

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

Ref: CAAS/Representations/2020-21/04

Date:26-01-2021

To,
The Prime Minister,
152, South Block,
Raisina Hills,
New Delhi - 110011

Sub: Dissent over Actions and Approach of FMO, MCA and Others

Respected Pradhan Sevak,

As a community of tax payers and contributories to the growth of the nation, we write this, with a pained heart, that the recent actions and approach of FMO, MCA and others in our own Government, do not reflect the welfare mind state required of a People's Government. Our discomfort is not with the Government but with the policies charted against its own people.

While numerous representations have been recently sent by the Trade, Industries and Professionals w.r.t GST, Income Tax and MCA, none of them had been responded either by FMO or the MCA. The most glaring example is recently issued Order F.NO. 370153/39/2020-TPL u/s 119 of Income Tax Act, 1961 which had been issued in total disregard of the reality and the expectation of the taxpayers at large. Vide the said order CBDT had rejected all the representations received to extend due dates of Income Tax, which has a direct relation in increasing the compliance burden on the Trade, Industry and General Public in the form of Late Fees, Interest and Penalty. Para 9 of the said order made it clear, that the Officials in charge of the FMO are more interested in setting a trend of discipline in a time of pandemic. Even more shocking was the revelation in black and in white before the Court of Law, that these officials chose to compare due dates of Income Tax filings in other countries with different set of laws, cultures and infrastructure, instead of comparing the leniency allowed to their own department

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

officials in internal due dates against the basic requirement of adequate time for proper compliance requested by their own countrymen, in a total disregard to the Article 14 (Equality among Equals) of the very document that came in force on this very day, 71 years ago.

Whether it may be under GST, Income Tax or Corporate Laws, it seems highly unclear of the present policies which gives priority to:

- a. unplanned revenue in the form of Late Fees, Interest and Penalty instead of the Planned Taxation,
- b. indulge into unproductive compliances,
- c. avoidable litigations;
- d. frequent changes in laws;
- e. unstable IT infrastructure;
- f. free hand to tax officials; or
- g. rigid approach towards trade, industries or professionals;
- h. implementation of laws without taking the Trade, Industry or the Professionals into confidence; and
- i. inflicting greater hardship on the public at large.

This high headedness has made us join hands with more than 100 different associations, which do not desire that citizens engage in petty low life compliance processes, but intends to engage in processes productive to them and the economy, and with a common goal of making our country a super-power. **Since, our earlier representations were not responded by the Finance Minister, we are escalating this matter with your good self.**

Since, this is our country, and our Government, we rightly place the following demands:

A. Goods and Services Tax:

1. Timely implementation of Key GST Council Decisions:

It is regularly observed that Key GST Council Decisions, are simply declared in the press release but not implemented on time through

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

proper notification. On several instances, decisions clearing the hardships on the taxpayers are kept on abeyance for unknown reasons. Eg. Demand of Interest on Net GST instead of Gross amount was kept lingering for more than 6 months.

Demand: If not all, key GST Council Decisions should be implemented without any further delays, backed by proper notifications.

2. Allowing Trade, Industry and Professional representation in GST Council:

On going through the agendas and the detailing of proposals put before the GST Council, and considering the level of expertise of the participants i.e. State Representatives most of whom do not possess requisite technical knowledge on the GST subject. Matters placed before the GST Councils are mostly drafted by the CBIC Officials. Thus, the Council Participants are never in a position to provide and informed and independent assessment of proposals put in the meeting.

Demand: Representatives from Trade, Industry and Professional Associations (especially belonging to SME and SMP categories) should have sufficient representation in the GST Council as full time participants.

3. Stopping Loss due to lack of co-ordination of GST Council participants:

Humongous losses have been incurred to the trade, industry and the public at large due to the lack of co-ordination of GST Council participants. Inflationary trends in several goods are a direct result of

such ill-co-ordination. GST Law became effective from 1st July 2017. With its introduction, VAT and Excise regime came to an end in almost all items, except the petroleum products. It is worth noting that petroleum items have a huge impact on the lives of humans of modern age, ranging from use in plastics, paints, dyes, chemicals, textiles, eaters, food items, natural gas, petrol, diesel, tar used in construction of roads and the list is infinite. Till today, VAT and Excise are still levied on Petroleum items. Although, both VAT and Excise are indirect taxes, there is no mechanism left open to get back the credit of such VAT and Excise.

Taking a single example of Natural Gas which is widely used as fuel in most of the manufacturing units, its market size was INR 605.14 billion in 2019-20. Ill-co-ordination amongst GST Council Participants has the following impacts:

1. Macro Impact:

Considering the present market rate of Natural Gas per SCM (Standard Cubic Meters) for bulk and retail industrial customers, the average market price (basic) comes to Rs.20/- per SCM. Based on the same, a minimum probable loss to the trade and industry during the tenure of GST regime works out as follows:

Macro Impact of minimum possible loss (Natural Gas: HSN 27112100)				
Particulars	2017-18 (July to March)	2018-19	2019-20	2020-21 (Upto Dec)
Natural Gas Consumption (in MMSCM [^])	23904.03	32057.91	30257.00	18103.00

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vitlani
☎ +91 99797 64643

Industrial Share in Consumption (MMSCM) 65%	15537.62	20837.64	19667.05	11766.95
Average Basic Price for bulk and retail customers (Industrial) per SCM in Rs.	20.00	20.00	20.00	20.00
Natural Gas Revenue from Industrial Consumption (in Cr)	31075.24	41675.28	39334.10	23533.90
Non-Refundable Excise @ 0% (in Cr)	Nil	Nil	Nil	Nil
Non-Refundable VAT @ 6% (in Cr)	1864.51	2500.52	2360.05	1412.03
Extra Tax Burden added to cost of production (in Cr)	1864.51	2500.52	2360.05	1412.03
Total Taxes charged but not refunded by Govt since implementation of GST (in Cr)	8137.11			

*Source: https://www.ppac.gov.in/content/152_1_Consumption.aspx

^MMSCM = Million Metric Standard Cubic Meters

Thus, the trade and industry is at a loss of Rs.8137.11 Crores, only from the Natural Gas market alone, due to non-migration of petroleum products to GST regime.

2. Micro Impact:

A normal SME Industrial undertaking uses 40,000 SCM of Natural Gas per month i.e. 4,80,000 SCM annually. On account of non-migration of Natural Gas to GST regime the minimum probable loss to the undertaking is as follows:

Micro Impact of minimum possible loss				
(Natural Gas: HSN 27112100)				
Particulars	2017-18 (July to March)	2018-19	2019-20	2020-21 (Upto Dec)
Average Annual Consumption by an MSME (SCM)	360000	480000	480000	360000
Average Basic Price for bulk and retail customers (Industrial) per SCM (in Rs.)	20.00	20.00	20.00	20.00
Natural Gas Billing from Industrial Consumption (Basic Amount) (in Lakhs)	72.00	96.00	96.00	72.00
Non-Refundable Excise @ 0% (in Lakhs)	Nil	Nil	Nil	Nil
Non-Refundable VAT @ 6% (in Lakhs)	4.32	5.76	5.76	4.32
Extra Tax Burden added to cost of production (in Lakhs)	4.32	5.76	5.76	4.32
Total Taxes charged but not refunded by Govt since implementation of GST (in Lakhs)	20.16			

Rs.20.16 lakhs is a substantial amount for an SME, which could had been used for expansion, modernisation, improving quality or even repaying the bank loans.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

There are numerous such items, which on account of their inclusion as raw material or fuel, and due to the cascading effect of taxation on petroleum products, the cost of production has gone up, adding to the situation of artificial inflation.

