Gujarat Chamber of Commerce & Industry

ગુજરાત વેપારી મહામંડળ ૧૯૪૯ થી કાર્યરત

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Date: 22nd May, 2020/3096

To

Smt. Nirmala Sitharaman
Hon'ble Union Minister of Finance,
Ministry of Finance,
Government of India,
North Block,
New Delhi – 110001

Sub: Suggestions for supporting businesses (spl. MSMEs) in COVID-19 Pandemic

Respected Madam,

We would like to place on record our sincere appreciation to the commendable efforts taken by the government towards fighting the COVID-19 pandemic and also applaud the recent relaxations given in lockdown to provide relief for small, cash-strapped businesses. Apart from ensuring the safe return of hundreds of Indians from China, Iran and other countries, the decisive measures taken by the Government to contain community spread by strengthening surveillance, laboratory capacity, contact tracing and isolation and risk communications are meritorious. India's pre-emptive lockdowns have saved many lives and may have reduced long-run economic costs of the Covid-19 crisis. The approach espoused by extending due dates, waiver of penalty for different regulatory and statutory aspects as well as the liberal monetary policy announced by RBI and the amended Finance Act, 2020 to address the myriad problems faced by residents in dealing with the corona virus is exemplary. This regime has provided us with new hope and optimism for a future bereft of the virus.

Gujarat Chamber of Commerce and Industry ("GCCI") hereby takes the privilege to address the concern of its members, being members of trade and industry, Chartered Accountants, Advocates and Tax Practitioners, on Issues in Implementation and Compliance with Income Tax Laws, which needs to be addressed by your good office on utmost priority.

The primary objective of GCCI is not only to work for the cause of the trade but also to educate the public at large and to act as a catalyst between citizens and the government authorities. The Direct Tax Committee of GCCI is one of the most important committees of GCCI which is engaged in the matters related to direct taxes and makes representations to the Government, Central Board of Direct Taxes and at other appropriate forums from time to time on various legislative amendments and issues concerning direct taxes and endeavours to be a bridge between the tax payers and the tax administration.

We believe that strong fiscal measures coupled with supporting monetary measures can bring the economy back to track in the near term. We are writing this letter to your good self to consider our following requests as the trade and industry is adversely impacted by the COVID-19 pandamic.

Severe Cash Crunch due to COVID-19

Due to the COVID-19 pandemic and nationwide lockdown from 25th March to 31st May, 2020 there is a direct negative impact on demand and supply of goods and services and businesses are also facing serious cash flow issues as the economic activities have come to a halt. This in turn is having an impact on all payments including to those for employees, interest, loan repayments and taxes. There are less chances of receiving payments from the outstanding receivables as this pandemic has created cash flow mismatches for all concerned. Moreover the businesses are facing severe supply chain disruptions and expect the situation to worsen further till the time the things get normalized. Not only the large businesses, but even the small and medium businesses are severely affected and if not supported timely, we may see large chunk of MSMEs closing down resulting in mass unemployment and related problems.

We propose the following measures to support the businesses:

1. Relief to businesses on employee payments:

Weighted Deduction to be given for wages and salaries paid during the lockdown period

In the advisory (No. M-11011/08/2020) issued by the Government, it is stated that companies and manufacturing industries should provide salary and wages to their employees for the period of lockdown. However, though it is not mandatory, on humanitarian grounds most of the companies have provided salary to their employees even for the lockdown period. In lieu of this, it will be beneficial to provide a weighted deduction of the salary paid at 125% for the months of the lockdown. This should include salary paid to workers, labourers and office staff.

Steps like these are particularly important, as in absence of any revenue being generated due to the closure, expenditure made on salary and wages are acting as overheads cost to the companies. Moreover, even if the units are allowed to continue production, stringent health and sanitization requirements laid by the government, for instance sanitization of the entire unit every two hours, compulsory usage of masks and sanitizers, etc. is leading to additional costs on companies. This calls for some relief in this regard.

2. Demand notices and compliance related matters:

a. Notices are being issued by the CPC for AY 2007-08 and even earlier years for which no documents or records are available with taxpayers. As per sub section (3) of section 44AA read with Rule 6F of the Income Tax Act, 1961, books of accounts should be kept and maintained for a period of six years from the end of the relevant assessment year. Moreover, Section 128 of the Companies Act, 2013 read with the Companies (Accounts) Rules, 2014 states that every company must keep books of account, important papers and statements for a period of not less than 8 years. In Addition to the above, Standard on Quality Control (SQC) 1 "Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements" state that documents and working papers of audit should be retained for a period of not less than 7 years.

