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"Coming together is the beginning; Keeping together is progress; Working together is success."

India's GST Regime at Nine Years: Systemic Flaws Undermining Small Enterprises

-By Ms. Vanshika Mittal, Advocate at Supreme Court of India

Nine years post its implementation on July 1, 2017, India's Goods and Services Tax (GST) continues to falter in delivering equitable justice to Micro, Small and Medium Enterprises (MSME), particularly in northern India. As an advocate, I encounter daily the cascading impact of structural deficiencies on genuine taxpayers. Supreme Court rulings like '*Union of India v. Bharti Airtel Ltd. (2021)*' have flagged procedural infirmities, yet reforms lag. Four critical issues merit immediate legislative and administrative intervention.

Appellate Tribunal's Unjustifiable Delay

The GST Appellate Tribunal (GSTAT), statutorily mandated under Section 109 of the CGST Act post the 101st Constitutional Amendment, was notified only in 2025 via Gazette No. 256(E) dated April 24, 2025, a staggering eight-year delay. This stems from protracted Centre-State disputes over bench allocations, inadequate funding, and administrative paralysis. Consequently, over 1.5 lakh disputes rot before High Courts, with pendency averaging 3-5 years. Such prolonged litigation erodes taxpayer confidence, accrues avoidable interest liabilities under Section 50, and extends revenue leakages through contested credits.

Linguistic Inaccessibility in Northern India

Entrepreneurs from Hindi-belt states confront an English-centric GST ecosystem, unlike Income Tax Act's trilingual notices (English/Hindi/regional) under Section 288B and CBDT circulars, or pre-GST Excise/Service Tax regime's vernacular flexibilities via CESTAT rules. Portals, notices, and returns default to English; competent advocates remain scarce in Uttar Pradesh, Haryana, and Punjab, commanding exorbitant fees. Southern jurisdictions benefit from bilingual proficiency, exacerbating disparities. Non-compliance penalties under Section 122 surge, with northern MSMEs facing higher defaults. Mandatory multilingual interfaces and subsidized advisory services are essential, aligning with Article 348

proviso.

Prohibitive Appeal Costs and Procedural Rigours

GST appeals under Section 107 mandate 10% pre-deposit of disputed tax amount (max Rs 50 crore), arguably harsher than Income Tax's 20% of tax/interest under Section 249(4) (waivable via proviso/CIT(A) discretion) or pre-GST Excise/Service Tax's 7.5% first appeal/ 10% second appeal under Section 35F CESTAT (with liberal waivers).

Even petty Rs 50,000 disputes require Rs 5,000 upfront, crippling firms with turnover under Rs 1 crore alongside delays. Second appeals to GSTAT under Section 112 demand additional 10% (total 20%, max Rs 50 crore), compounding burden without prior relief.

Section 112 burdens peripheral litigants with principal bench centralisation in New Delhi. Reforms must waive pre-deposits below Rs 25 lakh, decentralised virtual hearings, turnover-linked slabs, as proposed in recent GST Council discussions.

Delay Condonation and No Revised Returns

GST allows only a strict 3-month window under Section 107(1), extendable by 1 month (total 4 calendar months) under Section 107(4). Unlike Income Tax's flexible Section 119(2)(b) extensions, GST Appellate Authorities lose power beyond 4 months, taxpayers have to file High Court writs under Article 226. No revised GSTR-3B exists unlike ITR rectifications. Simple delay condonation rules and voluntary revision rights would cut 15-20% evasion despite Rs 2 lakh crore collections

These deficiencies foster evasion, trapping capital exceeding Rs 5 lakh crore. Urgent Hindi portals, regional benches by 2026, and alignments with legacy regimes would restore equity. Parliament must amend forthwith. ■

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