For vehicles, other than petrol driven	28%	18%
54	87060043	8706	For the motor vehicles of heading 8704:For dumpers covered in the heading 8704	28%	18%
55	87060049	8706	For the motor vehicles of heading 8704:Other	28%	18%
56	87060050	8706	For the motor vehicles of heading 8704:For the motor vehicles of heading 8705	28%	18%
57	87071000	8707	For the vehicles of heading 8703 (Bodies for passenger carrying vehicles	28%	18%
58	87079000	8707	Other	28%	18%
59	87081090	8708	Other	28%	18%
60	87082100	8708	Other parts and accessories of bodies (including cabs) :Safety seat belts	28%	18%
61	87082900	8708	Other parts and accessories of bodies (including cabs) :Other	28%	18%
62	87083000*	8708	Brakes and servo-brakes; parts thereof	28%	18%

Annexure-I
Proposing reduction of Goods and Services Tax rate from 28% to 18% on auto-components used by
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Sr. No.	HS Code	HSN 4	Items	Current GST rate	ACMA Recommendation
63	87084000*	8708	Gear boxes and parts thereof	28%	18%
64	87085000*	8708	Drive-axles with differential, whether or not provided with other transmission components, non-driving axles; parts thereof	28%	18%
65	87087000*	8708	Road wheels and parts and accessories thereof	28%	18%
66	87088000	8708	Suspension systems and parts thereof (including shock absorbers) for motor vehicles	28%	18%
67	87089100*	8708	Radiators and parts thereof	28%	18%
68	87089200*	8708	Silencers (mufflers) and exhaust pipes; parts thereof	28%	18%
69	87089300*	8708	Clutches and parts thereof (Sintered Friction materials-SFM products)	28%	18%
70	87089400*	8708	Steering wheels, steering columns and steering boxes; parts thereof	28%	18%
71	87089500	8708	Safety airbags with inflater system; parts thereof	28%	18%
72	87089900*	8708	Other: Motor vehicle parts (Reservoir for Hydraulic Power Steering Systems+Steering Gear Systems and Parts)	28%	18%
73	87141010	8714	Saddles	28%	18%
74	87141090	8714	Other	28%	18%
75	87149100	8714	Other :Frames and forks, and parts thereof	28%	18%
76	87149290	8714	Other	28%	18%
77	87149390	8714	Other	28%	18%
78	87149400	8714	Brakes, including coaster braking hubs and hub brakes, and parts thereof	28%	18%

Annexure-I

Proposing reduction of Goods and Services Tax rate from 28% to 18% on auto-components used by Original Equipment Manufacturer and aftermarket

Sr. No.	HS Code	HSN 4	Items	Current GST rate	ACMA Recommendation
79	87149990	8714	Other	28%	18%

*Rate on part of tractors reduced to 18%