Composition Scheme Under the Central Goods And Services Tax (CGST) Legislation

It is axiomatic that when a new tax law, inter-alia, concerning trade, commerce and business is enacted, the implementational problems are mostly felt by lower and middle income group taxpayers because of their inability to afford the services of tax experts for making compliance to new laws. This situation is likely to be faced when the new destination based law, CGST and SGST, come into force from 1st July, 2017. It is good to find that the policymakers of GST laws have kept this problem in view while designing laws concerning GST by incorporating in such laws composition fee scheme for such category of taxpayers. The composition scheme is examined in four parts i.e. A, B, C and D as under:-

The policymakers of GST laws, it is good to find, have kept the implementational problem mostly felt by lower and middle income group taxpayers in view while designing laws concerning GST by incorporating in such laws composition fee scheme for such category of taxpayers. The present article discusses the composition scheme under the Central Goods and Services Tax Legislation.

PART-A – THE LAW

Section 10 of the CGST provides for composition scheme for taxpayers with aggregate turnover of Rs.50 lakh in a year. However, proviso to section 10(1) provides that the Govt. may, by notification, increase the limit of Rs.50 lakh to such higher amount, not exceeding Rs.1 crore, as may be recommended by the GST Council. In terms of this proviso, the GST Council, in its meeting held on 11th June, 2017, has recommended increase in the aforesaid turnover limit for composition levy for CGST and SGST from Rs.50 lakh to Rs.75 lakh even before the GST law came into force. The GST Council has still to give its view – whether increased turnover limit should apply in case of special category States.

Salient aspects of composition scheme

[i] It is optional for taxpayers. They have the option to opt for it or not;
[ii] It applies only to goods – not to services.
This means that a service operator cannot opt for composition fee except small restaurants.
[iii] the rate of tax varies from 0.5% to 2.5% (amplified later).

Persons, who cannot avail the scheme

[i] In cases, where tax is payable under reverse charge mechanism.
[ii] In the case of persons, making inter State supplies;
[iii] Persons, who are not taxable under GST law;
[iv] An electronic commerce operator, who is required to collect tax at source;
[v] Manufacturers of notified goods;
[vi] In cases, where turnover exceeds the prescribed limit, then for the turnover exceeding such limit – this option will not be available.

Denial of input tax credit

The persons, availing of benefit of paying taxes under composition scheme, will not be eligible to avail of input tax credits.

No collection of tax from recipients of supplies made

A taxable person, to whom the provisions of sub-section (1) of section 10 apply, shall not collect any tax from recipients of supplies made by him.

PAN (issued by the I.T. Dept.) requirement for availing the composition scheme

The threshold limit of Rs.50 lakh would be applicable to persons, who satisfy the following conditions concerning Permanent Account Number (PAN) issued by the Income Tax Dept.:

[i] All taxable persons, covered by the same PAN, shall avail of the scheme across India.
For this, the value of goods supplied by a person, which are subject to tax on reverse charge basis, will not be includible in computing the figure of Rs.50 lakh (or Rs.75 lakh if the limit gets increased to this figure).

[iii] The turnover figure of Rs.50/75 lakh will include all categories of goods, which are taxable as 'supply(ies) of goods';

[iii] The limit will include value of supplies of all business verticals relating to same taxable person.

PART-B – RULES

Rules have been notified for the operation of composition fee scheme. These are considered in later paragraphs.

[1] Rule (1) – Intimation for composition levy

This Rule is self-explanatory and is reproduced below for ready reference:-

Any person, who has been granted registration on a provisional basis under sub-rule (1) of rule (Registration) 16 and who opts to pay tax u/s 10 (taxable person), shall electronically file an intimation in Form GST CMP-01, duly signed, on the common portal, either directly or through a Facilitation Centre (notified by the Commissioner), prior to the appointed day, but not later than 30 days after the said day, or such further period as may be extended by the Commissioner in this behalf:

Provided that where the intimation in Form GST CMP-01 is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.

[2] Any person, who applies for registration under rule (Registration) 1, may give an option to pay tax u/s 10 in Part-B of Form GST REG-01, which shall be considered as an intimation to pay tax under the said section.

[3] Any registered person, who opts to pay tax u/s 10, shall electronically file an intimation in Form GST CMP-02, duly signed, on the common portal, either directly or through a Facilitation Centre (notified by the Commissioner) prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in Form GST ITC-3 in accordance with the provisions of sub-rule (4) of rule (ITC) 9 within 60 days from the commencement of the relevant financial year.

[4] Any person, who files an intimation under sub-rule (1) to pay tax u/s 10 shall furnish the details of stock (including the inward supply of goods received from unregistered persons) held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in Form GST CMP-03, on the common portal, either directly or through a Facilitation Centre (notified by the Commissioner), within 60 days of the date from which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

[5] Any intimation under sub-rule (1) or sub-rule (3) (infra) in respect of any place of business in any State or Union Territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

The form, to be filed for this purpose, is GST COMP-01.

