

GST GUIDANCE NOTE FOR TEXTILES SECTOR

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INDUSTRY OVERVIEW

The Textile industry contributes 2% to India's GDP, accounts for 10% of total industrial (manufacturing) production and contributes 13% to country's export earnings¹. After agriculture, textile industry is the second largest employment provider in the country employing 45 million people directly and 68 million people indirectly in 2015-16. India is the largest producer of cotton and jute and second largest producer of silk and manmade fibre and filament in the world. Cotton majorly dominates the yarn and the fabric stage, with the share of cotton yarn increasing from 57% of the total production of yarn in FY15 to 58.5% in FY16².

On account of such strong raw material production base, the Indian textile industry holds potential both on the domestic front with rising demand at both ends of the segment viz. the low price low quality segment and the high-end fashion segment; and the export markets with India competing aggressively with new entrants like Bangladesh and Vietnam. The total fabric production in India is expected to grow to 69 billion sq. mts. by 2017-18 from 66 billion sq. mts. in 2015-16³. The Indian textiles industry, currently estimated at around US\$ 108 billion, is expected to reach US\$ 223 billion by 2021. India's overall textile exports during FY 2015-16 stood at US\$ 40 billion⁴. India's major textile and clothing export destinations include the US, China, UAE, UK, Germany and Bangladesh comprising 18.2%, 11.9%, 6.6%, 6.3%, 4.8% and 5.1% respectively of the total textile and clothing exports from the country. The major Asian export destinations accounted for 20.9% of India's textile exports, with China (11.9%) as the leader. The US still remains the single largest nation importing textile and clothing from India. Major EU destinations constituted 16.2% of the total exports. Even though India is the second largest producer of manmade fibre, India's share in global exports of value-added textiles of manmade fibres is miniscule at around 2.25%.

In addition to the traditional cotton and man-made fibres, 'technical fibre' has emerged as a notable trend in the Indian textile industry and is currently growing at around twice the rate of textiles for clothing applications over the past few years and is expected to report a compounded annual growth rate (CAGR) of 20% over FY 2011-17. The major service offerings of the technical textile industry include thermal protection and blood-absorbing materials, seatbelts and adhesive tapes, Nylon Tyrecord Fabric, Single Side Coated Fabric, Belting Fabric, Medical Textiles (like surgeon garments, wipes, diapers etc.), Geotextiles, and Protective Textiles.

¹Annual Report 2016-17, Ministry of Textiles

²Textile Sector in India 2016-17, IBEF

³Textile Industry Report by Dun & Bradstreet India

⁴Textile Sector in India 2016-17, IBEF



Large inter-state movements both in respect of inputs and finished products characterize the Indian textile industry. Very few integrated units exist and thus huge amount of job work is involved in yarn to grey cloth, grey cloth to fabric for dyeing, bleaching and printing, fabric to embroidery, other value addition etc. It also draws inputs from many other sectors consisting of both goods and services including dyes and chemicals, petroleum products and transport services. Given the inter-state and inter-industry movement of goods and services and interdependence of organized and unorganized sectors in the textile industry, taxation becomes more challenging

1.0 INDUSTRY SEGMENTS

There is huge variation in the textiles sector with the hand-spun and hand-woven textiles sectors at one end of the spectrum and the capital intensive sophisticated mills at the other end of the spectrum. The decentralised power looms/ hosiery and knitting sector form the largest component of the textiles sector. Indian Textile Industry can essentially be categorized into two broad segments:

Organized Textile Industry:

Organized Textile Industry is a highly organized one with immense importance on capital intensive production process. This sector is characterized by sophisticated mills where technologically advanced machineries are utilized for mass production of textile products.

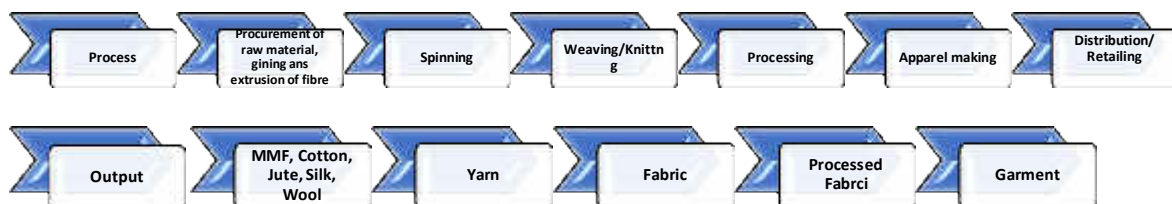
Unorganized Textile Industry:

Unorganized Textile Industry sector is the dominant part in this industry, which mainly utilizes the traditional practices woven or spun in cloth production and hence is labour intensive in nature. This industry is characterized by the production of clothes either through weaving or spinning with the help of hands. The decentralized nature is considered as another important feature of the unorganized textile industry in India.

Segmentation based on level of processing:

Another prevalent segmentation based on the levels of processing in the textile sector comprises of major 4 major segments viz. Spinning, Weaving, Processing, Garment Manufacturing. Indian spinning sector is highly advanced and competent globally in terms of price, quality and standards. It has the second largest installed spindle capacity as well as rotor capacity in the world. Indian weaving Industry has traditionally been one of the most surviving sectors of mass employment. As a matter of fact, after agriculture, the Weaving Industry is largest provider of work force. There is a huge quantity of availability of the raw materials; the continuous supply of economically affordable labour force is the contributing factors behind the success of the present weaving industry of India.

For understanding the various processes which are involved in the textile sector, it is necessary to look at the value chain :



Process	Procurement of raw material, ginning and extrusion of fibre	Spinning	Weaving/ Knitting	Processing	Apparel making	Distribution/ Retailing
Process	Ginning and cleaning machines	Spinning mills	Weaving and knitting units	Processing units	Apparel Design and Making	Outlets/ stores
Output	MMF, Cotton, Jute, Silk, Wool	Yarn	Fabric	Processed Fabric	Garment	
Units		1,135 small scale: 1,564 large scale	Hand looms 3.9 million Power-looms 1.8 million	2100	7700	
Remarks	Fairly large, Organised and financially strong	Large Capacity Fragmented	Weak and unorganized	Some large players	Fragmented consolidating	Fairly organised

Fibre based segment:

While Cotton, Silk, Jute and Wool are natural fibres extensively used in textiles, major filament yarns manufactured (man-made) in India are viscose, polyester, nylon and polypropylene. Viscose is used to make viscose filament or rayon, which is commonly used in dresses, linings, shirts, shorts, coats, jackets, and other outer wear. It is also used in industrial yarns, upholstery and carpets. Polyester is one of the most important filament yarns produced in India comprising 94% of the total filament yarn production in terms of quantity. It is used in making apparel and home furnishings besides other industrial uses. Polypropylene is a major polymer used in non-wovens. Most of it is used for diapers or sanitary products where it is treated to absorb water. Nylon is widely used in the manufacture of carpets apart from being used as industrial yarn in manufacturing of tyre cord.

Based on the fibre and processing, there are 9 major segments in the Textiles sector in India:

- 'Khadi' and handlooms
- Cotton textiles (including raw cotton, ginning, yarn, etc)
- Woollen textiles
- Silk textiles



- ø Art silk & synthetic fibre textiles
- ø Jute, hemp, & mesta textiles
- ø Carpets
- ø Ready-made garments (Apparels)
- ø Textile Handicrafts & Miscellaneous Textile products

2.0 CLUSTERS

Indian textile industry is highly fragmented as about 95% of the industry is unorganized. The predominance of Micro, Small and Medium Enterprises (MSMEs) are under pressure to modernise, expand and cut cost as there is increasing internal competition as well as from outside which is forcing individual units to look for economies of scale. A large number of units therefore coming together either in the form of strategic alliances or become a part of the cluster. There is a global trend of buyers on cutting down on the number of suppliers and to prefer sourcing their entire requirements from two to three vendors to ensure consistent quality and sustainable quantities which the industry is finding it difficult to fulfill.

Geographical Clusters:

Under these circumstances, clusters have come to play a significant role. Several states in India offer an attractive investment climate for players looking to enter the textiles and apparel market. Apart from the specific incentives and support offered by the state governments, factors such as infrastructure availability, manpower availability and general standard of living are also parameters that affect a company's investment decision. Thus specific geographical locations in the country have emerged as manufacturing hubs for specific products.

Haryana: Haryana has a well established textile sector. It has abundant availability of raw materials, especially cotton and wool used in various value added products specially furnishings at Panipat. In addition, there are a large number of garment manufacturing units in and around NCR. Gurgaon has emerged as key buying centre.

Andhra Pradesh: The state of Andhra Pradesh has an abundant supply of raw materials and production facilities. Andhra Pradesh produces 2.6 million bales of medium and long staple cotton. It ranks second in the production of raw silk, fourth in the production of wool and fourth in the number of textile mills in India. It is one of the leading textile processing centers with over 100 units and produces 13 million metres of cotton cloth per annum. The state has good power infrastructure- it is the third largest power utility in the country. Andhra Pradesh is amongst the leading states in India that have made a significant progress in power infrastructure generation, transmission and distribution.

