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1. Background

- COVID-19 pandemic has disrupted trade on a global, national as well as a local level. It is a human tragedy, that has led to loss of innocent lives as well as left many economically devastated.
- The severity of the economic impact is very high and it could have the below implications at a macro level:
 - Aggregate demand may weaken
 - Future outlook's uncertain and negative
 - There is a rising probability that large parts of the world will slip into recession
 - Global economic activity has come to a near stand still as COVID19 related lockdowns and social distancing in affected countries.
 - Expectations of a shallow recovery in 2020 from 2019's decade low in global growth have been dashed

1. Background

- In any economic crisis in the past, India has always experienced a faster recovery than many other countries and we believe that it shall be the case this time too.
- India is still considered by many experts to be one of the few countries that may not experience any negative growth in 2020 and would resume its growth trajectory by 2021.
- Having said that, we feel that businesses need to look at GST implications of COVID-19 with a sense of dynamism in this constant evolving scenario, and, take appropriate response measures to strengthen & protect the organization.
- We appreciate the short-term GST measures announced by the Government of India and we hope that the country's leadership would come to the aid of Indian businesses in combating the impact of the pandemic.

2. Extension of due dates

- Finance Minister Nirmala Sitharaman announced an extension of several compliance deadlines in the wake of the lockdown due to Covid-19 pandemic in India.
- In order to give effect to the announcements, the govt has brought in an ordinance on 31st March, 2020 and notifications on 3rd April, 2020.
- The government has come out with various notifications and a circular on 3rd April, 2020 extending benefits for late filing of returns and other provisions in the GST Acts.
- We have summarized the same in the succeeding slides.

2. Extension of due dates – GSTR 3B return

Turnover	Period	Due Date	Nil interest		9% interest		Nil Late fee		Last dt of filing to claim benefits
			From	To	From	To	From	To	
(PY)									
More than Rs 5 crores	Feb-20	20-03-20	21-03-20	04-04-20	05-04-20	24-06-20	21-03-20	24-06-20	24-06-20
	Mar-20	20-04-20	21-04-20	05-05-20	06-05-20	24-06-20	21-04-20	24-06-20	24-06-20
	Apr-20	20-05-20	21-05-20	04-06-20	05-06-20	24-06-20	21-05-20	24-06-20	24-06-20
	May-20	27-06-20	NA	NA	NA	NA	NA	NA	27-06-20
Between Rs 1.5 and 5 crores	Feb-20	20-03-20	21-03-20	29-06-20	NA	NA	21-03-20	29-06-20	29-06-20
	Mar-20	20-04-20	21-04-20	29-06-20	NA	NA	21-04-20	29-06-20	29-06-20
	Apr-20	22-05-20	23-05-20	30-06-20	NA	NA	23-05-20	30-06-20	30-06-20
	May-20	12-07-20	NA	NA	NA	NA	NA	NA	12-07-20

Note: If return is filed after last date upto which the benefits are made available, interest @ 18% and late fees shall be charged since regular due date.

2. Extension of due dates – GSTR 3B return

Turnover	Period	Due Date	Nil interest		9% interest		Nil Late fee		Last dt of filing to claim benefits
			From	To	From	To	From	To	
(PY)									
Upto Rs 1.5 crores	Feb-20	20-03-20	21-03-20	30-06-20	NA	NA	21-03-20	30-06-20	30-06-20
	Mar-20	20-04-20	21-04-20	03-07-20	NA	NA	21-04-20	03-07-20	03-07-20
	Apr-20	22-05-20	23-05-20	06-07-20	NA	NA	23-05-20	06-07-20	06-07-20
	May-20	12-07-20	NA	NA	NA	NA	NA	NA	12-07-20

Note 1: If return is filed after last date upto which the benefits are made available, interest @ 18% and late fees shall be charged since regular due date.

Note 2: It is important to note that the government has not extended the due dates under the Act, but it has only provided a relief/benefit by way of lower interest and waiver of late fees & penalty if the returns are filed within the last date of claiming such relief/benefit.

Note 3: Above due dates are as applicable to an assessee filing returns in the state of Gujarat and Telangana.

