FICCI's Survey

Taxpayers' Goods and Services Tax Implementation Experience Survey, 2018

India has embarked on a new regime of indirect taxation with the implementation of Goods and Services Tax (GST) since July 2017. The new regime is expected to benefit the industry, consumers as well as the government in the long run. Like any other structural changes, GST implementation has also been fraught with challenges and teething issues.

GST does not just have impact on taxes, but also on each business unit of a company. It affects every part of business right from financial reporting, accounting, supply chain, technology enablement, contracts redesign and tax compliances. The businesses are working on the transitional changes, viz. input credits, claiming refund, exemption, etc.

FICCI conducted a survey of enterprises post the implementation of GST in the months of November 2017 to January 2018 to have a reality check of various issues being faced by the industry with the transition to GST regime. Both MSME and large corporates have participated in the survey and shared their first-hand experiences with GST implementation in the first six months since its implementation. Besides highlighting the key areas of concerns, the respondents have also made useful suggestions to make GST simpler and effective.

Major findings of the Survey

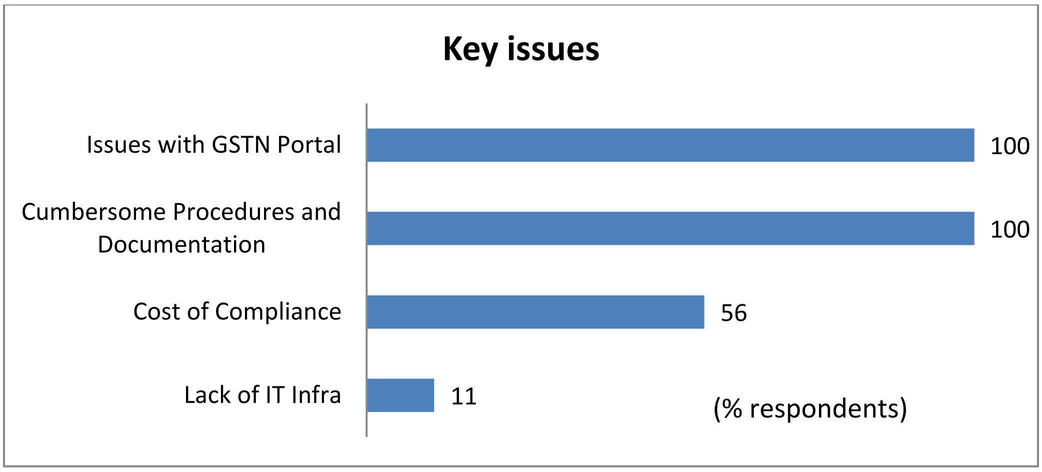
A. Ease of Business for Logistics

The survey shows that implementation of GST is beginning to have a positive impact on businesses' logistics.

- Almost 61% of the respondents stated that their experience with respect to transportation of goods from one state to another has been good in terms of check posts.
- While a majority of respondents (52%) mentioned that goods vehicles are no longer stopped and checked at the state borders, remaining 48% had faced stoppages and checks at the state borders.
- Around 59% of the respondents have cited reduction in transportation time post the implementation of GST.

B. Key Issues faced in complying with GST law

Amongst the key issues faced with respect to GST implementation, the industry has highlighted glitches in GSTN portal, cumbersome procedures and documentation, and cost of compliance as the major areas of concern that need to be addressed.



C. Issues with GSTN portal

Nearly all the respondents have cited various practical issues that they have faced while registration and filing of return in the GSTN portal. Some of the key problems highlighted by the respondents regarding the GSTN portal are:

- GSTN portal is not robust enough to file returns quickly. It takes multiple days, sometimes up to two weeks for the data uploaded to reflect on the portal for return filing. For the payments to get updated on the portal, it takes over 24 hours. The portal generally malfunctions two days prior to the due date of compliance.
- There is no provision in the portal to rectify or revise errors which occur during the course of filing returns. Deletion or modifying any record is very cumbersome process on the portal.
- There are no detailed guidelines given to circumvent various technical errors faced while filing the returns, further slowing the process down.
- As the process of return filing is cumbersome, it takes up most of the time of the accounting departments of smaller companies, and poses additional financial burden to them by hiring more accounting professionals.
- There is huge challenge in setting off liability. If there is any mismatch in the amount of set-off or even punctuation errors, the system shows an error. This delays the process of input credit set-offs.
- As there is no offline utility provided for TRAN-1 return data, a lot of manual data input has to be done on the portal itself.
- It is difficult to upload heavy files on the GSTN portal. For instance, the system is not accepting JSON file with more than 5 MB; and an aggregate turnover involving more than 11 digits.

D. Procedural issues – Filing of return

Almost 87% of the survey respondents mentioned that they have faced issues in filing of various GST returns. The key issues highlighted by respondents were:

- Service providers have raised the concern of multiplicity of registrations under the GST regime, unlike under earlier laws where there was an option to obtain centralized service tax registration and file a single return. A separate registration is now required with every state where the service is being provided.