Tamil Nadu: Tamil Nadu has the largest cotton textile industry cluster in India which contributes to 39 per cent of the total production in the country. The country's largest textile cluster, Tirupur, is also situated in Tamil Nadu. This cluster accounts for 90 per cent of the country's cotton knitwear exports. The state is emerging as a global sourcing hub for ready-made garments and hosts many global brands.

Gujarat: The textile sector contributes 23 per cent to the Gross State Domestic Product (GSDP) of the state. It contributes 12 per cent to the total textile exports of the country. Gujarat also produces 40 per cent of the country's art silk fabric. The state has a well developed textile machine industry and also various institutes for textile product design and development, like the National Institute of Fashion Technology (NIFT). Large Fabric Process Houses are concentrated in Ahmedabad (250) and Surat (450) in the State. The State accounts for 12% share of the total textile exports of the country. Clusters of processing units are located at Surat, Vapi, Kutch, Ahmedabad (Narol) and Jetpur. Textile Processing Industry has flourished leaps and bound in South Gujarat particularly in Surat district. There are nearly five lakhs of Powerlooms in Surat, which consume about four lakhs metric tons yarn in preparing the grey fabrics. About two crores meters of grey textile is manufactured daily in Surat. Today there are about 450 Dyeing and Printing Units located in and around Surat in various clusters - Pandesara, Sachin, Kadodara and Palsana. These Dyeing and Printing Units are engaged in processing of man-made fabrics, i.e. Dyeing, Bleaching, Printing, Finishing of grey fabrics. Mostly these units are processing the grey fabrics on job work basis. They receive the grey fabrics from the Traders / Merchant Manufacturers of the market and process the fabrics as per their requirement. There are about 150 wholesale markets in Surat.

Kerala: Spinning is the single largest industry in Kerala- hand looms contribute to 10 per cent of the total exports. Cotton yarn is the most popular textile product, followed by knitted garments and fabrics. The textile-processing complex at Kanjikode, the International Apparel Park at Thiruvananthapuram and the Industrial Export Park at Kochi, offer walk-in-and manufacture environments.

Punjab: Ludhiana in Punjab has also emerged as a major cluster for Woollen knitwear and hosiery products. Punjab is the biggest centre for woollen garments and second largest centre for cotton knitwear after Tirupur.

Maharashtra: Maharashtra has also emerged as a major centre for modern weaving of the manmade fabrics at Ichalkaranji and Bhiwandi.

The silk textiles industry finds concentration in Andhra Pradesh, Karnataka and Tamil Nadu.



3.0 TAX STRUCTURE

The taxation structure for textiles in the pre-GST era was primarily divided into the Central Excise duty and VAT, CST and local body taxes which are levied and collected by the states, with the overall incidence of such taxes varying across different states. This resulted in a fragmented input tax credit chain, leading to embedded taxes and cost escalations.

The Tax structure on Textiles consisted of the following levies:

Central Taxes:

1. **Central Excise Duty on all goods** falling under Chapter 61, 62 and 63 bearing a brand name (primarily Branded Ready Made Garments) having a Retail Sales Price of Rs. 1000 and above was 2% (without Cenvat) and 12.5% (with Cenvat), with the tariff value of 60% of Retail Sales Price to account for value-addition after manufacture.

Optional Central Excise duty route has been available since 2004 in case of cotton, MMF and Spun yarn at the yarn, fabric and garment stage, wherein duty was payable if the manufacturer opted to avail CENVAT, else the trader/manufacturer had the option of clearing goods without payment of Central Excise duty though no Cenvat credit of inputs, input services and capital goods was allowed. In case of cotton, there is zero duty at the fibre stage and in case of MMF, Central Excise duty of 12% is levied at the fibre stage.

2. **Service Tax:** Textile sector avails various input services for manufacturing its finished products. The service tax so paid on such input services cannot be set off since presently this sector is largely under duty exemption. Hence such service tax paid on input services becomes a cost. Service Tax on service in relation to textile processing is currently exempt.

State Taxes:

3. VAT/ Central Sales Tax

Most of the States in India have exempted textiles and fabrics from the levy of VAT / Central Sales tax. Garments including textiles are being subject to lower rate of VAT/ Central Sales tax in most of the States. It is in the range of 5%- 6%. For small players, the option of paying taxes at concessional rates is also provided under composition scheme in many States.

4. Entry tax

Textiles such as cotton, woolen or silk or artificial silks are liable to entry tax in some States like Karnataka, at the rate of 1% which adds to the purchase cost.

Existing Tax Structure: Summary of existing Central Tax Structure is as follows:

Description	C. Excise Rate	VAT/CST Rate	Exemption Notification/Date
Silk			
Raw Silk	NIL	NIL	Tariff Rate Nil
Silk Yarn	NIL	5%/2%	30/2004 C.E dated 09.07.2004
Silk Fabrics	NIL	NIL	30/2004 C.E dated 09.07.2004
Wool			
Raw Wool/Fibre Wool	NIL	NIL	Tariff Rate Nil
Tops/Woolen Yarn	NIL	5%/2%	30/2004 C.E dated 09.07.2004
Woolen Fabrics	NIL	NIL	30/2004 C.E dated 09.07.2004
Cotton			
Cotton Fibre	NIL	5%/2%	Tariff Rate Nil
Cotton Yarn	6%	5%/2%	7/2012CE dated 17.03.2012
Cotton Fabrics	6%	NIL	7/2012CE dated 17.03.2012
Manmade Filaments			
POY/PSF	12.50%	5%/2%	No exemption
Textured Yarn/Twisted Yarn	NIL	5%/2%	No exemption
Manmade Fabrics	NIL	NIL	30/2004 C.E dated 09.07.2004
Fibre	12.50%	5%/2%	No exemption
Yarn	NIL	5%/2%	30/2004 C.E dated 09.07.2004
Fabrics	NIL	NIL	30/2004 C.E dated 09.07.2004
Non Oven Fabrics	NIL	5%/2%	30/2004 C.E dated 09.07.2004
Laminated Fabrics	NIL	5%/2%	30/2004 C.E dated 09.07.2004
Knitted Fabrics	NIL	Nil	30/2004 C.E dated 09.07.2004
Knitted Garments			
100% Cotton Garments	6% of 60% of RSP	5%/2%	7/2012CE dated 17.03.2012
Other Than Cotton	12.5% of 60% of RSP	5%/2%	Tariff Rate

Garments Other Than Knitted			
100% Cotton	6% of 60% of RSP	5%/2%	7/2012CE dated 17.03.2012
Other Than Cotton	12.5% of 60% of RSP	5%/2%	Tariff Rate

4.0 KEY DIFFERENCES IN GST REGIME

GST REGIME

The proposed GST rate structure for the textile industry takes into account the current effective incidence of tax and tries to eliminate the inefficiencies of the pre-GST structure, while protecting the end-customer from an abnormal hike in prices.

GST on Goods	Stages			
Material/Fibre	Fibre/Raw	Yarn	Fabric	Apparels/Garment
Cotton	5%	5% ⁵	5%	Sale Value >Rs.1000: 12% Sale Value <1000: 5%
Synthetic/MMF	18%	18%	5%	
Silk	0%	5%	0%	
Jute	0%	0%	0%	

Jute and Silk articles falling under Chapter

GST on Job Work Charges	Stages			
	Fibre	Yarn	Fabric	Garments
GST	5%	5%	18%	18%

The Key features of the GST regime for textiles are:

1. Cotton sector which was hitherto exempted from central taxes and leviable to VAT at the fibre and yarn stage only, has been brought into the GST net, albeit with a low rate of 5%. This will ensure availability of Input Credit to all.
2. The GST rate structure is fibre neutral at the fabric stage with 5% GST on both Cotton and Synthetic/Man-made fabric, thus eliminating the inefficiencies arising out of the varied duty structures on different fibres.
3. Job work charges which were hitherto exempted from service tax provided the Principal is paying Excise Duty upon clearance of goods are now leviable to GST. This will allow job-workers to avail ITC on inputs, consumables and input services.
4. Wool, raw silk, silk waste, Khadi yarn, raw jute and processed jute except jute yarn have been exempted from GST

⁵All Cotton Yarn except Khadi Yarn is leviable to 5% GST

5.0 LEGAL ISSUES OTHER THAN TRANSITIONAL PROVISIONS

The trade and industry associations in their representations have raised a wide variety of legal issues that have either been addressed in this section or through this section are being referred to the Law Committee.

1. Legal Issue: Section 9(4) of the CGST Act requires every registered person to pay GST in reverse charge on all supplies purchased from unregistered suppliers. Will this be applicable to a registered person purchasing raw cotton from a farmer?

a. Response of the Sectoral Group: All farmers who cultivate Jute and Cotton are 'agriculturists' as per the definition of the term provided under Section 2(7) of the CGST Act, and thus are not liable for registration as per Section 25 of the CGST Act. However, while all such farmers will be 'unregistered' persons, they will get treated as 'unregistered suppliers' only if the goods supplied by them are taxable.