Demand: The presently excluded petroleum products viz. Crude, Natural Gas, HSD, MS and ATF, which are used in one or the other form in the manufacturing process, should be brought under levy of GST at appropriate rate so that the seamless credit is available to Petroleum Industries and thereby avoiding loss to the end user trade and industries. Representation of FIPI (Federation of Indian Petroleum Industry) and the Recommendation of the Ministry of Petroleum and Natural Gas (MoPNG) made in January 2020 for inclusion of petroleum products in the mainstream GST regime should be considered in this regard.

4. **Avoiding GSTN Failure:**

GST website has become famous for allowing only the lucky 1,50,000 users at a time. Frequent outages at key due dates, gives shocks to regular stakeholders, in the form of late fees, penalties and notices for cancellation of registration. On one hand the repercussions of non-compliances have become more and more serious, the GST portal downtime is increasing on the other. Interest, Penalties and Late fees are the form of punishment the trade and industry is inflicted upon due to the failure of GST Network. This is not at all tolerable.

Demand: Work of Operation and Maintenance of GST Portal is managed by GSTN, a Sec.25 company with participant companies having a

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

mammoth's might, which should be able to resolve the issue, immediately. However, if the work of GSTN is not manageable through internal resources, new technology providers should be invited to put an end to the agony of the trade, industry and professionals.

5. Retraction of rules restricting availment of GST Credit:

When GST law was passed, it had limited ifs and buts for a free flow of GST Credits. Although those ifs and buts were questionable, still the tax payers were waiting for any practical difficulty to happen. However, with passage of time, several rules were notified without consultation with the stakeholders which did not resolve the issue, but aggravated the problems of under GST. Promise of Seamless credit now seems less of a Credit and have become more of suspicion over the genuine tax payers. Some of the rules restricting availment of GST Credit are:

1. No GST Credit can be taken for invoices received late after 6 months from end of financial year (Sec.16(4));
2. A weird and illogical list of blocked credits (Sec.17(5));
3. Credits allowed only upto 105% of invoices reported online by punctual vendors (Rule 36(4));
4. GST Credits to be reversed in case of input goods or services used for Non-GST Supply or Supply which is Exempt (Rule 42 & 43);
5. Only 99% of GST Credit available online can only be used. Rest has to be paid out of pocket (Rule 86B);

Out of the above, items under Points 3, 4 and 5 were implemented through CGST Rules, without any discussion with the stakeholders.

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

These have resulted into an avoidable complication. When the law for GST was passed, law of blocked GST credits was also impressed upon the taxpayers without any cogent reasoning and still lacks appropriate logic. Due to the same, some of these questions which arise are:

1. Why GST Credit on motor vehicles being Cars and planes of directors and bikes of employees (either owned or hired) which are all used in the furtherance of business not allowed. Are the services of directors and travelling of employees such dispensable acts, that GST Credits of such expenses is not allowed?
2. General insurance, Servicing and periodic repairs of Vehicles are necessary requirement for fitness under the Motor Vehicles Act, 1988. Why GST Credit on such items not available?
3. As per Sec.46 of Factories Act, 1948, canteen is a mandatory requirement for factories with 250 or more employees. Thus GST Credit on canteen expenses are allowed due to its mandatory nature. However, MSMEs with less than 250 employees, which voluntarily go two steps forward in giving better canteen services, health services, life or health insurance to their employees do not get GST Credit. Why such a discrimination?
4. Most industrial undertakings operate in areas under local Industrial Development Corporation eg. GIDC. GIDC allots land on long term lease, usually 99 years. Such land never partakes the character of an immovable property. GST thereon should be admissible since it is for the furtherance of business and also that the leasehold right is a service taxable under GST and not an item of immovable property. Also, for new entrepreneurs setting up new industrial units or existing units undergoing

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

expansion, Civil Construction cost is the biggest cost category, GST credit whereon is unfortunately not allowed, even though the building being under leasehold category. Why such huge blockage of working capital for items already falling under GST?

5. When leasehold industrial plots in Industrial Development Corporation eg. GIDC are transferred, a fixed but substantial amount of transfer fees has to be paid to GIDC. **The GST credit on such transfer fees is available only to the transferor of industrial plots.** However, when an industrial unit is sold, the existence of its business comes to an end, and it is especially true in case of SMEs. The business is continued by the Transferee, the credit should be available to Transferee and not transferor. A substantial amount of GST credit on transfer fees, goes unclaimed by the outgoing unit, and although these fees are actually funded by the incoming transferee, due to restrictions placed on availment of GST Credits, they are unable to claim the credit. Why withholding of such huge credits?
6. In case of inverted duty structure, GST Credit on input services is not allowed to be refunded. GST Credit of goods is only refunded at present. Why such a discrimination and ill-interpretation of law, putting trade and industry at peril?

Even though the above list is small, GST transactions falling in above categories are numerous, and sums up to huge blockage of GST Credits. Major items under Sec.17(5) are the real impediments for a seamless credit structure of GST. When credit of above items is taken wrongfully, it further results into felonious repercussions.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vitlani
☎ +91 99797 64643

Demand: For GST Credits the following demands arise:

- a. GST Credit should be available for any invoices claimed under GST within the longest period possible i.e. atleast a year instead of 6 months as per Sec.16(4). GST Act should be amended suitably for the same.
- b. For a Good and Simple Tax, the free flow of GST Credit is a must. Also, Impediments like the ones under Sec.17(5) described above, should be removed immediately through suitable amendment in the Act.
- c. Further, matter related to 105% GST Credit eligibility (Rule 36(4)) and 99% GST Credit availability from Electronic Credit Ledger (Rule 86B) are prima facie *ultra-vires* the law and these Rules cannot override the Act. Thus, these rules implemented without taking stakeholders into confidence, should be retracted with immediate effect.
- d. GST on input services should be allowed to be refunded without any discrimination.
- e. GST on transfer fees paid to Industrial Development Corporation in case of transfer of leasehold industrial plots should be available to the transferee, on a reverse charge basis.

6. Stopping of daily notifications:

In the last few years, the trade and industry have observed a surge in the frequency to issue notifications, circulars, orders, instructions etc. by whatever name called (hereinafter referred to as “Daily notifications”). These make up an addendum law which is an afterthought, making the

main law more complicated and thereby increasing hardships. For example, in GST only, the Tax law as passed on 1st July 2017. However, since then a plethora of Daily Notifications were issued due to afterthought. Below is the gist of such Daily Notifications:

Type of Notification / Circular	No. of Notifications
GST Central Tax	328
GST Central Tax (Rate)	111
GST Integrated Tax	26
GST Integrated Tax (Rate)	114
GST Compensation Cess	3
Other Notifications	3
Circulars	384
Orders	33
Instructions	2
Total	1004
No. of days since implementation of GST	1285
Days per Notification	1.28

GST is 1285 days old law, but atleast 1004 Notifications have been released till date, shows that implementing the intricacies of a well written law, is being done without application of mind. As can be seen from the above table, one new Notification is issued every 1.28 days. India is such a huge country with humongous population, out of which only few are yet under tax net. The trade, industry and even the professionals find it difficult to cope up with these daily notifications, either resulting into non-compliance or increased litigation.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

Demand: Changes in GST law involving policy, rates, procedure and compliance by means of rules, notifications, circulars and orders should be restricted to the beginning of the financial year. No changes should be done:-

- a. Without consulting the stakeholders;
- b. By means of notifying rules overriding the acts; and
- c. Without laying the draft bill before both houses of parliament.

