Sr. No	Issue	Suggestion / Recommendation
1.	**ITC captured in books but not reflected in GSTR 2A – New rule placing burden of compliance on Taxpayers :**	
	The Government has recently notified Rules to restrict ITC claim for invoices which have not been uploaded by the suppliers/service providers (and thus not reflecting in GSTR 2A). Thus far, recipients of supply were availing entire credit based on ITC captured in their books of accounts. However, henceforth ITC will be available to such recipients on the basis of reflection in GSTR 2A only. As per Rule, businesses shall be eligible to claim only 20% provisional ITC for unreported invoices (i.e., those invoices which are appearing in books but not reflecting in GSTR 2A) and such 20% shall be calculated on the amount reflected in GSTR 2A of a particular month. Thus, ITC availment will be restricted on monthly basis if suppliers have not filed their Returns duly uploading the invoices issued to the recipient of such supplies. Thus, the Government has placed an arbitrary restriction on availment of genuine ITC of the Industry.	The said amendment to CGST Rules to restrict ITC to the extent of 20% at the hands of recipient when suppliers have not uploaded invoice details in GSTR-1 is an eloquent example of lack of trust in taxpayers and compelling taxpayers to suffer for inadequacies in the systems and processes. It goes without saying that the GST return system is still a work-in-progress. The administration's learning curve is steep as every change is being tested live on taxpayers through trial and error method. By restricting credit, recipients are forced to partner with the tax administration in ensuring compliance by others. While compliance should be voluntary, checking compliance should be the responsibility of the administration and the onus cannot and should not be shifted or shared with taxpayers. If the provision requires a person to upload his supply details and he defaults, for such offence, somebody else cannot be arraigned as a party and penalised. Such measures are not hallmarks of progressive tax system of GST with professed objective of extending seamless credit. Restrictions of this type frustrate both the spirit of GST system as well as create hurdles in smooth implementation. If the system gets complicated requiring recipient to avail only 20% of eligible credit in such a scenario, the simplified tax system traverses in the opposite direction. Indulging in circular trading through supplying invoices only without actual sale of goods by a few unscrupulous persons cannot be used to paint the entire industry black. The credit restriction precisely attempts such an adventure. Deferment of credit (which otherwise is available for utilisation) will need to be compensated through cash payment of output tax resulting in unnecessary blockage of working capital and further cascading of costs in the value chain. Thus, as a policy measure, the restriction implies greater compliance cost for large businesses and potential loss of credit.

Sr. No	Issue	Suggestion / Recommendation
		This may involve a gradual shift of procurement from small business vendors out of fear of default. This may have undesirable consequences in the current economic scenario, wherein the Government is actively seeking to provide a boost to the MSME/SME sector. Setting aside the financial impact of the credit cap, the parameters for 'matching' too are extremely uncertain with several variables such as ever-fluctuating GSTR 2A, procurement from vendors who file quarterly Form GSTR 1, when and how to compute the 20% eligible credit, time horizon for such matching exercise - whether the computation of 20% threshold has to be seen monthly or financial year-wise, whether matching of all invoices has to be done for the credit claimed for present month and pertaining to previous tax periods, etc. While there is no doubt that stricter compliance and circumventing fraud is necessary, there are reasons to believe that restriction of credit is a drastic measure, which will have greater drawbacks than benefits. A substantive right like ITC cannot be restricted in a mechanism which is uncertain and unstable. Therefore, as of now, prudence lies in realizing that such amendments neither significantly contribute to revenue nor make the life of taxpayers easier. The Industry therefore humbly requests that this amendment should be withdrawn with immediate effect and without any hesitation. Transition from seamless credit to restricted credit regime should be reversed. It is desirable that the Government, in its endeavor to build trust, evolves robust technological solutions for matching of credit and engage in greater outreach for improving compliance.

Sr. No	Issue	Suggestion / Recommendation
2	**Amendment to Section 16 (2) of CGST Act –Restricting reversal of Input Tax Credit with interest in case of non-payment within 180 days only for MSME Vendors:**	
	AS per Section 16(2) of the CGST Act, 2017 read with Rule 37, where a recipient fails to pay to the supplier of goods or services within 180 days from the date of invoice, an amount equal to the input tax credit availed by the recipient shall be added to output liability along with interest. In business dealings there could be various commercial reasons for non-payment of bills within 180 days. While the intention of GST is to provide hassle free seamless credit, it is not fair on the part of Government to insist reversal of input tax credit for non-payment of bill within 180 days especially when Government has received its tax dues from the supplier.	**Keeping in mind the objective of the government to protect the MSMEs and ensure that they get paid in time, this provision may be restricted only to payments to MSMEs that are delayed beyond 180 days.** **As regards vendors other than MSMEs, they would deal with non-payment matters commercially between themselves and do not need Governmental intervention.** From Government's point of view a purchaser gets ITC only where the tax due by the supplier is paid by the supplier to the government. Therefore,there is very little possibility of any revenue leakage or wrongful claiming of credit. Considering the commercial complexities of business, it may not be fair on the part of the government to compel a purchaser to reverse his ITC for delays in payment to supplier despite having received GSTfrom the unpaid supplier. Businessmen be left to themselves to settle their commercial disputes for delayed payments.
3	**Non- Reimbursement of GST by the Project Owners (Clients)- Request for a Clarification**	
	With the enactment of the Central Goods and Services Tax Act, 2017, the indirect taxes levied and collected by the Central Govt and State Govts upto 30th June 2017 have been abolished and the levy of the new tax commenced with effect from 1st July 2017 (From 8th July 2017 in the State of Jammu & Kashmir). In case of Construction Contracts,	However a position is taken by some of the Project Owners (Clients) that since the erstwhile pre-GST Taxes are subsumed in GST, these taxes are replaced by GST and therefore it is not a new tax. Accordingly they are denying reimbursement of the additional Tax cost incurred by the Contractor (Service provider) on account of GST. In BAI view, GST an entirely new system of Taxation, has been enacted by the Government of India by amendment to the Constitution. **Since the**