Clarity, however, needs to be provided regarding the definition of 'unregistered' person: Is he the one whose supplies are taxable and is not registered on account of being below the threshold limit or exemption from registration as in the case of agriculturists or does it mean any person who is not registered under the Act, whether liable or not will be considered an 'unregistered' person?

b. A related issue is about payment of tax by the buyer on Reverse Charge basis under Section 9(4) in the context of three natural sources of fibre in India viz. Jute, Silk and Cotton.

i. Jute and Silk: In case of Jute, the raw fibres of Jute falling under Chapter 53 have been specifically exempted from GST by levying a 0% GST rate. Thus, even if a Jute farmer is considered an 'unregistered' person under the CGST Act, the buyer of raw jute will not be required to pay any GST under Reverse Charge as the article itself i.e. raw jute fibre is exempted from GST under the Rate Schedule.

Raw Silk, Cocoon laying and Silk Waste falling under Chapter 50 have also been exempted from GST by levying a 0% GST rate. Hence its treatment for the purpose of Section 9(4) will also be similar to that of Jute.

ii. Cotton: No exemption has been provided on Raw Cotton under the Rate Schedule and 5% rate has been prescribed for cotton fibre. Consequently, raw cotton appears to be liable to GST. Moreover, a farmer cultivating Cotton, being an agriculturist, is not required to be registered and is an 'unregistered' person as discussed above. **This possibly implies that every registered person buying raw cotton from a cotton farmer will be required to pay GST at a rate of 5% under Reverse Charge. Clarity needs to be provided.**



2. ***Legal Issue: Gift Cards are frequently used in the Apparel Retail Industry. Clarity is required whether gift cards are to be treated as 'advances' or as 'vouchers' within the purview of the CGST Act, with a subsequent clarity on the Time, Value and Place of Supply in case of supplies against such Gift Cards***

Response of the Sectoral Group:The Working Group is of the view that Gift Cards are nothing but :Vouchers~ as defined under Section 12 and Section 13 of the CGST Act with the time and place of supply being the time and place of redemption of such voucher under Section 12(4)(b) and Section 13(4)(b) of the CGST Act. This understanding of the Sectoral Group needs to be clarified and if possible a definition of :Vouchers~ provided under the Rules.



3. *Legal Issue: Most of the apparel retail chains have a concept of Loyalty Cards. Points earned on these Loyalty Cards are set off from the total bill amount. Loyalty Points accrue as per a pre-declared policy generally 1 point for a certain amount spent by the Member. Clarity is required whether set off allowed against such loyalty points is to be treated as 'discount' within the purview of the CGST Act, or whether it will be treated just as a mode of payment, thereby requiring payment on the total value of supply ?*

Response of the Sectoral Group In case of redemption of loyalty points for a purchase, the Group is of the view that **Loyalty Points are nothing but a mode of payment, and that the GST must be paid on total value of supply irrespective of the fact that loyalty points are utilized while making a purchase. This needs to be vetted by the Law Committee.**



4. Legal Issue: Various Industry Associations have sought clarity on the definition and difference between ‘Composite Supply’ and ‘Job-Work’ as defined in the CGST Act.

Response of the Sectoral Group: In this context, it is important to clarify the meaning of ‘natural’ bundling and ‘unnatural’ bundling in the definition of ‘Composite Supply’ under Section 2(30) of the CGST Act. In view of the Group ‘natural’ bundling implies that **the recipient of the supply has no option to decide whether he wishes to receive the various elements of the supply being provided as a bundled supply.** Whereas, if such an option to decide is possible then the supply cannot be said to be ‘naturally’ bundled and such a supply will not be ‘composite’ supply. This is explained by the way of an illustration

Illustration:

- a. In case of delivery charges collected by a hypermarket for making a home delivery, the recipient of the supply of goods has the option of going and collecting the supplies from the market itself. Thus this is cannot be treated as a ‘composite supply’. Similarly, in case of a Car taken to a service station, it is not mandatory to get all the parts replaced. Thus the bill can still be split into supply of goods and supply of services and not as a ‘Composite Supply’.
- b. On the other hand software on media, electroplating, powder coating, restaurant are examples of ‘naturally bundled services’ and thus in the Group’s opinion these will be treated as ‘Composite Supply’.
- c. The distinguishing feature of job-work is that goods being worked upon by the supplier must belong to the principal. In this respect in the opinion of the Sectoral Group it needs to be clarified that even if some materials, consumables are provided by the job-worker, the transaction would still fall under the ambit of Job-Work.

Clarity in this regard is requested from the Law Committee.

5. *Legal Issue: As per the Services Rate Schedule version dated 18th June 2017, the GST rate for job-work in respect of fibre and yarn (except MMF) has been fixed at 5%. Industry associations have represented on the following two points:*

i. *At what stage can it be said that the apparel/garment has come into existence specially in the context of fabrics/made-ups and half-stitch material, and will the processes till such time will be treated in relation to yarn & fabrics?*

ii. *What will be the treatment of blended yarn of various composition of MMF and cotton fibre under the entry 13A of the Services Rate Schedule?*

a. *Response of the Sectoral Group:* The Group is of the view that till the time making i.e. stitching takes place, the services should be treated in relation to yarn & fabric and only when the stitching takes place, the services should be treated in respect of wearing apparels (9998822). However, this also leaves the services in relation to Made-ups like embroidery, patch work, side stitches, hemming etc.

In view of variations in the GST rate on job charges in respect of yarn (except MMF) & fabric(9998821) and Wearing apparels (9998822), clarity is needed from the Fitment Committee as to when will services in relation to yarn & fabric end and services in relation to wearing apparel begin. Such clarity is important as there are a large number of intermediate processes .

b. In relation to the issue regarding blended yarn, it is the suggestion of the Group that job charges in respect of all yarn be made leviable to a standard GST rate as a job worker usually deals with multiple blends of yarn and a single piece of fabric may consist of yarns with varying compositions, forexample a single denim fabric may consist of three types of yarn namely cotton, viscose and blended yarn. **Varied rates on the job work charges for each of these yarns will lead to complicated compliance requirements. This issue needs to be further decided by the Fitment Committee.**



6. **Legal Issue:** (i) *As per the GST Rate Schedule version dated 11th June 2017, MMF Yarn is fixed at 18% GST and Cotton Yarn is fixed at 5% GST. What will be the rate of GST for blended yarn?*

(ii) *When the policy of the Government is to maintain current tax incidence, why higher GST is proposed to be levied on POY/PSF and Spun Yarn ?*

- a. *Response of the Sectoral Group:* In the current HSN structure, spun yarns will be classified on predominance basis and failing that on the last in numerical order basis. Interactions with industry reveal that there are numerous blends prevalent and from normal inspection, composition cannot be known. As the GST rate varies from 5% to 18%, **it is thus the view of the Group that all spun yarns (including Cotton and MMF) be brought at uniform rate of GST.** Industry suggestion is that items covered under Entries at Sl. No. 5 to 10 A of the Table to Notification 30/2004- CE should be taxed at uniform rate of 12% to avoid disputes and administrative difficulties.
- b. It is understood from interactions with the various Industry bodies and associations that majority (80%) of the PSF and POY produced in Maharashtra and Gujarat is sold to weavers outside primarily Tamilnadu as the respective states as Maharashtra and Gujarat do not have a large number of weavers. This translates to an effective duty incidence of 14.75% (12.5 Excise Duty and 2% CST on Value + Excise Duty). The proposed GST rate of 18% on MMF yarn is thus claimed to be significantly higher than the current duty structure on such fibre/POY. The industry associations have represented that since the spinning part was exempt under the Excise Duty regime under the optional route the current incidence was only 15% till the fibre/POY stage. In the proposed GST regime the incidence be 18% on both PSF and POY and even on the spun yarn. Thus the incidence has gone up from 15% on X (fibre) to 18% on 1.8X (yarn), assuming a standardized 80% value addition from fibre to yarn. This will result in increased costs. The industry demand is that if 18% rate is to be maintained at PSF/POY/Nylon fibre stage, 12% rate should be prescribed for yarn used for weaving irrespective of its composition.



7. *Legal Issue: It has been represented to the Group by Buying Houses whether the GST paid by Buying Houses in the apparel sector under 'intermediary' can be availed by Exporter/Manufacturers as eligible ITC, even though their service agreement for supply of goods is with the foreign buyer but a separate invoice clearly mentioning the commission charged per consignment is generated by the Buying House in the name of the foreign buyer.*

Response of the Sectoral Group: The Group is of the view that even though on record, the services provided by the Buying Houses to the foreign buyer and not to the exporter/manufacturer, their services support the export of goods being manufactured by the exporter/manufacturer. Infact such supplies are not considered as export of services, even though invoicing is to the foreign buyer and payment are received in free foreign exchange on the ground that the services are in relation to goods being supplied from India. Admittedly, such costs get embedded into the cost of exports from India. **Hence a need is felt to find a suitable mechanism such that the ITC of such GST paid by the Buying Houses is allowed to the exporter/manufacturer. The buying house invoice carries a reference to the supplier's export invoice. This apparently will require modification in relevant provisions in the ITC Rules and the Law Committee may please provide guidance on the issue.**



8. *Legal Issue: It has been represented to the Group in respect of goods that are supplied from the premise of a manufacturer/trader for the purpose of display in an exhibition or fair within India or abroad. A part of such goods may also get sold during the fair/exhibition with the remaining goods brought back to the original premise, the time and place of supply may please be clarified. It may also be clarified whether such process of removal of goods and bringing back of unsold goods to the original premises will be considered as 'supply' under the CGST Act.*