All existing rules which override the original CGST Act, 2017 should be retracted, immediately.

7. Creation of Faceless Tax Regime:

Whereas, the Finance Ministry is keen on making most of the process of Assessment (Scrutiny) and Appeal in a faceless manner, CBIC under the same ministry is going in an opposite direction, requiring most important activities like Registration, Cancellation, Refund, calling for information etc. in a face-to-face fashion. It is not that the assesseees have started facing hardship in showing their face, but it is the facial shame, that gives rises to numerous unwanted problems of corruption. The country is going back to the Inspector Raj, where the GST officials are offended when not furnished with details physically.

Demand: Avoid face-to-face contact by officials with the tax payers. Most of the processes should be faceless. All existing procedures notified involving one to one contact should be retracted.

8. Frictionless issuance of GST Registration:

While many upcoming start-ups and businesses intend to get under the GST Tax Net and honestly with the GST Law, the crippling approach of the GST Officials stemming out various stiff circulars and orders, land these honest entrepreneurs in a retreated position. Once such ridiculous document is Instruction No.4/3/2020 laying the SOP for verification of new GST Registrants. From the document it is evident that the Government does not seem to let new entrepreneurs come out and join the trade and industries community. It requires a plethora of details from the new registrant similar to Project Report submitted to a banker for availing credit facilities. Most of the process is Aadhar Driven, which is good, but when most of the Aadhar Updation Centres across India are closed due to pandemic, the process creates huge bottleneck in starting a business. This was not a situation the trade and industry had subscribed for, at the time of happily accepting the beautifully written GST law. The process of obtaining new registration under GST is one of the biggest impediment in ease of doing business.

Demand: To provide the ease of doing business, registration process should be easy and frictionless devoid of contact with the GST Officials. The intended SOP should be taxpayer friendly and in the interest of honouring the Citizens Charter, verification should not be intrusive or offensive, that the new registrants be suspected as wrong doers. Registration under GST is a first step in winning the mind of a tax payer, and accordingly the tax payers should be welcomed. Also, since most of the process is now linked to Aadhar, Aadhar Updation Centres should be re-opened immediately.

9. Reducing Cost of GST Compliance on SMEs:

The cost of compliance by the SMEs and even the large stakeholders, have gone up due to compulsive monthly compliances. It is pertinent to note that GST poses due date dilemma every month to the trade and industry, who during the last 3 and a half year have got fed up of the monthly compliances. Every month the compliances are completed and they pose up again and again to be complied, whether there be rain, storm, illness, marriages, deaths or any other disruption. Persistent follow up and dedication is required to accomplish tedious tasks of filing GST returns. While, dedicated manpower requirement is a problem faced by large tax payers, but for a SME it is a luxury only dreamt of. GST Credit reconciliation is too much to ask from a small and medium enterprise. Had he been enough educated, he wouldn't be conducting the present business.

Demand: Cost for GST Compliances can be reduced by following measures:

1. Shifting from Monthly to Quarterly returns for MSMEs;
2. Since, the large stakeholders would lag behind in reconciliation of data with their MSME counterparts being vendors of customers, Quarterly returns should be made compulsory for all, for sake of uniformity across the industry;
3. Merging of E-Invoices with E-Way Bill;
4. Improving the ease of using utilities and softwares provided by the Government, so that costly softwares need not be purchased from open market.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

5. Late fees should be capped to a maximum Rs. 1000 per month for taxable return and Rs.500 per month for Nil return. The present cap of Rs.10,000/- is unbearable.
-

10. Stopping harassment of tax payers terming them as risky exporters:

Rowing inquiries are made by DGRAM wing working under the CGST Offices from registered dealers terming them as risky exporters. They require furnishing of details like director's IT Return of last 3 years, bank statement and Phone Bills of last 1 year, list of major debtors and creditors, Depreciation details as per Income Tax, Computation of Income Tax, DIN and DIN Status, etc, which do not have any bearing with the verification of risky exporters. Submission of these documents are followed up with the site visit by the officials. Basic documents like PAN, Names of Partner/Director, GST Return details for last 3 years, etc which are already available with the department are again asked in sheer harassment of tax payers. After a month long process, reports are sent to HO for de-flagging the registered dealer and allowing refunds due on exports.

Demand: These are severe kinds of unwanted intrusion in the work sphere of genuine tax payers. This should stop immediately. For identification of risk with any particular exporter, details relevant to export risk should only be asked for. The process should be non-intrusive and should comply with the requirements of Citizens Charter.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

11. Simplifying GST Cancellation procedure:

GST numbers are cancelled when any business ceases to exist either due to loss, non-continuity, death or any such major disruption. In such callous situations, the process of exit should be simplified. Presently the application for cancellation is first approved by the officer and only after approval, the onus cast on the registered person of filing Final Return can be discharged.

Demand: Final return should be a part of the application for cancellation of registration. An easy and non-frictional exit should be provided to the registered person, after due process of law.

12. Rationalization of Powers to Penalize and Prosecution:

Powers given to a GST Officer to levy penalty u/s 122 are multifarious, covering most of the non-compliances under GST. All such powers come with a discipline cast u/s 126. However, in most E-Way bills related cases the GST Officers, forget the discipline and apply provision u/s 129, 130 and 132 for detention or confiscation of transport vehicle. The same are not only conflicting with Sec.122, but are highly atrocious to the trade and industry. At times the penalty amount equals the value of goods being transported. Further, these provisions has far reaching effect such that it levies penalty on exempt goods like agricultural, dairy and fishery items, personal and household effects, etc.

Demand: Suitable amendment should be made in GST Law, so as to remove the conflict arising u/s 122, 129, 130 and 132. Application of all these sections result into a Double or Multiple jeopardy, which should

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

not be the intention of the law of a Welfare State. Exempt goods should be removed from the ambit of above sections.

13. Simplification of GST Reconciliation:

Reconciliation of GST Turnover and GST Credit are integral part of the return filing and compliance process. Whereas reconciliation of GST Credit is of high monetary importance, reconciliation of GST Turnover has a compliance value, when random inquiries are posed by GST officials at any time of the year. Both these reconciliations have become a monthly ritual and conclude with the filing of annual returns. It includes:

1. Turnover Reconciliation between:
 - a. Books of accounts or Invoices vs GSTR-3B
 - b. GSTR-1 vs GSTR3B
 - c. GSTR-1 vs Books of Accounts or Invoices
2. GST Credit Reconciliation between:
 - a. Books of accounts or Invoices vs GSTR-2A or 2B (generated by third parties and not under control of the dealer) (ITC)
 - b. GSTR-2A or 2B vs GSTR-3B

It is pertinent to note that all the above reconciliation processes are to be done as a parallel task with the submission of monthly returns, at a very short notice. To give an idea of the complexity, these reconciliations are so much complex that at times, even the Chartered Accountants, Advocates and other Tax professionals, having requisite skills and expertise find it difficult to complete the required tasks within the deadlines. In case reconciliation results in a mismatch, detailed

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

verification of the invoices have to be done by the business houses on each of the inward and outward bills. On an average, SME businesses handle a work load of 300 to 3000 invoices a month. Eventhough modern means of analysis like Excel has arrived, manually checking each of the invoice in a limited time is an arduous act.