Accordingly, tax payers will not have maintained books of accounts and other relevant documents for a period of more than 8 years so when CPC issues notices for earlier years, it becomes almost impossible to produce the required documents. Hence, the onus to prove that the demand is genuine should be on the department and they should send necessary details to taxpayers.

b. The government should introduce some scheme in line with Vivad se Vishwas Scheme introduced in this budget for bringing down disputed demands and infructuous litigation. It is proposed that in case of TDS Return filing defaults, the late fee levied for past years upto 2009-10 should be waived and for cases relating to later years the disputes should be resolved on payment of 25% of outstanding demand. Further Section 200A was amended wef 1st June, 2015 to charge late fee u/s 234E. So, all outstanding demands for late fee raised upto 31st May, 2015 should be dropped by the department to reduce unnecessary litigation.

c. With returns being processed at CPC, large numbers of defective return notices are being received by assessees. The points raised in the notice needs to be studied and discussed by the assessses with their tax consultants, and then only response can be given. Most of the tax practitioners are nowadays bogged down due to multiple compliance requirements under Income Tax, GST and Companies Act. Hence, the time to understand and respond to such notices within 15 days is too short. Hence, request is being made to increase the period to respond notice u/s Sec 139(9) from 15 days to 30 days.

3. Issues relating to Non-residents:

a. With reference to circular no. 11 of 2020 dt. 8th May, 2020, necessary clarifications for determination of residential status for previous year 2019-20 in respect of individuals who had come to visit before 22nd March, 2020 were given. We humbly request you to also provide such clarifications for previous year 2020-21 also as the entire country is under lockdown till 31st May, 2020.

Some relief should be provided to individuals who have technically become resident in the country because they've been forced to extend their stay due to the lockdown. This will make their global income liable to tax in India under the Income Tax Act. The Finance Act 2020 further amended the Income Tax Act, by stating that Indian citizens or persons of Indian origin who have India-sourced income exceeding Rs. 15 lakh will be regarded as Indian tax residents in a financial year if their stay is 120 days or more and at least 365 days in the past four financial years. **The period of overstay in India due to the lockdown should be exempted for calculating their stay in India for the purpose of determining residential status.**

Majorly impacted are the NRI's because they had to extend their stay in India due to the non-availability of flights as well as the national lockdown, which still continues and is relaxed only in phases and parts. Some parts of the country specially the west region are facing a strict curfew in view to reduce the spread. In lieu of the same it will only be prudent to provide such reliefs. India has been under lockdown since 25th March, 2020 and stopped international flights even before that.

4. Interim relief for cash transactions

I As per Section 40A(3) of The Income Tax Act, 1961, where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed, exceeds ten thousand rupees, no deduction shall be allowed in respect of such expenditure. **It is proposed to increase this limit from Rs. 10,000 to Rs. 30,000 upto 31.12.2020 in order to increase the ease of doing business. Similarly, limit of payment in cash for transporters should be raised from existing Rs. 35,000 to Rs. 70,000 upto 31.12.2020.**

II As per 269SS, No person shall take or accept from any other person any loan or deposit or any specified sum, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed if,—

(a) The amount of such loan or deposit or specified sum or the aggregate amount of such loan, deposit and specified sum; or

(b) on the date of taking or accepting such loan or deposit or specified sum, any loan or deposit or specified sum taken or accepted earlier by such person from the depositor is remaining unpaid (whether repayment has fallen due or not), the amount or the aggregate amount remaining unpaid; or

(c) The amount or the aggregate amount referred to in clause (a) together with the amount or the aggregate amount referred to in clause (b), is Rs. 20,000/- or more

III As per 269T, No branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it or any specified advance received by it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit or paid the specified advance, or by use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed if—

(a) The amount of the loan or deposit or specified advance together with the interest, if any, payable thereon, or

(b) the aggregate amount of the loans or deposits held by such person with the branch of the banking company or co-operative bank or, as the case may be, the other company or co-operative society or the firm, or other person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such loans or deposits, or

(c) the aggregate amount of the specified advances received by such person either in his own name or jointly with any other person on the date of such repayment together with the interest, if any, payable on such specified advances, is Rs. 20,000/- or more

As per Section 269SS and 269Tof The Income Tax Act, 1961, receiving loan or advance in cash, limit is 20,000 per lender/payer **it is proposed to increase above limit to 1,00,000 upto 31.12.2020 in order to increase the ease of doing business.**

We all are facing this unprecedented situation and we require your co-operation and patient hearing to our concerns. We would be very grateful if your goodself would take an early action in this regard and have a positive consideration of our requests. This will be very useful for the taxation fraternity and also for the trade and industry. In conclusion, we request that a suitable orders / clarification may be issued to this effect at the earliest.

With warm regards,

Durgesh Buch
President, GCCI

Jainik Vakil
Chairman, Direct Tax Committee, GCCI