- a. *Response of the Group:*The Working Group is of the view that no GST will be payable at the time of removal of the goods for the purpose of display in an exhibition or fair within the same State if such removal is carried out by the owner of the goods such that the legal ownership of the goods does not change. However, if the goods get supplied across the State, then a supply would have occurred and GST would be payable by the supplier of such goods even when there is no consideration for such supplies. For exhibitions abroad, of course such goods can get covered as exports and returns and no GST may be payable. Currently such temporary clearances are exempt to the extent these do not get sold for which appropriate Central Excise duty is payable and VAT is payable as Casual Dealer. **This needs to be confirmed by the Law Committee.**
- b. Second issue is regarding goods that were temporarily removed for the purpose of display in an exhibition or fair prior to the appointed date without payment of any duty (excise or VAT) but are brought back to the original premise within 60 days of the appointed date. The group is of the view that no GST will be leviable on such supplies brought back and that GST will be leviable on the goods that are not brought back within the stipulated period of 60 days. **This needs to be vetted by the Law Committee.**
- c. Group is of the opinion that an appropriate Exemption mechanism needs to be created for temporary removal of goods for a period of 60 days on the condition that if such goods are not brought back to the original premises within the stipulated period of 60 days then the supplier will be liable to discharge relevant GST. **This needs to be taken up by the Law Committee for consideration.**



9. *Legal Issue: It has been represented to the Working Group that there are certain articles like hand woven carpets which were hitherto exempted from Central taxes but have now been brought within the ambit of GST. Such articles are primarily woven by job-workers over a period of 6-18 months. Since the transitional provisions in the CGST Act (Section 140) and the Transitional Rules provides only 6 return cycles for claiming any deemed credit, in case of hand woven carpets such deemed credit would be difficult to avail as 6 months may not be sufficient time for the carpets to be woven and brought back to the premise of the principal and also be cleared upon payment of the required GST in order for the principal to be able to avail the deemed credit.*

Response of the Group: The Group is of the opinion that though the transitional provisions are very clear in this regard, **there is merit in the issue. Law Committee consider this issue for appropriate solution (may be by empowering the jurisdictional Commissioner to extend the period of 6 return cycles by a further 6 return cycles on a case-to-case basis in their respective jurisdictions). This can be similar to the provisions available to the Commissioner in the case of job-workers in Section 143(1)(b)(ii) of the CGST Act. The impact of such a change in the Transitional Rules on Section 141 and 142 of the CGST Act may also have to be examined by the Law Committee in detail.**

10. Legal Issue: Various Associations have represented to the Group seeking clarity on the treatment of Advances in cases where the supplies against such advances is made from more than one location (across states) of the supplier and received at more than one location of the recipient.

- a. *Response of the Group:* It is felt that the Associations have raised a very valid concern regarding the adjustment of Advances which may be of a revolving nature received for supply, which may be affected from more than one location of the provider. Advances are typically given to entity's headquarters and not to individual supply units and as such may not be amenable to adjustment against a particular invoice from a single location as envisaged.

The question in front of the Group is ***“How to adjust the advances which are being adjusted from business locations other than the location where such advance has been received?”***

The problem is now mitigated to a large extent since the provisions have been made in Invoice Rules (Rule 5) that in case of receipt voucher to be issued against advances received by a registered person, if the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent and if the nature of supply is not determinable, the same shall be treated as inter-State supply. The suggestions of the Association in relation to the time of supply being the date of payment in case the advance is adjusted within the same cycle and the taxation of advances lying in balance at the end of a return cycle have been already addressed in the Rules.

However, settlement of advances received at one centralized location (head office) and fulfillment of the orders from different supply units of the said entity located across states still doesn't get completely addressed.

A possible solution is to allow the transfer of part advance to the supplier with same PAN completing the supply against which the advance is being adjusted, as an interstate supply. Such a treatment would then lead to transfer of the credit of the tax paid on advance to supplier where the advance is being adjusted.



11. Legal Issue: Associations have sought clarity from the Group on the treatment of turnover and cash discounts that are provided to retailers, dealers and wholesalers as a part of the current trade practices, as such discounts are determined at the end of the financial year and not connected to a particular invoice. Clarity is also sought on the purchase returns, whether such returns of goods supplied in a financial year is made after the period of 6 months/ September of the succeeding calendar year can be treated as fresh supplies and the relevant credit be allowed to flow.

- a. *Response of the Group:* Section 16(4) of the CGST Act restricts the availment of ITC on debit notes/credit notes beyond September following the end of the financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier. As such, the eligible period for such returns would be ranging from 18 months in respect of supplies made in April to 6 months for supplies made in March. **There is no doubt that the Apparel Sector, which has two major seasons- Winter & Summer will face issues relating to treatment of returns. The problem will get compounded since in the present VAT regime, in case of sale on approval basis, the supply is not taxed as the supply is not being treated as a sale, instead it is treated as a self-supply till the final sale by the retailer to consumer.**

The representatives of the retail and garment industry have made a strong point that this being a seasonal industry, since the ITC on debit/credit notes issued in March will be available only till September of that calendar year i.e. a period of only 6 months, they will be unable to function. However, since the sale on approval basis and return on B to B basis are a norm in quite a few consumer goods sectors, this aspect would require broader consultation for appropriate solution within the given framework.

However, since the CGST Act has already been passed by Parliament, it is recommended that **an appropriate solution in the form of treating such return of goods, when made after a lapse of the period as mentioned in Section 16(4) of the CGST Act, as a fresh supply based on an invoice so that the restriction imposed by the second proviso to Section 16(2) is addressed, needs to be formulated by the Law Committee.**

6.0 KEY SUGGESTIONS FROM TRADE/BUSINESS

CORDUROY FABRIC

Corduroy fabric is a woven apparel fabric classified under Chapter Heading 5801. Currently the GST rate suggested for Heading 5801 which includes *Woven pile fabrics and chenille fabrics, other than fabrics of heading 5802 or 5806* is 12%. Corduroy is woven pile cotton fabric used for making garments.

Since all other fabric material under Chapter 52, 53 and 55 is leviable to 5% GST, a separate rate for Corduroy fabric would create a market anomaly. Chapter 58 covers special category fabrics like tapestries and quilted textile products which have special uses other than for manufacture of garments. **Corduroy pile fabric though included under Heading 5801 is just another variety of woven fabric used for purposes similar to other woven fabrics and deserves a treatment similar to the woven fabrics under Chapter 52, 53 and 55**

Moreover, a differential treatment of Corduroy fabric classified under Heading 5801 vis-à-vis woven fabrics under Chapter 52, 53 and 54 under GST, is likely to create confusion in as much as they have the same end-use and in the existing Excise Duty and VAT regimes the treatment of all articles falling under Chapter 52, 53, 54 and 58 is similar. **It has been requested that GST rate on Corduroy fabrics should be brought down to 5%.**

FISHNETS

Fishing Nets and Fishing Twine falling under Chapter Heading 5607 and 5608. Currently the GST rate suggested for articles falling under Chapter 5607 and 5608 is 12%.

Currently Fishing Nets and Twine are conditionally exempted from Central Excise Duty under Notification 30/2004 as amended by Notification 13/2007.

Fishing Nets and Fish Twine are currently a part of the key social sector support provided by the Government of India to the fishermen community. They are currently not subject to Excise Duty and VAT in most states. Infact, the coastal states provide cash subsidy for purchase of fishnets. It has been represented that a steep 12% rate would lead to hardships for the consumers, viz. the fishermen community.

It has been therefore requested that the GST rate for Fishing Nets and Fish Twine falling under Chapter Heading 5607 and 5608 may be lowered to 5%.

PP/PE WOVEN SACKS & FIBC

GST rates on Textiles and made up of Textile have been decided by the GST Council on 03.06.2017 product Viz PP/PE Woven Sacks falling under 63053300 and Flexible Intermediate Bulk Containers (FIBCs) falling under 63053200, are at 5% rate of GST.

However, PP/PE Woven Sacks & FIBC are Technical Textiles used for packaging and transport of Bulk goods. They are not a made up or article of Textiles used by common man. Nor it is a product falling under goods of special importance.

PP/PE Woven Sacks and FIBC are subjected to an Excise duty @12.5% and VAT @5% currently. The Raw material are Plastic Polymers of Chapter - 39 with 18 % GST and this will lead to inverted tax structure.

In the light of above facts, it has been requested to correct the anomaly and align the GST rates on PP/PE Woven Sacks (63053300) and FIBCs (63053200) with the raw material rate.

MAN-MADE FIBRE

Man-made fibre currently classified under Chapter Heading 5401, 5402, 5403, 5404 , 5405 and 5406 and Chapter Heading 5501 to 5505 will be leviable to 18% GST, whereas the fabric made from the same material will be subject to a GST rate of 5%. This is likely to create a situation in the market where individual weavers in short term and both weavers and the fibre manufacturers in long-term would be at a disadvantage as discussed in the succeeding paragraphs.