Demand: GSTR-1 and GSTR-3B should be merged into a single return. With e-Invoicing coverage rolling out for major businesses, the rest would fall in place.

14. **Avoiding revenue sided interpretation of Good and Simple Tax:**

Businesses approach the Advance Ruling Authority with a hope of obtaining clarity on matters involving certain doubts. This is done with a view that no major tax liability emerges at a later date. However, it is observed that in most of the cases the AAR issues its ruling with an interpretation of law favouring the department. This not only hurts the trade and industry adversely, since in such cases, not obtaining an AAR ruling would had been beneficial to the business.

Demand: A clear mandate should be sent to the AARs across India, to issue rulings considering all the facts and appropriate, justified and neutral interpretation of law.

15. **Education in Semi-Urban and Rural areas for more qualified manpower:**

Writing of accounts compliant with GST requirements is a task demanding manpower with above normal IQ. The study materials

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

prepared and designed by CBIC are too extensive and complicated to grasp. Despite various seminars and workshops organised by the CBIC, there is a great dearth of qualified manpower that can handle the accounting work of any MSME organisation to cope up with the requirements under GST. GST Poses unique set of requirements set out by the “GST Accounting Standards”, which are quite different from the regular accounting practices whether it may be Desi-nama, Simple Double Entry Accounting, Accounting Standards followed by companies or IND AS followed by mid-sized and large entities. This is especially true for the Semi-Urban and Rural areas, where manpower is altogether short for the basic business processes.

Demand: More workshops should be conducted by CBIC jointly with local trade, industries and professional associations. Further, the study materials should be simplified, so that person of normal and below normal IQ can understand, imbibe and apply the same.

16. Revision of GST Returns:

The demand for revision of GST returns, in line with revision/rectification of returns under Income Tax, is a long pending demand by the trade and industry. Only due to small clerical errors in GST returns, even after coming to the knowledge of the tax payers, the same is not allowed. This resulted into higher tax burden or lower credit eligibility on the businesses. It is too much of an expectation, that mistakes do not take place. To err is human.

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

Demand: All GST Returns including GSTR-1, GSTR-3B, GSTR-4, GSTR-9, GSTR-9C should be allowed to be rectified.

17. Rationalisation of GST Credit reversal due to non-payment of bills within 180 days:

As per Second Proviso to Sec.16(2), that if recipient of goods or services does not pay the supplier within 180 days, then GST Credit availed by him on that invoice, has to be reversed with interest. However, this is presently a toothless law. Such provisions only have academic importance and are triggered only by GST officials during GST Audit. The trade and industry does not at all benefit from these provisions, whose original intention was to ensure timely payment of consideration.

Demand: Automated system within the GSTN Portal should be allowed to enter full payment or part payment received towards the invoices, so that GST in invoices where payment is pending automatically gets reversed in the electronic credit ledger of the opposite party. Further, the invoices uploaded on GSTN Portal should be merged with the Delayed Payment Monitoring System – MSME Samadhan managed by the Ministry of Micro, Small and Medium Enterprises. We demand that the sanctity of GST invoice be so established that any member of Trade and Industry is assured that once GST bill is accepted, their payment is assured.

B. Income Tax:

1. Actions ultra-vires the Citizen's Charter:

The Citizen's Charter recently unveiled in the year 2020 states as follows:

The Charter commits to provide fair, courteous and reasonable treatment to the tax payers, while expecting the tax payers to be honest and compliant.

However, we feel that either we have failed to comprehend the meaning of fair, courteous and reasonable treatment of the tax payers or the Income Tax Department's actions are ultra-vires the Citizen's Charter. Your good self needs to take corrective action for the same.

Demand: It is a high time for the Ministries to change the KRA (Key Result Areas) of the high officials and the mid-level officials to shift their focus on maximising tax collection to maximising ease of doing business in their respective jurisdictions, besides really honouring the honest.

2. Complicated Income-tax returns emerging each year:

Every year the tax return forms are changed, adding new items each year, making them more and more complicated, year by year. We can easily recall when we used to file IT Return in 2010 and today, more schedules have been added in ITR Forms. Numerous items have been added to the IT Return forms since 2010, making it more and more complicated. The forms applicable to the trade and industry are ITR-3, ITR-5 and ITR-6, and on a comparison of changes made since last 10

years in the ITR, it is found that the following items were added over the decade:

Sr. No.	ITR Type	Schedule	AY 2020-21
1	ITR-6	General	Total 23 Changes
2	ITR-6	Balance Sheet	Detailed information in Balance Sheet schedules
3	ITR-6	Part A Manufacturing	New Schedule with detailed information (New)
4	ITR-6	Part A Trading	New Schedule with detailed information (New)
5	ITR-6	Profit Loss	Detailed information in compare to 2010 ITR
6	ITR-6	Part A PROFIT AND LOSS A/c	Receipt and Payment account of company under (New)
7	ITR-6	ESR	Expenditure on Scientific Research (Deduction under section 35 or 35CCC or 35CCD) (New)
8	ITR-6	Capital Gain	Detailed Information in compare to 2010
9	ITR-6	112A	Script wise Capital Gain (New)
10	ITR-6	115AD(1)(b)(iii) provision	Script wise Details (New)
11	ITR-6	OS	Detail information
12	ITR-6	ICDS	ICDS compliance Detail (New)
13	ITR-6	10AA	Detail information
14	ITR-6	RA	Details of donations to research associations etc. [deduction under sections 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA)] (New)
15	ITR-6	MAT	Computation of Book Profit (New)
16	ITR-6	MAT C	MAT Credit Details (New)
17	ITR-6	BBC	by back of share (New)
18	ITR-6	TPSA	Secondary adjustment in Transfer price (New)



👤 President
CA. Rasesh Shah
☎ +91 98241 29572



👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197



👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220



👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

19	ITR-6	FSI	Details of Income from outside India and tax relief (available only in case of resident) (New)
20	ITR-6	TR FA	Summary of tax relief county wise (New)
21	ITR-6	SH 1 and SH 2	SHAREHOLDING OF UNLISTED COMPANY (other than a start-up for which Schedule SH-2 is to be filled up) (New)
22	ITR-6	AL 2	Assets and liabilities as at the end of the year (applicable for start-ups only) (New)
23	ITR-6	DI	Details of investments (New)
24	ITR-6	GST	GST Turnover Detail (New)
25	ITR-6	FD	Break-up of payments/receipts in Foreign currency (to be filled up by the assessee who is not liable to get accounts audited u/s 44AB) (New)
26	ITR-3	General	Total 12 Changes
27	ITR-3	Balance Sheet	Detailed information in Balance Sheet schedules
28	ITR-3	Part A Manufacturing	New Schedule with detailed information (New)
29	ITR-3	Part A Trading	New Schedule with detailed information (New)
30	ITR-3	Profit Loss	Detailed information in compare to 2010 ITR
31	ITR-3	HP	Detailed information
32	ITR-3	ESR	Expenditure on Scientific Research (Deduction under section 35 or 35CCC or 35CCD) (New)
33	ITR-3	CG	Detailed Information in compare to 2010
34	ITR-3	112A	Script wise Capital Gain (New)
35	ITR-3	115AD(1)(b)(iii) provision	Script wise Details (New)
36	ITR-3	OS	Detail information
37	ITR-3	ICDS	ICDS compliance Detail (New)