2. Extension of due dates – GSTR 1 return

Frequency	Period	Due Date	Nil Late fee		Last dt of filing to claim benefits
			From	To	
Monthly	Feb-20	10-03-20	NA	NA	10-03-20
	Mar-20	10-04-20	11-04-20	30-06-20	30-06-20
	Apr-20	11-05-20	12-05-20	30-06-20	30-06-20
	May-20	11-06-20	12-06-20	30-06-20	30-06-20
Quarterly	Mar-20	30-04-20	01-05-20	30-06-20	30-06-20
	Jun-20	31-07-20	NA	NA	31-07-20

2. Extension of due dates – Other provisions

Particulars	Current due date	Extended due date	Remarks
GSTR 9/9C for FY 18-19	30 th June, 2020	30 th September, 2020	
Any other compliance under GST laws like filing applications, issuance of notices etc.	Due dates falling between 20 th March and 29 th June, 2020	30 th June, 2020	Not applicable to issuance of tax invoice, application of registration, filing of return, e-way bill, time of supply, value of supply etc.
E-way Bill validity extended	From 20 th March to 15 th April, 2020	31 st May, 2020	
Composition dealer	31 st March, 2020	30 th June, 2020	Last date to opt - extended
Relaxation in Rule 36(4) for Feb to Aug 2020	Input tax credit that can be availed shall be 110% of eligible credit available in GSTR 2A, which shall be computed cumulatively for the months of February to August, 2020 and shall be adjusted in the GSTR 3B of Sept, 2020.		

3. Impact of GST on on-going contracts

- **Cancellation of contracts or reduction in prices:**
 - **Goods:**
 - **Credit note for goods returns:**
 - ITC on credit notes can be claimed only if the recipient has reversed the ITC amount and the same is available on the portal in GSTR 2A.
 - Credit notes can be issued within a period of 6 Months from the end of financial year or till the date of filing annual return, whichever is earlier.
 - Credit note cannot be issued if the tax on such supply has been passed to another person.
 - ***There is an option to avail refund in case there is no output liability against which a credit note can be adjusted - Circular No. 137/07/2020-GST dated 13-04-2020.***

3. Impact of GST on on-going contracts

- **Cancellation of contracts or reduction in prices:**
 - **Goods:**
 - **Post sales discount**
 - Enterprises are entering into supplementary contracts or agreements for post sales discount. Customers are also asking for negotiation before making final payment.
 - ***It may be noted that the agreement for any discount must be made before or at the time of supply and hence any supplementary contracts or negotiations made after the sales are effected would be challenged by the department.***

3. Impact of GST on on-going contracts

- Cancellation of contracts or reduction in prices
 - Services
 - Credit notes –
 - Credit note in case of services can be issued only in case of taxable value or tax charged in the tax invoice exceeds the taxable value or tax payable in respect of such supply or where services supplied are found to be deficient. ***Enterprises may have to establish before the department by way of proper evidence that a downward revision in prices was needed, and what were the circumstances that led to the same.***
 - ***There is an option to avail refund in such cases - Circular No. 137/07/2020-GST dated 13-04-2020.***

3. Impact of GST on on-going contracts

- **Cancellation of contracts or reduction in prices**
 - **Services**
 - **Advances received for services and then contract is cancelled –**
 - For any advances received from customers, the GST liability has to be discharged in the period of receipt.
 - In case of cancellation of contracts where advance is received in earlier periods, the assessee can either adjust such advance tax against subsequent periods liability or claim a refund.
 - ***There is an option to avail refund in such cases - Circular No. 137/07/2020-GST dt 13-04-2020.***

4. ITC (Input Tax Credit) implications

- **ITC on additional expenses incurred to combat COVID-19 – allowable or not?**
 - Enterprises may decide to incur expenditure to combat COVID-19 or even incur certain expenditure as per government directive, such as:
 - Health insurance of employees
 - Sanitizer and personal protective equipment (PPE)
 - Expenses incurred towards facilitating employees to ‘work from home’
 - Capital expenditure – e.g. sanitization tunnels, dispensing equipment, infrared sensors etc.
 - ***It may be noted that each expense would have to be seen on a case to case basis for its allowability. E.g. health insurance is disallowed specifically under the GST Act unless done as per a notification by the government. It is advised to maintain proper documentation justifying the need for such expenses to ensure business continuity.***

4. ITC (Input Tax Credit) implications

- **Reversal of ITC for non-payment to suppliers within 180 days:**
 - The due dates have been extended upto 30th June, 2020 across the board barring very few cases.
 - ***We believe that a clarification is needed from the Department on whether the extension is accordingly provided in respect of 'reversal of ITC if payment has not been made within 180 days of supply', in cases where 180 days limit expires upto 30th June, 2020.***
 - However, till such a clarification is issued by the department, one may need to take a call accordingly after due consideration, to avoid any undue complications in the future.
 - ***In case of time limit of 180 days expiring after 30th June, 2020, it is clear that any extension shall not apply in terms of the above notification.***