The value chain of the Man-Made fibre along with the proposed GST rates and the control over the value-chain of the category of businesses is provided in the infographic (Figure 1)

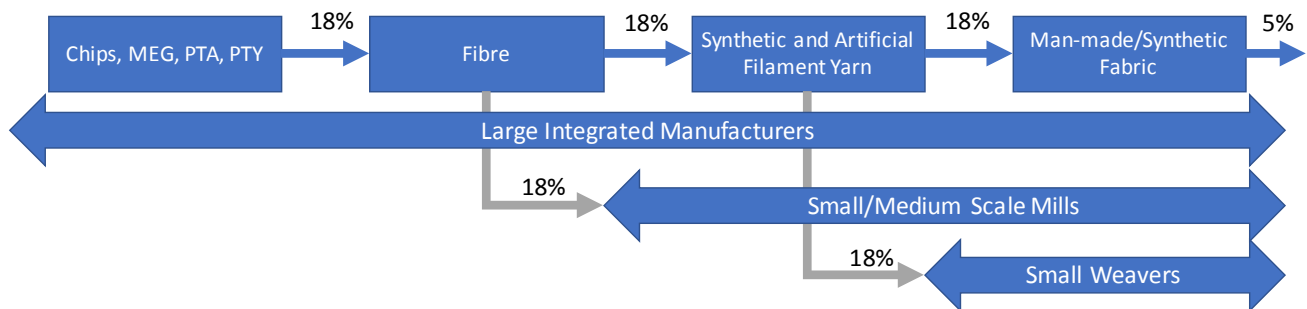


Figure 1

It is understood from interactions with the various Industry bodies and associations that majority (80%) of the PSF and POY produced in Maharashtra and Gujarat is sold to weavers outside primarily Tamilnadu as the respective states as Maharashtra and Gujarat do not have a large number of weavers. This translates to an effective duty incidence of 14.75% (12.5



Excise Duty and 2% CST on Value + Excise Duty). The proposed GST rate of 18% on MMF yarn is thus claimed to be significantly higher than the current duty structure on such fibre/POY. The industry associations have represented that since the spinning part was exempt under the Excise Duty regime under the optional route the current incidence was only 15% till the fiber/POY stage. In the proposed GST regime the incidence be 18% on both PSF and POY and even on the spun yarn. Thus the incidence has gone up from 15% on X (fiber) to 18% on 1.8X (yarn), assuming a standardized 80% value addition from fiber to yarn. This will result in increased costs. The industry demand is that if 18% rate is to be maintained at PSF/POY/Nylon fibre stage, 12% rate should be prescribed for yarn used for weaving irrespective of its composition.

It has also been submitted by the industry that the Large Integrated Manufacturers who control the upstream value chain from the manufacture of chips, MEG, PTA, PTY etc. to the fabric stage would be much better palced in the GST regime with the proposed rate structure as they would not be required to pay GST at any of the intermediate points and would need to only pay 5% GST at the time of clearing of the Synthetic fabric. Apprehension has been expressed that in contrast, the Small/Medium scale mills and Small Weavers would be required to purchase the Fibre/Yarn at 18% GST and the output fabric would be leviable to 5% GST without refund of accumulated ITC, leaving them with an additional GST burden.

Further, since GST rate of 5% would mean 5% IGST on import of fabrics, who would not suffer accumulation, increased imports of finished MMF fabrics (specially from China which is already dumping fabrics in India and an anti-dumping investigation is currently underway), would in lead to even fibre manufacturers loosing their market- initially because of low off take by the weavers/spinners and later due to low demand for the domestic fabrics. **It has been requested that adequate protection should be provided against imported fabrics specially since Chinese fabrics have already captured about 25% of the market share.**

Thus, in order to provide cushion to the small scale mills and weavers, it has been requested that the rate of GST on PSF/POY should be brought down to 12% and if the same is not possible, 18% rate may be restricted at the fibre stage and spun yarn should be taxed at 12% rate.

MINK BLANKETS

It has been represented by the Industry that the GST rate of 5% on Blanket and Fabrics announced in GST meeting held on 03/06/2017 will actually make the imports cheaper compared to domestic production. Currently the total duty on import of Blanket is around 29% and no credit is allowed to importer against the duty paid on import and thus the duty paid of 29% become cost to the importer. However, after implementation of GST the duty on Import will be around 16% which includes Custom Duty, cess and IGST @5% on Import. Thus the duty would get reduced by 13% in GST regime. It has been represented that actually the import of blankets will be cheaper by 18.70% due to availability of input credit of IGST paid on import which will adversely affect domestic business. The same will in turn have adverse impact on yarn and fibre industry also thus leading to unemployment.

It has been requested to calibrate the import duty structure to ensure adequate protection to the domestic industry. It is noteworthy that the Basic Customs duty on blankets made of wool or fine animal hair @ 10% or Rs. 275/- per piece whichever is higher.

Annexure-A

Comparison of Imported Blanket landing Cost Pre GST & Post GST

	Tax Rate	Amount(Rs)	
		Current Scenario	GST Scenario
Assuming Import Price of One Blanket		600	600
BC D	10%	60	60
		660	660
CVD	12%	79.20	
		739.20	660
Cess on BCD & CVD	3%	4.17	1.8
		743.37	661.8
Additional Import Duty	4%	29.74	0
		773.11	661.8
IGST	5%	0	33.09
Landing Import Cost Per Piece (Rs.)		773.11	694.89
Less: Input Tax Credit of IGST		0	33.09
Landing Import Cost Per Piece (Rs.)		773.11	661.80
Effective Rate of Duty		29%	10.30%

MICRODOT INTERLINING

It has been represented by the trade that Micro Dot Interlining falling under Chapter 59 is lining used in the garments industry. **It has been requested that the rate of Micro Dot Interlining should be same as other lining material and the garments at 5%.**

WEARING APPAREL MANUFACTURING SERVICES (998822)

The representation is with regards to insertion of Sl. No. 13 A to the GST rates of services after the 11.06.2017 meeting of the GST Council which has reduced GST rate for `Services by way of job work in relation to (a) Textile Yarns (other than man-made fiber / filament) and textile fabrics`. It has been submitted that as a consequence of this change in rate, only the services falling in entry 998821 which can be classified as `Job work in relation to Yarn and Fabrics of textiles` alone is eligible for the reduced rate of 5 %.



The industry at Tirupur have informed that in textile clusters like Tirupur, host of job work operations such as garment printing, embroidery, garment washing, tie and dye, checking, button fixing, labeling, ironing and packing are carried out by micro industries on job work basis which are carried out in relation to wearing apparel and accordingly not covered by entry 13 A. It has been stated that some of these processes such as checking, ironing and packing, button fixing, etc., are actually carried out by people who take work to their home for job work.

It has been contended that as these processes are only of B2B nature and since the final product namely garments is falling under 5% slab, levying 18 % on job work will create an inverted duty scenario and that the intention of removing the hardship for the MSME industry by reducing the GST Rate on job work will not be fully served if these tiny and micro industries as listed above are excluded from the benefit of rate reduction.

They have requested that the rate be reduced to 5% on “job work services for wearing apparels” also be reduced to 5%. It has also been contended that as these job workers fall in the middle of the textile manufacturing value chain where the credit is ultimately passed on to the final manufacture, there is absolutely no revenue implication in case the rate is reduced to 5%.

QUILTS (INCLUDING JAIPURI RAJAI)

It has been represented that Rate of tax on cotton quilts (9404) is 18% and on other quilts 28% whereas blankets (6301) having sale value upto Rupees 1000 per piece and above Rupees 1000 per piece are put in the slab of 5% and 12% simultaneously.

It has been submitted that quilts (JaipuriRajai included) have similar usage like blankets and mostly made from hand-printed clothes produced by artisans and that this sector provides a large number of employment to weaker sections of the society.

Request has been for reduction of rate on Quilts to 5% for aligning with other similar goods.

AGRO TEXTILES

It has been represented that no specific entry is available for HDPE woven geo-membrane waterproof lining (Pond Liner) which is used by farmers for storage of water and that as a result it'll go to 28% GST rate. It has been informed that the item is currently classified under 3926 9099 and attracts 12. % excise duty and NIL VAT. The request is for providing specific entry and GST rate of 5%.

It has been requested that specific entry should be provided for HDPE woven geo-membrane waterproof lining (Pond Liner) and that the same should be taxed @ 5% since it is widely used by the farmers.