 President
CA. Rasesh Shah
 +91 98241 29572



 Vice-President
CA. Kamlesh Gajera
 +91 99097 00197



 Secretary
CA. Hardik Kakadiya
 +91 99250 04220



 Treasurer
CA. Dushyant Vithlani
 +91 99797 64643

38	ITR-3	10AA	Detail information
39	ITR-3	80D	New Schedule with detailed information (New)
40	ITR-3	RA	Details of donations to research associations etc. [deduction under sections 35(1)(ii) or 35(1)(ia) or 35(1)(iii) or 35(2AA)] (New)
41	ITR-3	AMT	Computation of Book Profit (New)
42	ITR-3	AMT C	AMT Credit Details (New)
43	ITR-3	EI	Detail information
44	ITR-3	AIR IT	Other Information (Information relating to Annual Information Return) [Please see instruction number-9(iv) for code] (New)
45	ITR-3	GST	GST Turnover Detail (New)
46	ITR-3	FD	Break-up of payments/receipts in Foreign currency (to be filled up by the assessee who is not liable to get accounts audited u/s 44AB) (New)
47	ITR-5	General	Total 13 Changes
48	ITR-5	Balance Sheet	Detailed information in Balance Sheet schedules
49	ITR-5	Part A Manufacturing	New Schedule with detailed information (New)
50	ITR-5	Part A Trading	New Schedule with detailed information (New)
51	ITR-5	Profit Loss	Detailed information in compare to 2010 ITR
52	ITR-5	HP	Detailed information
53	ITR-5	ESR	Expenditure on Scientific Research (Deduction under section 35 or 35CCC or 35CCD) (New)
54	ITR-5	CG	Detailed Information in compare to 2010
55	ITR-5	112A	Script wise Capital Gain (New)
56	ITR-5	115AD(1)(b)(iii) provision	Script wise Details (New)
57	ITR-5	OS	Detail information

 President
CA. Rasesh Shah
 +91 98241 29572

 Vice-President
CA. Kamlesh Gajera
 +91 99097 00197

 Secretary
CA. Hardik Kakadiya
 +91 99250 04220

 Treasurer
CA. Dushyant Vithlani
 +91 99797 64643

58	ITR-5	ICDS	ICDS compliance Detail (New)
59	ITR-5	10AA	Detail information
60	ITR-5	RA	Details of donations to research associations etc. [deduction under sections 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA)] (New)
61	ITR-5	AMT	Computation of Book Profit (New)
62	ITR-5	AMT C	AMT Credit Details (New)
63	ITR-5	80P	Deduction u/s 80P (New)
64	ITR-5	AMT	Computation of Book Profit (New)
65	ITR-5	AMT C	AMT Credit Details (New)
66	ITR-5	EI	Detail information
67	ITR-5	Sch PTI	Pass Through Income details from business trust or investment fund as per section 115UA, 115UB (New)
68	ITR-5	TPSA	Secondary adjustment in Transfer price (New)
69	ITR-5	FSI	Details of Income from outside India and tax relief (available only in case of resident) (New)
70	ITR-5	TR FA	Summary of tax relief county wise (New)
71	ITR-5	DI	Details of investments (New)
72	ITR-5	GST	GST Turnover Detail (New)
73	ITR-5	FD	Break-up of payments/receipts in Foreign currency (to be filled up by the assessee who is not liable to get accounts audited u/s 44AB) (New)

Demand: Tax returns should be amended to accommodate only meaningful information, after consultation with the stakeholders. Certain details like matching GST with P&L as required in Schedule GST is not only impractical, but also a futile exercise. Tax returns should be simplified for relief to tax filers and expanding tax payers' base..

3. Simplifying Tax Audit Report:

During the last decade, the reporting requirements in the Tax Audit u/s 44AB is highly escalated. Around 27 paras have been added resulting into increased complexity and higher consumption of time of the auditor. Further it has also increased the efforts required to be given by the members of trade and industry in preparing the details before submission for audit. These paras include:

Sr. No.	Form	Clause	New Clauses added during the last decade
1	3CA / CB	5	In our opinion and to the best of our information and according to explanations given to us, the particulars given in the said Form No.3CD and the Annexure thereto are true and correct.
2	Form 3CD	4	Whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, customs duty, etc. if yes, please furnish the registration number or any other identification number allotted for the same:
3	Form 3CD	8	Indicate the relevant clause of section 44AB under which the audit has been conducted
4	Form 3CD	8(a)	Whether the assessee has opted for taxation under 115BA/115BAA/115BAB?
5	Form 3CD	13(e)	ICDS Requirement
6	Form 3CD	13(f)	ICDS Annexure
7	Form 3CD	17	Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:
8	Form 3CD	21	7 new sub clause added

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

9	Form 3CD	28	Whether during the previous year the assessee has received any property, being share of a company not being a company in which the public are substantially interested, without consideration or for inadequate consideration as referred to in section 56(2)(viiia), if yes, please furnish the details of the same.
10	Form 3CD	29	Whether during the previous year the assessee received any consideration for issue of shares which exceeds the fair market value of the shares as referred to in section 56(2)(viib), if yes, please furnish the details of the same.
11	Form 3CD	29A	Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (ix) of sub-section (2) of section 56? (Yes/No)
12	Form 3CD	29 B	Whether any amount is to be included as income chargeable under the head 'income from other sources' as referred to in clause (x) of sub-section (2) of section 56? (Yes/No)
13	Form 3CD	30A	Whether primary adjustment to transfer price, as referred to in sub-section (1) of section 92CE, has been made during the previous year? (Yes/No) (7 sub clause)
14	Form 3CD	30B	Whether the assessee has incurred expenditure during the previous year by way of interest or of similar nature exceeding one crore rupees as referred to in sub-section (1) of section 94B? (Yes/No) (7 sub Clause)
15	Form 3CD	30C	Whether the assessee has entered into an impermissible avoidance arrangement, as referred to in section 96, during the previous year? (Yes/No)
16	Form 3CD	31	5 new sub-clauses added

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

17	Form 3CD	32(c)(d)(e)	Details of brought forward loss or depreciation allowance, in the following manner, to the extent available: -
18	Form 3CD	34	(b) Whether the assessee is required to furnish the statement of tax deducted or tax collected. If yes, please furnish the details:
19	Form 3CD	34	(c) whether the assessee is liable to pay interest under section 201(1A) or section 206C(7). If yes, please furnish:
20	Form 3CD	36A	Whether the assessee has received any amount in the nature of dividend as referred to in sub-clause (e) of clause (22) of section 2? (Yes/No)
21	Form 3CD	37.	Whether any cost audit was carried out, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the cost auditor.
22	Form 3CD	38	Whether any audit was conducted under the Central Excise Act, 1944, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.
23	Form 3CD	39	Whether any audit was conducted under section 72A of the Finance Act, 1994 in relation to valuation of taxable services, Finance Act, 1994 in relation to valuation of taxable services, if yes, give the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the auditor.
24	Form 3CD	41	Please furnish the details of demand raised or refund issued during the previous year under any tax laws other than Income Tax Act, 1961 and Wealth tax Act, 1957 alongwith details of relevant proceedings.

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

25	Form 3CD	42	Whether the assessee is required to furnish statement in Form No.61 or Form No. 61A or Form No. 61B? (Yes/No)
26	Form 3CD	43	Whether the assessee or its parent entity or alternate reporting entity is liable to furnish the report as referred to in sub-section (2) of section 286
27	Form 3CD	44	Break-up of total expenditure of entities registered or not registered under the GST:

Out of the above, Clause No. 13(e), 13(f), 17, 28, 29, 29A, 29B, 30A, 30B, 30C, 34(b), 34(c), 36A, 41, 42, 43, 44, have very much complicated the tax audit process, requiring substantial time and energy for both the auditors and the auditees.