[2] Rule (2) – Effective date for composition levy

This Rule has two sub-rules, which read as under:-

“[1] The option to pay tax u/s 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub-rule (3) of rule 1 and the appointed date, where intimation is filed under sub-rule (1) of the said rule.

[2] The intimation under sub-rule (2) of rule 1 shall be considered only after grant of registration to the applicant and his option to pay tax u/s 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule (Registration) 3”.

This Rule caters to 3 situations namely (i) where a taxpayer migrates to GST regime from old regime; (ii) seeks registration for the first time; or (iii) is already a registered taxpayer, paying tax at normal rate. In the first case, the intimation is to be given on ‘appointed date’, in the 2nd situation from the date of registration, and in the third case, from the date of commencement of financial year.

[3] Rule (3) – Conditions and restrictions for composition levy

The conditions and restrictions provided by this Rule, which the person, exercising the option, has to comply with, as stated in sub-rule (1) are:-
The person, exercising the option, is neither a casual taxable person nor a non-resident taxable person;

The goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under sub-rule (1) of rule 1;

The goods held in stock by him have not been purchased from an unregistered person and where purchased, he pays the tax under sub-section (4) of section 9;

He shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both received from unregistered persons;

He was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;

He shall mention the words 'composition taxable person, not eligible to collect tax on supplies' at the top of the bill of supply issued by him; and

He shall mention the words 'composition taxable person' on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

Sub-rule (2) of Rule 3

This sub-rule provides that option for composition fee is to be filed once only and reads thus:-

"(2) The registered person, paying tax u/s 10, may not file a fresh intimation every year and he may continue to pay tax under the said intimation, subject to the provisions of the Act and these rules".

Rule 4

This is a long rule and provides as under:-

The option exercised by a registered person to pay tax u/s 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.

The person, referred to in sub-rule (1), shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or these rules and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in Form GST CMP-04 within seven days of occurrence of such event.

The registered person, who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04, duly signed, electronically on the common portal.

Where the proper officer has reasons to believe that the registered person was not eligible to pay tax u/s 10 or has contravened the provisions of the Act or these rules, he may issue a notice to such person in Form GST CMP-05 to show cause within 15 days of the receipt of such notice as to why option to pay tax u/s 10 should not be denied.

Upon receipt of reply to the show cause notice issued under sub-rule (4) from the registered person in Form GST CMP-06, the proper officer shall issue an order in Form GST CMP-07 within 30 days of receipt of such reply, either accepting the reply or denying the option to pay tax u/s 10 from the date of option or from the date of the event concerning such contravention, as the case may be.

[6] Every person, who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in Form GST CMP-07 under sub-rule (5), may electronically furnish at the common portal, either directly or through a Facilitation Centre (notified by the Commissioner), a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within 30 days, from the date from which the option is withdrawn or from the date of order passed in Form GST CMP-07, as the case may be.

Any intimation for withdrawal under sub-rule (2) or (3) or denial of the option under sub-rule (5) in respect of any place of business in any State or Union Territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

Forms, to be filed in the context of rule 4

<table>
<thead>
<tr>
<th>Contingencies</th>
<th>Form No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>[a] For voluntary withdrawal from the scheme</td>
<td>GST CMP-04</td>
</tr>
<tr>
<td>[b] Situation, where a person ceases to satisfy any of the conditions of composition levy</td>
<td>GST CMP-05</td>
</tr>
<tr>
<td>[c] When a proper officer withdraws benefit of scheme if he has reason to believe that the registered person was not eligible to pay tax under composition or has contravened any such provisions</td>
<td>GST CMP-06</td>
</tr>
</tbody>
</table>

Where the benefit of the composition scheme is to be withdrawn, the proper officer shall issue order within 30 days of the receipt of reply to show cause notice in Form GST CMP-06 (supra).

PART-C – RULES

Rule 5

This rule prescribes that the category of registered persons, eligible for composition levy u/s 10 and these rules, specified in column (2) of the Table below shall pay tax u/s 10 at the rate specified in column (3) of the Table.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Category of registered person</th>
<th>Rate of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Manufacturers, other than manufacturers of such goods, as may be notified by the Govt.</td>
<td>1%</td>
</tr>
<tr>
<td>2</td>
<td>Suppliers, making supplies referred to in clause (b) of paragraph 6 of Schedule II</td>
<td>2.50%</td>
</tr>
<tr>
<td>3</td>
<td>Any other supplier eligible for composition levy u/s 10 and these rules</td>
<td>0.50%</td>
</tr>
</tbody>
</table>

PART-D

CONCLUSION

The composition scheme is meant to facilitate the lower and middle level taxpayers, who can avail of the same to have a simplified compliance to the new GST law. How it works can be known only after the GST law comes into force at the Central and State levels. Refinements to the scheme can be made after it is in operation at least for one year.