- Monthly filing of GST return has been cited as a cumbersome procedure. Around 78% of the respondents felt the need to change the periodicity of return filings for those taxpayers having aggregate turnover above Rs. 1.5 crore from monthly to quarterly.

E. Cost of compliance is burdensome

The survey respondents have highlighted that cost of compliance under GST has increased in terms of increase in number of registrations, number and types of returns, and maintenance of state wise books. They also emphasised that in comparison with the previous tax regime, additional compliance costs have been incurred under GST regime for software upgradation and engaging professionals from the fields of accounting, tax and software.

F. E-way bill

All the respondents have cited likely implementation issues upon the introduction of e-way bill.

- As per the e-way bill rules, the current limit of distance till which details of goods transported for e-way bill purpose is not required to be updated on the portal is only 10 kms. Such a limit is very less.
- It was also indicated that the requirement for confirmation or rejection of the recipient is arbitrary, especially when the recipient rejects the e-way bill when the consignment is midway. This is likely to create a problem.

Implementation of e-way bill of course has been deferred for some time now and hopefully the above concerns will get addressed.

G. Inter-unit transfer of services from one state to another

Some of the respondents have highlighted issues they have faced in inter-unit transfer of services from one state to another.

- One of the issues was highlighted with respect to the **treatment of common expenses** that the businesses may incur across the country (example advertisement through various channels) but the same are processed centrally without having clear segregation for states. The Law requires distribution of specific expenses to the particular states to which the expense pertains. There lies a practical infeasibility in allocating such expenses to actual recipient States. Hence there is a need for further clarification from the government on treatment of such expenses, especially to gauge clarity whether the input service distributor can distribute such credit on the basis of turnover of states where that particular brand is sold across India.
- Inter—state transfer of common services is done through an Input Service Distributor (ISD) or cross charging of common expenses. The ambit of common services in IGST under reverse charge has widened (e.g. lease rentals payable to foreign lessors for aircrafts/engines). An ISD cannot discharge liability under reverse charge. Hence, IGST on common services, including lease rentals, shall be firstly discharged under GSTIN of normal taxpayer and thereafter has to be transferred to ISD for further distribution. Under cross charging of common expenses, cross

charging to other states is a cumbersome exercise and results in additional valuation/costs.

H. *Other issues*

- ***Classification related issues*** – Respondents have cited various issues related to determination of correct classification of goods and their HSN numbers.
  - In certain cases, there are multiple rates of tax for a single HSN / SAC code and the process of determining correct classification becomes very time consuming and difficult.
  - Often, different HSN codes are being used by different suppliers for the same goods and also there is a mismatch between buyers and dealers. This often leads to conflict on applicable rate and also loss in sales.
  - Due to lack of clear classification, there is an arbitrary levy of tax rate by customs officers.

- ***Refund*** – As GST return due dates are being extended periodically, compounded by the improper functioning of the GST portal, most assessees are not able to file their GST returns. Due to this, there is no correct indication on the input credits available for set off. Moreover, there are issues in refund of GST with a variety of transactions. Details of a few of these kind of transactions as elucidated by respondents are as follows:
  - There is an inability to initiate the refund of IGST paid on exports due to the mismatch between shipping bill date and tax invoice date. As per the portal, shipping bill date should succeed the tax invoice date. In an exporter's case, in containerized shipments, where plots are not allotted by the port authority, shipping bills are filed in advance before the removal of material from the factory in anticipation of exports to smoothen container stuffing inside the Container Freight Station (CFS).
  - There is difficulty in getting a zero rating benefit for a firm's supply to its SEZ location. Either the vendors are not getting a Letter of Undertaking (LUT) or the SEZ officers dispute tax exemptions. More so, the officers are reluctant to issue LUTs in cases where supply of goods or services specifically barred from taking input tax credit such as food and beverages, rent-a-cab services, etc.
  - Refunds with respect to inter-state supply of services too are not timely.

<u>Key Suggestions made by respondents</u>

There are several issues faced whilst filing GST returns as enumerated above. These issues need to be addressed urgently to make sure that the system gets stabilised at the earliest.

1. *Making GSTN portal robust*

- There is an urgent need to ensure that GST portal is technically functional to facilitate timely filing of all returns without extension of deadlines. Major revamp/upgrade of the GST portal is an urgent requirement to handle huge volumes and speed of filings, without extension of due dates.

- GSTN system should be designed to auto set-off the liability against available credit and payment. There should be one single return with the Annexures for outward and inward invoices. The matching can happen in the following month.
- The system of matching of GSTR 2 & 3 may be kept in abeyance for at least next one year.
- Mentioning HSN code in invoices and in summary in returns is challenging for an average taxpayer and the necessity should be re-looked at.

2. *Centralised registration for inter-state services*

Businesses having pan-India activities, especially in the services industry have recommended that a centralized registration for carrying out activities in all states, including simplified return filings should be facilitated for the benefit of assesses.