4. ITC (Input Tax Credit) implications

- **ITC on provision made for expenses in the financial statements for the period ended on 31st March, 2020 –**
 - It may happen that invoices for which expenses would have been provided would be received after finalization of financial statements in few cases.
 - It will be necessary to review any such ITC claims based on provisions.
 - ***Enterprises should not claim the same in FY 2019-20 unless all the conditions for availing such ITC are fulfilled as on 31st March, 2020.***

4. ITC (Input Tax Credit) implications

- **Reversal of ITC on obsolete inventory:**
 - ITC has to be reversed in case any goods are destroyed, written off or disposed by way of gift or free samples.
 - ***We recommend that enterprises maintain proper documentation of obsolete inventory from time to time and reverse any ITC on the same in the relevant return filing period.***
- **ITC on goods sold at a loss:**
 - It may so happen that enterprises resort to distress selling in these times.
 - ***We recommend that proper justifications are maintained in respect of any inventory that is sold at a value less than its purchase price during such times.***

5. Goods sent for job-work

- When inputs are sent for job work without payment of tax and neither received back within 1 year nor supplied from the job worker premises, the principal shall be liable to pay GST on it alongwith interest since the day they were sent out for job work.
- Similarly, when capital goods are sent for job work without payment of tax and neither received back with in a period of 3 years nor supplied from the premises, the principal shall be liable to pay GST on it as above.
- ***An application to the jurisdictional commissioner should be made for extension of time limit after reviewing the status of any inputs or capital goods sent for job work.***

6. Review of existing and future contracts

- A review of all existing contracts for any potential impact of clauses/obligations in the contract should be undertaken with the following areas in mind:
 - Suspension of work clause – in the context of point of taxation
 - Discount clause – particularly important while raising any credit note
 - Notice clause – communication with the recipient will serve as an evidence
 - Force Majeure clause – GST can become an added financial burden in case the invoice issued during lockdown is contested by the recipient.
- ***Above areas are equally important while executing any future contracts or supplementary deeds.***

7. Registration – Work from home – A dilemma

- ***The pandemic has led to individuals being stuck at various geographies including other countries or states other than the state where they are registered under GST.***
 - e.g. Mrs. A is a Mumbai resident and is providing taxable services as an individual. She has a GSTIN in the state of Maharashtra. She goes to her parents' home in Delhi during the lockdown. She continues to work from Delhi. She has only carried her laptop, leaving her other office equipment behind at Mumbai. Her staff members are working from home.
 - Whether Mrs. A needs to get registration done at Delhi in this case?
 - In our opinion – registration is not required based on above facts. See next slide for reasons.

7. Registration – Work from home – A dilemma

- Intermittent usage of one's home for rendering services cannot be considered as a 'place of business' under GST law, ***since it is not 'ordinarily' used as such***. It is being used due to a government directive, and it is not a requirement of the business. ***The said location does not qualify to be a 'fixed establishment'***. Mrs. A does not require that location to carry on her business.
- The 'location of supplier' of services shall be her usual place of residence i.e. Mumbai.
- Hence, Mrs. A does not need to get any registration in Delhi based on the facts of this case.
- ***However, if such usage continues for a longer period, it may have to be examined on a case to case basis, based on the operation style of that particular business.***

7. Registration – Work from home – A dilemma

- Let us take another example where changes in GST registration may have to be undertaken:
 - M/s MNO is a firm which trades in gold bullion. It is having its registered place of business in a containment zone in Ahmedabad, Gujarat. During the lockdown, M/s MNO firm obtained a special pass and shifted all its goods from the containment zone to another godown in a green zone in Gujarat. The godown belongs to a C&F Agent. Since the lockdown was lifted partially in green zones, M/s MNO is using the C&F Agent's premises to supply goods to its customers.
 - ***In our opinion – M/s MNO needs to register the place as an 'additional place of business'.***
- ***Hence, as said earlier, the implications of COVID-19 on registration shall have to be seen on a case to case basis.***

8. Conclusion

- *We have tried to envisage maximum possible situations which may impact your enterprise's GST positions.*
- *However, the current scenario is very rapidly evolving daily and hence one cannot say that this presentation is conclusive.*
- *It can be used as a guidance to review the potential impact of COVID-19 on your enterprise's GST positions.*
- *Hence, as said earlier, the implications of COVID-19 on GST shall have to be seen on a case to case basis.*

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Thank You!