7.0 SUGGESTIONS FOR LEGAL ISSUES

- 1. Clear definition of ‘unregistered’ person’ should be provided in the Act** so as to remove confusion as to whether a supplier whose supplies are taxable and is not registered on account of being below the threshold limit or exemption from registration as in the case of agriculturists or does it mean any person who is not registered under the Act, whether liable or not will be considered an ‘unregistered’ person ?
2. The meaning of ‘natural’ bundling and ‘unnatural’ bundling in the definition of ‘Composite Supply’ under Section 2(30) of the CGST Act should be provided with illustrations.
3. The difference between job work and contract manufacturing should be explicitly provided in law itself. It needs to be made clear as to when does a job worker become sub-contractor. This is important since in number of cases, some inputs have to be necessarily procured by the jobworker leading to dispute that they are not covered under the jobwork provisions.
4. In view of variations in the GST rate on job charges in respect of yarn (except MMF) & fabric (9998821) and Wearing apparels (9998822), clarity is needed as to when will services in relation to yarn & fabric end and services in relation to wearing apparel begin. Such clarity is important as there are a large number of intermediate processes .
5. Classification norms for blended yarn, need to be explicitly provided if the different rate structure on natural fibres and man made fibres is to continue. It will be critical for the Textiles sector, tax levy being new to majority specially since a job worker usually deals with multiple blends of yarn and a single piece of fabric may consist of yarns with varying compositions, for example a single denim fabric may consist of three types of yarn namely cotton, viscose and polyester yarn. Varied rates on the job work charges for each of these yarns will also lead to complicated compliance requirements.
6. The services of Buying Houses to the foreign buyer support the export of goods being manufactured by the exporter/manufacturer. Infact such supplies are not considered as export of services, even though invoicing is to the foreign buyer and payment are received in free foreign exchange on the ground that the services are in relation to goods being supplied from India. As such there is a need to find a suitable mechanism such that the ITC of such GST paid by the Buying Houses is allowed to the exporter/manufacturer. The buying house invoice carries a reference to the supplier’s export invoice. This apparently will require modification in relevant provisions in the ITC Rules and the Law Committee may please provide guidance on the issue.
7. An appropriate Exemption mechanism needs to be created for temporary removal of goods for display and participation in an Exhibition in India and abroad may be for a period of 60



days on the condition that if such goods are not brought back to the original premises within the stipulated period of 60 days then the supplier will be liable to discharge relevant GST.

8. Certain articles like hand woven carpets which were hitherto exempted from Central taxes but have now been brought within the ambit of GST are primarily woven by job-workers over a period of 6-18 months. Since the transitional provisions in the CGST Act (Section 140) and the Transitional Rules provides only 6 return cycles for claiming any deemed credit, in case of hand woven carpets such deemed credit would be difficult to avail as 6 months may not be sufficient time for the carpets to be woven and brought back to the premise of the principal and also be cleared upon payment of the required GST in order for the principal to be able to avail the deemed credit. Law Committee may consider this issue for appropriate solution (may be by empowering the jurisdictional Commissioner to extend the period of 6 return cycles by a further 6 return cycles on a case-to-case basis in their respective jurisdictions). This can be similar to the provisions available to the Commissioner in the case of job-workers in Section 143(1)(b)(ii) of the CGST Act. The impact of such a change in the Transitional Rules on Section 141 and 142 of the CGST Act may also have to be examined by the Law Committee in detail.

9. The issue is ***“How to adjust the advances which are being adjusted from business locations other than the location where such advance has been received?”*** The problem is now mitigated to a large extent since the provisions have been made in Invoice Rules (Rule 5) that in case of receipt voucher to be issued against advances received by a registered person, if the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent and if the nature of supply is not determinable, the same shall be treated as inter-State supply. However, settlement of advances received at one centralized location (head office) and fulfillment of the orders from different supply units of the said entity located across states still doesn't get completely addressed. A possible solution is to allow the transfer of part advance to the supplier with same PAN completing the supply against which the advance is being adjusted, as an interstate supply. Such a treatment would then lead to transfer of the credit of the tax paid on advance to supplier where the advance is being adjusted.

10. Associations have sought clarity from the Group on the credit notes/debit notes issued by them as a part of the current trade practices are issued at the end of a period say a quarter and not connected to a particular invoice. This includes trade returns, year end discounts, rejects, quality disputes, company announced price reduction etc.. It has been argued by the trade that since any amendments are in subsequent returns only, an aggregate debit note or credit note for a period without reference to should not affect. The request is to allow credit/debit note without reference to invoice.

11. As the textiles sector has been out of tax net since long, a request has been made to allow transitional credit on deemed basis to manufacturers also since large number of manufacturers (weavers, RMG manufacturers etc.) have been buying goods from traders only.



8.0 TRANSITIONAL ISSUES

GST is replacing a multiple tax regime by a single tax regime. **Transition Provisions** contained in Chapter XX of the CGST/SGST Act, supported by **Transition Rules**, would ensure that shift from old tax regime with multiple taxes and multiple statutory provisions to the GST regime is seamless and smooth. The transition provisions ensure that there is, -

- Zero double taxation,
- Zero loss of input tax credit,
- Zero hindrance in movement of goods and
- Zero disruption in business activities.

The transition provisions address the issues of GST registration of existing Central and State tax payers, transfer of existing Central and State input tax credits, availability of credit of Central & State taxes in respect of goods lying in stock and goods in transit.

(a) Transition of Registration:

All tax payers registered for Central Excise, Service Tax and VAT, having valid PAN numbers, have been given automatic provisional GST registration. All such tax payers would get final registration on submission of prescribed documents. Textiles sector tax payers, who are registered under Central Excise, Service Tax and VAT have been provided provisional GST registration to facilitate seamless transition. New taxpayers from textiles sector would seek fresh GST registration that would be open from 25th June 2017.

(b) Transition of Input Tax Credit:

(i) Manufacturers/service providers / dealers having existing registration under Central Excise, Service Tax and VAT are eligible to carry forward CENVAT/ST/VAT credit as ITC under the GST. The input tax credit balance declared in the records and returns as on 30.06.2017 would be fully eligible for transfer as ITC under the GST. They are also entitled to carry forward balance and unavailed CENVAT credit on capital goods by filing requisite declaration. Accordingly, MMF (manmade fibre) yarn manufacturers of textiles sector, presently registered for payment of excise duty/ST/VAT have the facility to carry forward balance CENVAT/VAT credit.

(ii) Some manufacturers/service-providers/dealers are not required to be registered under existing laws as they deal in exempted goods/services. They would be eligible to take ITC on inputs / semi-finished goods / finished goods that would be used for making taxable supplies under the GST regime. The ITC in such cases would be equal to the full amount of duty/tax as indicated under the tax invoice for such inputs, provided such tax invoice is not more than 1 year old i.e. only such invoices which are issued on or after 2nd July 2016 would be eligible.

(iii) A trader / dealer not registered earlier would be eligible to take ITC on inputs / semi-finished goods / finished goods that would be used for making taxable supplies under the GST regime. In case, such person has tax invoices, ITC would be equal to the full amount of

duty/tax as indicated on tax invoice. In case of non-availability of tax invoices, such persons would be eligible to take input tax credit of 60% of GST paid where GST rate on intra-state transactions is 18% *ad valorem* or more and 40% of GST paid in other cases. **In case of inter-state transactions, such deemed ITC would be 30% and 20% respectively.** This facility would be available for a period of six months on such goods/stocks that were not unconditionally exempted under old tax regimes. This provision is not applicable for manufacturers.

(iv) Cenvat credit in respect of input services reversed under existing law for failure to make payment of consideration within three months can be revived if consideration is paid within three months of appointed day.

(v) Credit in relation to stock received under inter-State sale would be available by providing information of value and serial number of relevant forms E, H, etc.

(vi) Full Credit of both Central & State taxes paid on goods in transit on the appointed day i.e. 01.07.2017 would be available on the basis of relevant duty/tax paying documents. The invoice of such goods must however be recorded in account books within 30 days~ period which can be extended by further 30 days by the Commissioner.

(vii) A person registered for GST, who earlier operated as `composition taxpayer_, shall be entitled to take credit of duties and taxes in respect of goods held in stock on 01.07.2017.

(c) No double taxation in transition:

(i) GST shall not be payable in respect of supply of goods & services which have suffered tax under the earlier tax laws.

(ii) GST shall not be payable in respect of return goods, for a period of six months, which were cleared before 01.07.2017 on payment of tax under the earlier tax laws.

(iii) Goods sent for job work before 01.07.2017 would not attract GST when returned from job worker to principal within six months.

(d) Job Work in transition:

No GST would be payable on inputs/goods cleared to job worker as per existing laws before appointed day if such goods are returned back by job worker within 6 months of the appointed day. Period of 6 months may be extended by another 2 months by the Commissioner. If such inputs are not returned within the specified period, input tax credit would be inadmissible. Such goods may be cleared from job worker's premises on payment of applicable tax or for export without payment of tax.

(e) Refund Claims:

All pending refund claims shall be dealt with as per existing laws and refunds shall be paid in cash irrespective of statutory provisions to the contrary.

(f) CENVAT Credit cases:

All appeals, review or reference relating to CENVAT credit claim would be disposed as per existing laws and amount of credit held admissible shall be paid in cash. If any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse.

(g) Goods cleared on approval basis:



The goods cleared on approval basis and returned within 6 months of the appointed day shall not attract GST. The period of 6 months may be extended by another 2 months by the Commissioner. GST shall be payable by person returning goods after the prescribed period if such supply attracts GST. GST shall be payable by person sending goods if goods are not returned within 6 months and such supply attracts GST.