Demand: Tax Audit report should be simplified to the best possible level. If certain details are required by the Income Tax Department, sufficient time should be allowed for the audit process.

4. **Insufficient timeline of due-dates for MSMEs:**

Back in the 1990's and 2000's all audited assesseees were given ample time up to 30th November-31st December for compliance with a relatively easier tax audit report and simple/Saral income tax return. However, even after introduction of newer complexities in Tax Audit Reports, Income Tax Returns and other compliances, the due dates have been shortened by at least 3 months. The period of filing Non-Audited IT Returns upto 31st July and Audited Cases upto 30th September are in first place quite short and non-human. Although the level of complexity of Income Tax Returns and Tax Audit Reports which has increased over the last decade as specifically described in Para [B2](#) and [B3](#) above, the time

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

given for compliance is still 30th September (for audit cases) of the assessment year, instead of providing additional time for compliance.

Demand: Every year, Due Date for non-Audited Income Tax Returns may be kept at 31st August and tax audit report and their returns at 31st December.

Further in spite of so many representation made by various bodies, the due dates under Income-tax Act and GST were not further extended. Because of various complications, late release of utility coupled with corona pandemic, we demand that for A.Y. 2020-21, no late fee or penalty for the act of late furnishing of income tax return or audit report be levied if the compliance is made before 31st March, 2021.

5. Giving Appeal Effects:

Presently appeal effects are pending in large number at cases resulting in non-existent demands, non-issuance of due refunds etc.

Demand: The officers should be instructed to give appeal effect and issue the due refunds on priority basis.

6. Cumbersome and avoidable provisions of TCS:

Recently unveiled provisions of TCS (Tax Collected at Source) u/s 206C(1H) are highly cumbersome and full of fault, and implemented without taking the stakeholders into confidence. Same have been notified in a haphazard manner with quite less clarity. The trade and

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vitlani
☎ +91 99797 64643

industry at large are putting much effort for practically implanting it. Most businesses, end up paying the TCS amount out of their own pockets instead of collecting it from the customers/clients, thinking of the amount as trivial.

Demand: Retract the cumbersome and futile provisions of TCS u/s 206C(1H) with immediate effect. Most of the businesses becoming liable for aforesaid TCS are already under the tax net either under GST or Income Tax.

7. Presumptive Income Scheme really not simple:

Small tax payers, while opting for the presumptive Income Scheme:

- A. u/s 44AD – 6%-8% of Turnover / Gross Receipts for Businesses
- B. u/s 44ADA – 50% of Gross Receipts for Profession
- C. u/s 44AE – Rs.1000 per MT / Rs.7500 per month for Transporters

are allowed to pay tax on the presumptive income calculated above and as a part of the scheme are not required to maintain books of accounts. However, the IT Return form as well as the software requires mandatory information on key figures of Cash on Hand, Sundry Debtors and Loans and Advances of these small tax payers. Thus, forms and softwares asking the above details are ultra-vires the Scheme declared under the statute.

Demand: Form for IT Return should not require the tax payer to mandatorily furnish details of Cash on hand, Sundry Debtors and Loans

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

& Advances, which defeats the purpose of the scheme. Updated forms should remove the said anomaly.

8. Identification of CAs and Tax Professionals as an entity in Income Tax:

MCA has long back recognized the role of professional as distinct and identifiable from the other stakeholders on the MCA portal. Accordingly any filing required to be done by any company is also allowed to be done from the login ID of the professional. However, on the Income Tax Portal as well as the GST Portal, the tax professionals have to use User IDs and Passwords of the respective businesses or assesseees. This is infact not a proper manner of tax compliance, when it is a settled fact that the filing of Income Tax, GST or MCA are all done by professionals having requisite skillsets, after due authorization from respective businesses.

Demand: E-filing of all existing forms should be enabled for filing through the Professional IDs, and the delegation should be authenticated through Aadhar based OTP of the owner/authorized signatory of the respective business. It would also give a statistical idea of how many returns are being filed by assesseees and how many are filed by the tax professionals.

9. Stop Bombarding of unidentifiable emails & SMS after office hours:

Numerous unidentifiable emails and SMS with masked PAN, GST or Return Filing numbers are bombarded by the department (both CPC under Income Tax and GST) in the evening after office hours, at night,

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

midnight, in the early morning and even on public holidays, on the registered email and phone numbers. Such communications are highly undesirable in similar fashion as official calls to government officials after office hours. Classical example is the extension of Due Date to 10th January 2021 (for AY 2020-21), which was Sunday.

Demand: Emails requiring the assessee to take any action or responding on to the portal should be made only during working hours and at no other time.

10. High Cost of Compliance for MSMEs:

Most MSMEs operate at a low level of profitability and seldom have enough resources to innovate and modernize. However, on the other side, departments like GST, Income Tax and MCA levy hefty penalties, interest and late fees for submissions of trivial importance. The growth potential of these MSMEs is thereby curbed and instead of positive change, the entities undergo a negative change. Numerous entities have been wound up and thrown out of the business, just due to the excessive and abnormal levy of late fees. At times, this results into evading of compliances and loss of taxpayer base by the department. Cost of existing compliance schemes is affordable for the large tax payers, however, for the small and medium tax payers, the same is not affordable. Putting both categories of tax payers is not an advisable comparison keeping in view the principle of “Equality among Equals”.

Demand: Interest, Penalty, Late fees, extra costs like procurement of digital signatures, etc should be rationalized for MSMEs so that the cost

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

of compliance for these level of tax payers is bearable and can be accomplished without substantial hardship.

11. Removal of Late Fees for filing returns:

Hefty late fees have not only broken the back, but also the morale of the tax payer community. While the late fees charged for late compliance under TDS provisions u/s 234E (Rs.200 per day), were already undesirable for the timely compliance of TDS provisions by the trade and industry, new provisions u/s 234F were introduced by Finance Act 2017 for levy of late fees of Rs.10,000/- on late filing of Income Tax Returns after December of relevant assessment year. These provisions of Sec.234F were introduced without adequate consultation with the stakeholders and at a time when the whole nation was busy migrating itself to the new indirect tax structure. Not only are the provisions of 234F illogical, but also detrimental to the Citizens Charter more aptly described in Para [B1](#) above. Those tax payers who were filing Income Tax returns upto 2017-18, even in the month of March, duly paying taxes and interest on validly allowed belated returns, suddenly became violators and offenders from 2018-19.

Demand: When a whole year is given as an assessment year, filing must be allowed at any time during that assessment year. The concept of asking for late fees is totally against the concept of assessment year. Also, when an assessee is filing his return late, he is charged interest u/s 234A which is already penal in nature. *Non bis in idem* (Double jeopardy) is never allowed for the same act. Hence, the provisions of late fees for

👤 President
CA. Rasesh Shah
☎️ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎️ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎️ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎️ +91 99797 64643

both TDS Returns u/s 234E and Income Tax Returns u/s 234F may please be removed.