3. *Filing of returns to be made simpler*

- Due to the issues being faced with monthly filing of GST returns, respondents have suggested that returns should be required to be filed on quarterly /half yearly basis
- The number of returns should be reduced to a consolidated single return.
- Alternate suggestion is that summary returns i.e. 3B return can be filed monthly and invoice wise details of sales can be filed half yearly in a simple statement.
- Sequential Filing of returns should not be mandated as one cannot go ahead with the next month's returns if there are issues with the current month's return.
- Facility to revise returns should be provided.

4. *Anti-profiteering provision*

Respondents were asked if they felt that there was need for the Government to provide clarifications in order to ensure that the anti-profiteering provisions do not result in undue harassment of taxpayers. There were several suggestions on the following lines:

- The Government should make it more clear what clause can be invoked in what kind of a situation.
- It was also suggested that the anti-profiteering rules should not be made applicable for B2B transactions.
- In principle, the provision is equitable but it should also be implemented in an equitable manner. It is the business that should be able to decide the manner in which pricing of a product is being determined and not the tax regime. For instance, some companies might prefer the application of these rules pan India- uniform across all its product and service lines. On the other hand, some companies might prefer a product level differentiation for the applicability of these rules. The Government must look into this effectively.

Respondents also suggested that the Government should release detailed guidelines and FAQs (with suitable examples) on the following ambiguities regarding the anti-profiteering rules:

1. Mechanism to calculate the benefit to be passed
2. Definition of recipient to whom the benefit has to be passed
3. Applicability of the provisions if a new product has been introduced
4. Applicability if a variation of existing product has been introduced
5. Method to factor in increased cost of compliance in GST
6. Documentation to be maintained by the supplier
7. Whether the anti-profiteering rules are applicable if the rate of finished goods has reduced but the rate of tax on raw materials and other inputs has increased under the GST regime.

5. *Rationalisation of Tariff*

The respondents from the services sector have cited that tax rate of 18% should be rationalised as it is very high compared to the earlier regime of 15% service tax. Other specific sectors that have sought rationalisation of tariff include some of the food products, personal care sector, small farm machinery, textiles, etc.

6. Implementation of e-way bill

Since all sale and purchase details are available on the GSTN portal, respondents felt that there is hardly any need to introduce additional compliance requirement in the form of e-way bill. However, before introduction of e-way bill the Government should issue in detail the process to be followed for issuance of e-way bill for each type of transaction.

Even though the introduction of e-way bill has been deferred by the government, respondents have stated the need for clarification on the following queries with regards to the introduction of e-way bill:

- Whether the commencement of movement of goods can be initiated once information is updated in the e-way bill portal even if acceptance of e-way bill has not been received from the registered receiver of goods?
- In the case where registered receiver of goods rejects the e-way bill when goods are in transit, what action is to be taken by the supplier or transporter?
- E-way bill generated has some validity period. In the event if goods are not transported within the said period the transporter can extend the validity of the period. If in certain cases transporter fails to extend the validity and delivers the goods without extension, then what it course of action for the supplier of goods?
- Whether the E-way bill is required to be generated when movement is within the same registration number i.e. transfer between two offices covered under the same GST registration number?

Additionally, following suggestions were made with respect to the e-way bill rules and functioning:

- There should not be any limit for movement of goods within the city. Thus for the e-way bill, effective distance for movement of goods may be increased to 50 kms.
- Reproduction of HSN code level information in the e-way bill should be dispensed with as the information is already available in the invoice.
- The value of the consignment making it eligible for e-way bill norms is very less, covering almost all small supplies (B2C) and should be raised to at least Rs. 2,00,000, as under the Income Tax Act.
- Validity of e-way bill should be increased further in case of breakdown of vehicles in transit and delay for other genuine reasons in order to avoid losses. The minimum validity of e-way Bill can be kept as 21 days irrespective of the distance.
- Since exports are zero rated, requirement of e-way bill may be waived for transportation for the purpose of exports.

7. ***Other suggestions***

- There is a need for more GST Suvidha Kendras– 62% of the survey respondents cited that number of GST Suvidha Kendras in their vicinity are not adequate.
- Inter-State stock transfer for captive consumption (not re-sale) should not be subjected to GST. Companies have to undertake stock transfer to multiple states for the purpose of captive consumption. Such stock transfer not undertaken with the purpose of re-sale is still considered as sales and creates working capital pressure as it entails a GST payment.
- In case of services received from the Government authority or agency, GST has to be paid under reverse charge. Reverse Charge Mechanism on transaction vis-a-vis Government authority should be kept only at Rs.200,000/- per transaction.
- As regards the refund of IGST paid on exports, the logical condition laid down in the portal for accepting the Shipping Bill date and Tax Invoice date should be waived in order to facilitate the refund.

<u>Annexure:</u>

<u>Respondents citing key issues and concern areas with GST</u>