9.0 LOGISTICS AND EXPORTS

Exports in the GST regime would be treated as Zero rated supplies. The exporters would have two options under the GST :

1. Export made without payment of duty. In this circumstances, the exporter would be eligible for the refund of credit availed on inputs and input services only but not of the credit availed on the capital goods.
2. Export made with the payment of duty. In this circumstance, the exporter would be eligible for the refund of duty paid on export. By exercising this option, exporter can also set-off the duty paid on the procurement of capital goods in addition to the credit available on inputs and input services by utilizing such credit for payment of output tax liability. This may for brief period of time block the working capital of the exporter. However, with the provision of 90% refund of IGST on provisional basis within 7 days as per the Section 54(6) of the CGST Act, the effect would be mitigated to a larger extent.
3. However, since the current refund rules do not provide for refund of Capital Goods ITC, it may be prudent for the exporters to make export supplies on payment of IGST and claim refund of the same. This would enable them to neutralize their Capital Goods ITC as also avail of fast track IGST refund scheme (acknowledgement in 3 days and 90% refund in 7 days thereafter).



10.0 SPIN-OFF EFFECTS



Q 1. As per Chapter 53 heading 5303 of the GST rate schedule, raw jute has been kept at the NIL rate slab. Thus, it is presumed that suppliers dealing only in raw jute are not required to register themselves under GST. But Jute Mills are asking their raw jute suppliers to mandatorily register themselves else their supplies would not be accepted. Please clarify whether raw jute suppliers are bound for registration?

Ans. As already stated in the question above, raw jute has been kept at NIL rate of GST i.e. there would be no tax on raw jute. Therefore, as per Section 23 (1)(a) of the CGST Act, the suppliers dealing only in raw jute are not required to register.

Similarly, Raw Silk has also been kept at NIL rate of GST i.e. there would be no tax on raw silk. Therefore, the suppliers dealing only in raw silk are also not required to register.

Note: Jute Mills may be asking you to register apprehending that under Section 9(4), they'll need to pay GST on reverse charge basis. However, the supply itself being exempt such apprehensions are without any basis. For the understanding of those who are procuring raw jute/raw silk from the unregistered suppliers, it is clarified that they are not required to pay tax under Reverse Charge Mechanism (RCM) as mentioned under Section 9(4) of the CGST Act because both the goods have been kept at NIL rate of duty.

Q 2. Raw cotton is not specifically mentioned under the rate schedule. However, cotton under chapter heading 5201 and 5203 has been kept in 5% rate slab. Does this mean that cotton farmer is required to register under GST ?

Ans. No. As per Section 23(1)(b) of the CGST Act, an agriculturist, to the extent of supply of produce out of cultivation of land is not liable to registration.

Q 3. Does the buyer of raw cotton from the farmer need to pay GST on Reverse Charge basis.

Ans. Yes. Since the cotton under heading 5201 and 5203 has been placed under 5% rate and the cotton farmer is not liable to registration. Therefore, the buyers of raw cotton from the farmers are required to pay tax on Reverse Charge basis as per Section 9 (4) of the CGST Act.

Q 4. In respect of goods classified under Chapter heading 61, 62 and 63, the rate of tax for goods not exceeding Rs. 1000/- is 5% and for those exceeding Rs. 1000/- is 12%. Is this value transaction value or MRP.

Ans. As per the rate schedule, all goods of sale value not exceeding Rs. 1000 per piece would be taxed at 5% and the goods of sale value exceeding Rs. 1000 per piece would be taxed at 12%. Therefore, it is the sale value i.e. the transaction value on which the tax has to be paid and not the MRP.

Q 5. GST rate for Silk machinery has been kept at 18%. Silk machinery manufacturers (HS8445) are operating in a tiny and small scale. As raw silk is exempt from tax, the input tax credit for machinery used for silk cannot be passed down by the silk reelers who have no



capacity to pay this tax. They have requested that silk reeling and twisting machinery may be exempt or kept in the 5% tax band.

Ans. Silk reeling and twisting machinery are used for processing of Raw silk to form silk yarn which has been kept under 5% rate slab. Therefore, it is not true that this credit cannot be utilised. It is understood that there would be blockage of certain capital for some period of time. However, since the credit does not lapse until the final goods are completely exempt, there is no disability on this account.

Note: In the present taxation regime also these machineries are taxed and silk being completed exempt, the tax paid becomes on the machinery becomes embedded in the cost of final product. Therefore, it is observed that taxation of silk yarn at 5% would not cause any adverse situation.

Q 6. No rates have been announced for Jute bags and Jute blended bags. It is feared that they may be placed under Chapter 42 for leather wherein the rate for leather bags is indicated as 28%. Jute was having a central excise duty rate of zero%, being eco-friendly and bio degradable fibre. Jute is the second largest grown crop after cotton in our country, involving livelihood of many farmers and jute artisans. It is suggested that the Jute bags may be kept at zero% to promote production of green Jute Diversified products for combating pollution and safe guarding environment.

Ans. The bags made of jute are clearly specified in the rate schedule under heading 4202 22 30. The rates for Hand bags and shopping bags of jute has been revised from 28% to 18% by the GST Council in its 16th meeting held on 11.06.2017.

Q 7. Textile yarn have been kept at 18% while fabrics have been kept at 5%. Therefore, if I buy yarn worth Rs. 100 by paying tax at 18% i.e. Rs. 18 and I sell grey fabrics at Rs. 150 considering 50% value addition by paying tax at 5% i.e. Rs. 7.50. What will be the treatment of remaining input credit of Rs. 11.50. Whether I would get refund of remaining credit and how much credit would I get.

Ans. You will be eligible for full ITC of Rs. 18 paid on your inputs i.e. yarn but whatever credit remains unutilized will remain in your credit ledger and no refund of the same will be available as decided by the GST Council. Even currently the buyers suffer 18% tax (Central Excise duty and VAT) and the credit chain gets broken due to the optional scheme and thus, this tax becomes a cost. Therefore, as such there is no additional burden caused by this proposed structure.

Q 8. We are a small saree manufacturer at Surat. We buy ready dyed fabrics and get job work, hand work, stitching etc. done to create designer sarees. Wholesalers and retailers from all over India buy these sarees on credit basis for 30 days to 240 days. I as a trader has some queries regarding implementation of GST from 1st July 2017.

- (a) Whatever is sold, 15-30% is returned. What would be treatment of goods returned and How would I adjust my tax liability if the entire GST has already been paid.
- (b) What would happen to my opening stock on 1st July 2017. Will I get input credit on it or do I just need to supply it after adding 5% GST on it.
- (c) Is government assuring of payment within 180 days. There are rumours that the wholesaler/retailer has to pay within 180 days. Is it true?

- (d) How will I make my invoices if a buyer under composite scheme come to buy our sarees.
- (e) We are confused about GST implementation as there was no tax on us before. Will we get relaxation for the return filing?

Ans. (a) Section 16(4) of the CGST Act provides for availment of Input Tax Credit on the goods returned for which a debit note has been raised. For this provision, the goods supplied in one financial year should be returned before the end of the financial year or within 6 months of the date of issue of invoice. The credit of ITC on the basis of debit note can be availed before the last date of filing of return under Section 39 for the month of September of the succeeding year. For goods returned after the prescribed period should be returned on the basis of fresh invoice. On the basis of tax paid on the fresh invoice, you can avail the credit of tax paid.

(b) The full credit of the tax paid on the stock would be available if the documents evidencing tax payment are available. However, if only documents relating to procurement are available with no documents evidencing tax payment, in such a scenario deemed credit would be admissible after the tax has been paid on supply of these goods. However, this facility is available for 6 months period only.

Note: Credit would be admissible only in respect of those goods whose invoices are not more than a year old.

(c) As per the second proviso of the Section 16(2)(d) of the CGST Act, if a recipient of the supply does not pay its supplier within 180 days from the date of issue of invoice by the supplier, the amount of ITC availed would be added to his output tax liability along with the interest thereon. Therefore, by virtue of this provision, the recipient is bound to pay its supplier within 180 days from the issue of invoice.

(d) A normal invoice has to be issued irrespective of the fact that the buyer is under composition scheme or not. The difference would be only when you receive supplies from the person registered under Composition Scheme.

(e) Relaxation in filing of returns for the month of July and August 2017 has already been provided by the GST Council wherein for the first two months of GST implementation, the tax would be payable based on a simple return (Form GSTR-3B) containing summary of outward and inward supplies which will be submitted before 20th of the succeeding month. However, the invoice-wise details in regular GSTR – 1 would have to be filed for the month of July and August, 2017 as per the timelines given below –

Month	GSTR – 3B	GSTR - 1	GSTR – 2 (auto populated from GSTR-1)
July, 2017	20 th August	1 st – 5 th September*	6 th – 10 th September
August, 2017	20 th September	16 th – 20 th September	21 st – 25 th September

*** Facility for uploading of outward supplies for July, 2017 will be available from 15th July, 2017.**

No late fees and penalty would be levied for the interim period.

Q 9. I have manufacturing unit of Cotton trouser where customer gives me fabric and I have to convert it into trouser. What would be the rate applicable on me 5 % or 18 %.

Ans. The services provided by you fall under the category of job work by virtue of the definition of job work provided under Section 2 (68) of the CGST Act. As per the rate schedule, the rate for job work in relation to wearing apparels is 18%. However, the rate for job work in relation to textile yarns (other than Man Made Fibre/Filament) and textile fabrics is 5%.