12. Punctuality and Stability in providing return filing utilities:

Income Tax Forms, Schemas and utilities (either for returns or for Audit Reports) should be made available by the department at the beginning of the year. Needless to mention that it has to be an implied and assumed action by the Finance Ministry to provide the stakeholders the necessary documentation like forms, its schemas and utilities at the start of the assessment year. Also, needless to remind the Finance Ministry, the various instances in past, wherein various courts had to intervene into the matter for directing extension of time limits and the subsequent apologies from the top officials of the Finance Ministry, promising to ensure timely release of forms, schemas and utilities. One such Tweet is reproduced below for refreshing the memoirs of 2015-16:



Dr Hasmukh Adhia ✓
@adhia03



I sense the resentment of group of CAs. We apologise to them. We will make sure that forms are notified well in advance next year.

12:57 PM - Oct 1, 2015

👍 66 💬 199 people are talking about this

Further, during the whole year, ITR utilities undergo revision on an average for 6-13 times. What are the afterthoughts that give rise to such frequent changes in IT Return filing utilities?

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

Demand: ITR Forms should be notified well before 31st March to the ensuing year. Adequate time for testing and deployment should be given to the technology provider. Finally, utilities should be delivered in a time bound manner not later than 1st day of relevant assessment year.

13. Increasing service standards of Websites and Portals:

The world watches India, for the level and standards of its e-Governance, the Government websites and portals, the level of comfort it offers for ease of doing business, the service turnaround times and the average downtime of the key portals. Amongst other benchmarks, the above forms key part which drives their decision making process of external investors. When compared to other developed countries as well as developing countries, these benchmarks are not upto the mark.

Demand: There is a dire need to increase the service standards of the website for their continuing availability. For this a thorough benchmark test needs to be set. Rigorous tests are required to be cleared, and a lot more to explain as to why frequent outages occur, when world's leading technology provider handles these portals?

C. Corporate & Other Laws:

1. Stability in providing form filing:

MCA Portal filings are to be made in PDF fillable forms with inbuilt programmed validation facility. These forms are released as version numbered utilities with periodic updates. At most time it is seen, that the required version on the portal is upgraded to a higher version rendering all the ready to upload documents and the efforts put by the users in a total waste.

Demand: Newer versions of PDF Utilities need to be released only at specific point of time i.e. at the beginning of the financial year, after adequate testing and correction, and not to be changed throughout the year.

2. Simplification of filing process:

The process of filing on MCA is plagued with too much technicality that it is quite tough for the members of trade and industry firstly to access and secondly to upload documents on the portal. The meticulous requirement of a particular version of Adobe Reader, Java Run Time Environment (JRE) and EMSigner (Proprietary Digital Signing Software) is required to accomplish intended tasks.

Demand: PDF Forms are highly unstable and require particular versions of Adobe Acrobat Reader. These should be replaced by Excel Utilities similar to Income Tax E-Filing Portal generating XML and supporting documents can be uploaded directly on the website. Requirement of JRE

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

and EMSigner is for digitally signing and submitting forms can be avoided with the implementation of measures described in Para [D3](#).

3. **Extension of Amnesty Schemes:**

The trade and industry was looking towards the Company Fresh Start Scheme and the LLP Settlement Scheme as game changer amnesty schemes. Accordingly, many companies and LLPs had opted for to regularize their filings with minimal penalties under the scheme. Many members of the trade and industry had made extensive preparation of filing for the same. However, due to the frequent outage of the MCA website and the version of Annual Filing form was changed at the eleventh hour on the last day i.e. 31st December 2020, rendering all the ready to upload files with the CS, CAs and other professionals obsolete, and the same also resulted in a non-compliance compelling the stakeholders to pay hefty late fees.

Demand: Renew and extend the Company Fresh Start Scheme (CFSS) and LLP Settlement Scheme (LLPSS) upto 31st March 2020 in the interest of trade and industry.

4. **Encouraging Industry for switching to Corporate format:**

The Government is keen on onboarding number of businesses into the corporate formats viz. Companies and LLPs instead of the proprietary formats and partnership firms. It is expected from every business to be as transparent as possible in their operations and adopt the corporate format for future growth. However, no such encouragement works when

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

it is coupled with discouragement in the form of late fees and penalties for filings of trivial importance. The new scheme of late fees was introduced with the Companies (Amendment) Act, 2017, without consultation with the stakeholders when most of the stakeholders were busy with the GST roll out. Post implementation, the per day additional fees of Rs.100 per day is back breaking and highly demotivating for new corporate entrants.

Demand: Roll back the late fees provisions of Companies (Amendment) Act, 2017 and restore back the earlier late fees structure as follows:

Period of Delay	Additional Fees payable (in Rs.)
Upto 30 days	2 times of normal filing fees
More than 30 days and upto 60 days	4 times of normal filing fees
More than 60 days and upto 90 days	6 times of normal filing fees
More than 90 days and upto 180 days	10 times of normal filing fees
Beyond 180 days	12 times of normal filing fees

Capping the late fees as above shall have a stimulus effect on various business entities on shifting towards the corporate formats.

5. Avoiding unproductive compliances:

There are a lot of unproductive and futile compliances which can already be achieved through alternative means. Examples of such unproductive compliances under MCA are as follows:

- A. MSME-1 filing
- B. DPT-3 filing
- C. Director E-KYC

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

The above is only an illustrative list. These filings require reporting in a short time, when the required details are even not available on hand. Also, these periodic filings are unproductive and results in duplication of work. It is shocking that, a non-compliance of Director E-KYC would result into late fees of Rs.5000 whereas obtaining new DIN No. costs only Rs.500. However, obtaining multiple DINs is an offense. Having said that, the public is inspired by the very acts of the ministry to do wrong. Also, is it justifiable that Rs.5000/- per director, be charge for updating of KYC, which is an annual requirement?

Demand: These forms should be immediately depreciated from use. Alternate means for the required details can be obtained as follows:

- A. MSME-1: Udyam Database already available with the Ministry of Micro, Small and Medium Enterprises.
- B. DPT-3: Annual Filings under MCA portal
- C. Director E-KYC: Income Tax filing status (whether the director is alive or deceased and is there any change in address of the director)

There are various other filings with MCA which are either repetitive, redundant or unproductive. The same should be identified and depreciated from use, so that genuine stakeholders do not have to suffer by way of paying late fees for unproductive compliances.

6. Increasing the number of banks in Payment Gateway of MCA:

It is pertinent to note that even the smallest e-commerce vendor has shifted to multiple banks for accepting payments through merchant payment gateway, due to his drive to increase his business. However,

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

MCA seems to lack the drive to increase its filing. Presently the portal for MCA accepts payment only from 4 banks through net-banking. Recent payments are also accepted in a staggered manner i.e. one payment from one user ID, after which the account is locked.

Demand: A serious thought on increasing the banks that accept payments from MCA should increase, so as to allow any person to make payment through any bank. Also, the issue of blocking of accounts post-payment should be resolved immediately.

7. Reducing the downtime of MCA Portal:

On the day of writing this letter, more than 30 days have elapsed since the MCA portal is not working, or working inconsistently. It is also frequently observed that the portal crashes on key due dates. Is it the structure of heavy duty forms, or the low quality of IT infrastructure to be blamed? Such outages result into heavy late fees which have to be borne by the stakeholders. This is not a fair treatment of stakeholders due to the fault in the IT Infrastructure.

Demand: When huge costs of monies are being spent on O&M of the MCA portal, usability of portal by the end users should be ensured. Additional hardware infrastructure to scale up the filing requirements is now highly affordable with the unplanned revenue generated from the late fees collected from the stakeholders.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vitlani
☎ +91 99797 64643

8. Increase in Suit Filing limits under IBC:

The Ministry of Corporate Affairs has amended the section 4 of Insolvency and Bankruptcy Code, 2016 vide notification no. S.O. 1205(E) dated 24th March, 2020 and has increased the minimum amount of default from 1 lac to 1 crore for application of IBC, 2016. Such action of MCA and Central Government has already impacted thousands of operational and financial creditors. Such 100 times increment in minimum amount of default is absolutely arbitrary and it has ruined the rights of small and medium creditors to initiate the Corporate Insolvency Resolution Process although there is intentional default. On other hand, it is an open license to Corporate Giants who are Corporate Debtors to crush the small and medium creditors.

Demand: The issue should be reconsidered and the notification should be annulled, repealed or cancelled to restore back the former limit again for application of IBC, 2016 in the interest of creditors and the economy at large.

9. Relaxation in Banning of Unregulated Deposits

As per Sec.3(b) read with Sec.2(4) of The Banning of Unregulated Deposit Schemes Act, 2019, restricts members of public at large to give or take unsecured loans and advances from unrelated parties. This law was introduced without adequate consultation with the stakeholders and is resulting into drying up of money stream from the market. Businesses are already facing shortage of money, but with introduction of the ordinance and then followed by the law, is creating great hardship in meeting the liquidity requirements in the businesses.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

Demand: The provisions of this Act were introduced with an intention of Banning the Unregulated Deposits Schemes like that of Mandalis. However, the interpretation of the existing statute results in a wider meaning thereby illegitimizing the giving and accepting of unsecured loans. Hence, a suitable amendment be made to add, the providing of unsecured loans even between the non-relatives.

D. General:

1. Timely adherence to stakeholder's correspondence:

In the past many representations have been sent by various associations. However, no response have ever been received on any of the topics dealt in to by those representation. In December 2020, as many as 41 known associations had represented to either to FMO or MCA or both with their demands for due date extension. However, the unilateral mode of response was given by CBDT was in the form of Order F.NO. 370153/39/2020-TPL u/s 119 of Income Tax Act, 1961, with the crude words of "rejecting all the representations". We have a high objection in the aforesaid instance of acting in a high headed manner. It is painful, to inform that our Government, working on our monies acts like an alien for us.

Demand: We demand that as a basic courtesy, representations should not be ignored and each of them be answered to the best of one's ability and knowledge. This is what a routine communication should be. We expect a transparent behaviour from the officials of all the Ministries.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

2. **Avoid Actions requiring Court Intervention:**

Another painful event is when Our Government does not listen to our demands, and we have to resort to the Courts each year for extension of due dates, using our monies and the FMO spends public money in a futile argument of giving extra time to the stakeholders to comply.

Demand: To adequately redress stakeholder grievances as described in Para [B4](#), as and when they arise, instead of suppressing them as any isolated incident. When most of the stakeholders are demanding, it is reflective of the real scenario. Also, when Courts have already commented to look into the deserving eligibility and to view the situation with a leniency, the same should be done, without looking into the jurisdiction of Court pronouncing such a decision.

3. **Providing PAN based, Cloud based DSCs by Income Tax Department:**

Most of the Government Departments used PAN based Class II Digital Signature for authentication till 31st December 2020, after which Class III Digital Signatures are only being issued for use. Since, the cost of procurement of such digital signatures is high, it is an additional burden only for authentication purposes, especially on MSMEs when they are already paying taxes. Further the tokens used for storage of digital signatures pose restriction on simultaneous compliance by various professionals having back to back compliance dates, eg. Company Secretary requiring DSC immediately after AGM to file annual returns, Chartered Accountant requiring DSC for Income Tax and GST Filings, at the same time Advocate handling Provident Fund compliances require DSC for monthly filings. Since most of these tokens are imported from

President
CA. Rasesh Shah
+91 98241 29572

Vice-President
CA. Kamlesh Gajera
+91 99097 00197

Secretary
CA. Hardik Kakadiya
+91 99250 04220

Treasurer
CA. Dushyant Vithlani
+91 99797 64643

China, their manufacturer does not function under Indian environmental rules. Also, when these tokens are abandoned or discarded, they pose a threat of E-Waste Pollution, and require disposal by the “Extended Producer” i.e. the importer under the Extended Producer’s Responsibility and Authorisation under Rule 13 of E-Waste Management Rules, 2016, as DSC Tokens being components and parts of items falling under Schedule I to the said rules. Since, importers seldom look into such matters, the same results into non-compliance of environmental rules.

Demand: Since almost all DSC based filing under Income Tax is required for Audit Cases, where adequate tax is already being collected by the Income Tax Department. Hence, Income Tax Department should issue PAN based Digital Signature without any cost in a de-materialized form on a cloud based platform accessible through Aadhar based OTP as an API on each Government Website like GST, Income Tax, MCA, EPF etc. and accessible from multiple locations at a time.

4. Financial Statements Portal:

All departments including but not limited to GST, Income Tax, MCA, etc require financial statements to be furnished as a part of their annual filing process. Even banks require financial statements as a part of their due diligence process while granting of loans. All the above departments, agencies and private bodies require financial statements in different formats. At times, many queries of mismatch are raised when details of such financial statements are regrouped and reclassified as per the requirement of different departments.

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

Demand: Finance Ministry should set up an independent Financial Statements Portal to handle all the financial statements, such that no financial statements are required to be furnished in Income Tax Returns, MCA Annual Filings or GST Annual Returns, but simply a Financial Statement ID generated on the Financial Statements Portal is required to be quoted in GST, Income Tax and MCA documents. Not only it would ease up the filing process, but speed up the compliance process as well. Since, multiple professionals would work on different compliance work eg. CA filing Tax Audit Reports and GST Audit Reports, CS filing Annual Filings with MCA, Cost Accountants preparing Cost Audit Report, Banks issuing new lines of credit, all at the same time, with same Financial Statements ID.

5. Due dates on Public Holidays:

It is well settled law since the colonial era vide Sec.10 of General Clauses Act, 1897, that any act or proceeding is required to be done on a date on which the Court or Office is closed, then the acts done on next day when the Court or Office is open, shall be considered to be done on time. However, such golden wisdom is not injected in the lines of code which make up the present day robust portals, whether it may be Income Tax, GST, MCA or any other, and returns or filings if not done by the due date is treated as non-compliance despite the due date being a public holiday.

Demand: The validation rules deciding the late fees and penalties within the portals algorithm, should first check the public holidays database,

👤 President
CA. Rasesh Shah
☎ +91 98241 29572

👤 Vice-President
CA. Kamlesh Gajera
☎ +91 99097 00197

👤 Secretary
CA. Hardik Kakadiya
☎ +91 99250 04220

👤 Treasurer
CA. Dushyant Vithlani
☎ +91 99797 64643

before determining that a violation under that particular Act has happened or not. Appropriate grace period as allowed by Sec.10 of the General Clauses Act, 1897 should be allowed without entering into avoidable litigation.

We hope the above are most reasonable as well as feasible demands, which would be met immediately.

Thanks & Regards,

For Chartered Accountants Association, Surat.

Rasesh Shah | *Hardik Kakadiya*
President | Secretary

Copy to: -

- (1) **Finance Minister,**
134, North Block, New Delhi - 110011 - for suitable action
- (2) **Minister of Corporate Affairs,**
'A' Wing, Shastri Bhawan,
Rajendra Prasad Road, New Delhi - 110 001 - for suitable action
- (3) **Minister for Law & Justice, Communications and
Information & Technology,**
Electronics Niketan, 6, CGO Complex,
Lodhi Road, New Delhi - 110003 - for suitable action