Therefore, there are following two options available to you:

- (i) Pay tax at the rate of 18% on whole amount of job work charges.*
- (ii) Alternatively, you may raise 3 invoices. One relating to cutting wherein you would pay tax at 5%. Second invoice relating to the material procured by you for job work process on which no tax would be payable. Third invoice for stitching and further processing on which tax at the rate of 18% would be payable.*

However, one major issue is that at what stage does the process of providing service relating to wearing apparels start.

Q 10. We are manufacturing Floor Coverings falling under Chapter 57. As per GST Council meeting dated 11.06.2017, the rate on Coir mats, mattings and floor coverings falling under Chapter 57 have been reduced from 12% to 5%. Kindly clarify as to whether rate of 5% will be applicable on all types of mattings and floor coverings of Chapter 57 or only to those made of coir.

Ans. 5% rate will apply to only the specified items of coir.

Note: The goods carrying a specific description are classified against a rate then all goods falling under that description would be taxed at that rate. For classifying a good, chapter heading alone is not sufficient

Q 11. We are manufacturing Laminated textile under chapter 59. Currently, our product is exempted in Notification 30/2004. But in states we are paying 4% VAT. Also we are doing job work of textile lamination for some customers. Our invoice value is sum total of Raw material used for job work, labour charges and profit. Under GST regime:

- (a) Whether we will get Input credit on material.
- (b) How can we make invoice, which rate, or we have to make two different invoice, one for material used for lamination and other for service charges.

Ans. (a) Yes. You would be eligible for credit of tax paid on material used for job work.

(b) No. You are not required to raise two different invoice. You would be raising one invoice similar to what you have been doing till now and GST at the applicable rate has to be charged on the invoice value. You can pay your tax liability by using Input Tax Credit



(ITC). However, invoice should carry all the details as required by the CGST Act and Invoice Rules.

Q 12. We are in Furnishing Fabrics Industries for curtain and upholstery fabrics. We mainly deal in Woven , Knitted , Polyester and Coated fabrics. You are requested to help us to know the chapter number under which our fabrics as mentioned herein above are covered and GST rate applicable to us.

Ans. As per the rate schedule, the woven fabric can be classified under many heading depending upon their composition. The knitted or crocheted fabrics fall under Chapter 60. Polyester fabrics fall under Chapter 54 and 55. And Coated fabrics fall under Chapter 59.

Q 13. There is a gross confusion on the tax applicable for Embroidered Sarees and Fabric. Typically, principal manufacturers supply fabric / Sarees to Job workers and get various embroidery designs done on the fabric / sarees. We understand that the textile jobworker would charge an output supply GST of 5% on the composite jobwork supply. This embroidery fabric/saree are then sold by the principal manufacturers to wholesale and retail sellers. What would be the output GST applicable on such Embroidered fabric / sarees when the same is sold by the principal manufacturer?

Ans. As per the rate schedule, the rate of 5% would be chargeable on the job process relating to the textile yarns (other than Man Made Fibre/Filament) and Fabrics. Sarees till now under the Central Excise Act has been treated as Fabrics and where therefore, exempt from the payment of Central Excise Duty. Further, CBEC has recently clarified that even after stitching, embroidery work and fixing of falls, a saree remains fabrics only as no new item emerges having distinct name, character and use. Stitching of two or more different kinds of fabrics also does not take away its classification. Therefore, the sarees whether embroided or not would be taxed at the same rate at which the fabric is taxed.

Q 14. Will the 5 % fabric GST will be applied or 12% GST of embroidery strips / badges be applied?

Ans. Embroidery strips/ badges (narrow woven fabrics) have been classified under heading 5810 and has been kept at 12 % rate.

Q 15. What is the difference between Fabric and Made-ups. Whether Shawl is a fabric or apparel or made-up. What is the rate on Shawls.

Ans. Fabric is the cloth made out of yarn by weaving or knitting. Fabrics are made in running length and packed in rolls. Whereas made-ups are the fabrics which have been further worked upon but not stitched into usable garments like semi-stitched suit pieces in which the neck design is already made. Since, shawls are also made in running length and distributed in rolls, they can be classified as fabrics. However, if shawls are stitched to form poncho cape shawl wrap, they may be classified as made up. Shawls have not been classified separately in the GST rate schedule. Therefore, when sold directly by cutting from the roll, they should be taxed at the rate of 5% and when sold as single units or ponchos, they may be taxed as made-ups.



Q 16. Dress material are sold by length. They can include upto 3 pieces. These can be plain or embroidered (value-addition or further worked upon). Where should dress material be classified?

Ans. Dress sets have been classified under heading 6307 and the rate of tax on the dress materials/patterns is similar to the apparels i.e. for dress material of sale value not exceeding Rs. 1000, tax at 5% would be charged and for dress material of sale value exceeding Rs. 1000, tax at 12% would be charged.

Q 17. Please clarify the ITC (HS) of yarn made from worn clothing, the material composition of which varies from lot to lot. It is uncertain as the clothing may be of cotton/woollen/man made fibre.

Ans. Under HSN, the classification of grand is on predominance basis. So the yarn having wool predominance would go to Chaoter 51. If all kinds are in equal proportion ie there is no fibre predominant, it'll get classified in the chapter covering the fibre last in the numerical order so Chapter 54 or 55 in case MMF are present.

Q 18. What would be the GST rate on old cotton dhoti used for cleaning purpose. It is a used product recycled for cleaning purpose. Is there any GST on old dhoti because there is no VAT on old dhoti.

Ans. Other made up textile articles, sets, worn clothing and worn textile articles; rags have been classified under Chapter 63 under the GST rate schedule. Cleaning clothes have been classified under 6307 and worn clothing and other worn articles under 6309. Whereas Cotton fabrics have been classified under 5208, 5209, 5210, 5211, 5212. The tax for chapter 63 is similar to apparels and related to sale value whereas cotton fabrics irrespective of value are taxed at 5%. Whatever be the classification, as presumably the old cotton dhoti would be below the sale value of Rs. 1000, it would be thus taxed at 5%.

Q 19. We are small traders of textile dealing in Suiting, Shirting, Sarees, Dress Material, Blankets, Dhoti etc. We have some queries regarding implementation of GST from 1st July 2017.

- a) What will be the status of opening Stock of Textile items. Will 5% be added on closing stock as on 30th June 2017?
- b) What is the GST rates in Fabrics, as there are various types of fabrics like cotton, synthetics, man-made fabrics, acrylic, Mixture of cotton and other fabrics etc. Will there be flat rate of 5% on all fabrics or different rate?
- c) Please provide clarification on HSIN number. Is it mandatory to quote in invoice by B2C traders & B2B traders? Further there are various codes in one type of item, would it not attract confusion among traders?
- d) As per news in CNBC, input tax credit would not be allowed in textile for some period? Please clarify.



- e) Is Rs 1000/- bracket for 18% rate applicable on Sarees and suit lengths or will it attract flat rate?

Ans. (a) Since you are a trader, you will need to supply your stock on payment of GST @5%. However, 40% of the GST paid i.e. 2% will be available to you as credit on filling Form GST TRAN-02.

(b) GST rate on fabric is flat 5% irrespective of composition.

(c) Upto Rs. 1.5 cr turnover, no HSN code is required to be mentioned. For those having turnover of Rs. 1.5 to 5 Cr, first 2 digit of the HSN code are required i.e. the chapter number. Only those who have turnover above Rs. 5 Cr are required to mention 4 digits of the HSN code. You will start getting the HSN code in your supplier's invoice, so it would not cause any issues once the supplies under new regime take place.

(d) There is no such provision.

(e) Value of sale linked GST rate is only for garments and not for sarees and suit lengths.

Q. 20 I am an un-registered trader dealing in textile fabrics which is exempted from tax under the existing State Act. If I get registered under the GST Act, will I be eligible to avail of input tax credit on my stock of goods lying on the appointed day?

A. Since the goods you are dealing with are exempted from tax under the State Act, you will not be eligible to avail input tax credit as SGST under the GST Act on your stock of goods lying on the appointed day.

But, you will be eligible to enjoy CENVAT credit as Central Tax on your stock if you have invoices or other prescribed documents evidencing payment of excise duty under the existing law and such invoices/prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

If you do not possess invoices/ other documents evidencing payment of excise duty in respect of your stock of goods, you will be allowed to avail input tax credit on goods held in stock on the appointed day at the rate of 40% of the central tax on your intra-state supply of goods after the appointed day or 20% of the integrated tax on your inter-state supply of goods after paying central tax/ integrated tax on such supply. You are allowed to enjoy the scheme for six tax periods from the appointed day and tax paid by you shall be credited as central tax.

Q. 21 I am a manufacturer of readymade garments. If I send any inputs to the job worker, will it be treated as taxable supply under the GST Act? Can I supply the goods after completion of job work from the place of business of the job worker?

A. You can send your inputs or capital goods to a job-worker for job work without payment of tax and also bring back the same, after completion of job work, within one year or three years respectively.

You can also supply the inputs or capital goods from the place of business of the job worker subject to the condition that you have to declare the place of business of the job-worker as your additional place of business if the job-worker is not a registered person.



However, if the inputs or the capital goods, other than moulds and dies, jigs and fixtures or tools, which have been sent to the job-worker are not received back within the specified time period, it shall be deemed that you have supplied the inputs or capital goods on the day when you have sent it to the job-worker.