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	with the levy of GST, the Contractor (service provider) is required to exclude the pre-GST taxes included in the Contract Price and recover GST at the applicable rate from the Service recipient. The Contract provides that if any new taxes/ duties/ cess etc other than enhancement of those prevailing on the date of tenders, are introduced by any National, State, Local or other duly constituted authority which cause additional cost to the Contractor in execution of the Contract, such additional cost shall be reimbursed by the Project Owner (Client) to the Contractor.	**GST Act was not in vogue prior to 1st July 2017, GST should be treated as a New Tax / Levy entitling the Contractor (Service Provider) to be compensated for the increase in Tax cost due to GST implementation.** As the Construction industry is facing huge liquidity crisis due to non-reimbursement of GST by the Project owners (clients) for almost 18 months, **BAI request to consider issuance of a clarification on this crucial issue at the earliest, so that the Construction Companies can take up with the clients for reimbursement of the additional Tax cost.**
4	**Refund of unutilized Input Tax Credit of input services:**	
	For levy and collection of tax, Goods are treated at par with Services under CGST Act, 2017. However, as per Section 54 (3)(ii) of the CGST Act, 2017, refund of unutilized input tax credit shall be allowed where the credit has accumulated on account of rate of tax on **inputs** being higher than the rate of tax on output supplies. **Absence of the words "tax on input services" alongside "tax on inputs" is creating difficulties for infrastructure works contractors in getting refunds, where inverted tax structure hits them the most.**	"Works Contract" is defined under Section 2(119) of CGST Act, 2017 and being a composite supply, it is treated as a **"Supply of Service"** as enumerated at Para 6 (a) of Schedule II (read with Section 7). Therefore, for execution of a Composite Works contract, the suppliers need to utilize various **inputs and input services** attracting different GST rates and avail input tax credit of both eligible inputs and input services. While supply of composite works contracts to most of the Governmental projects attract GST @12%, the rate of tax on inputs and input services utilized in the execution of such projects attract higher rate of GST i.e. @18% and 28%, leading to accumulation of unutilized input tax credit in the hands of supplier of service due to **inverted tax structure.** In view BAI suggests that: (a) it is imperative to **add** the words "input services"

Sr. No	Issue	Suggestion / Recommendation
		after the words "inputs" in the first line of Section 54 (3)(ii) of CGST Act, 2017. (b) Simultaneously, suitable **amendment** needs to be carried out to Rule 89(5) of CGST Act, 2017.
5	**GST rate reduction to 12% for Composite supply of works contract – To notify effective date for applicability to sub-contractors retrospectively from 22.08.2017 instead of 25.01.2018:**	
	Notification 20/2012 – Integrated Tax (Rate) dated 22.08.2017 reduced the GST rate applicable to supply of composite works contract to project authorities by the main contractor from 18% to 12% Though the notification was issued in public interest, it overlooked the overall business process and kept GST rate of 18% unchanged in case of sub-contractors who worked for main contractors for the specified projects in question. When this was brought to the notice of the GST authorities, Notification No.1/2018-Central Tax (Rate) dated 25.01.2018, was issued to reduce the rate of GST payable by a sub-contractor to the main contractor to 12% (from 18%) The anomaly of inverted tax structure between sun-contractor and main contractor between 22.08.2017 and 25.01.2018 still continues.	BAI requests that a Departmental clarification/ Instruction may please be issued clarifying that the reduced rate of 12% vide Notification 1/2018-CentralTax (Rate) dated 25.01.2018 is applicable with retrospective effective from 22.08.2017instead of 25.01.2018. This request is being made to nullify the impact of inverted tax structure between 22.08.2017 to 25.01.2018.
6	**GST on Advance received for supply of Services:**	
	Vide Not. No.66 /2017-Central Tax dated 15.11.2017, the Government has amended the CGST Act so that	Like GST is not payable on advances received for supply of goods, it is imperative to exempt advance received for supply of services to **maintain equity**,

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	advance payment received for supply of goods would not attract GST. However, advance payment for supply of services continue to attract GST though GST law treats goods at par with services. In fact, contractors supplying Composite Works Contract receive **interest bearing** Advance payments like Preliminary advance, Mobilization advance, secured advance on equipment/materials etc. from the Project authorities which attract payment of GST @18% on receipt. In fact, reimbursement of GST paid on receipt of advances is often disputed by Project authorities as they are not in agreement with the supplier and treat that such advances are not for supply of services. Further recipient of supply is not eligible to avail input tax credit against "Receipt Voucher" issued by the supplier of service.	avoid financial burden and unwarranted disputes between supplier and recipient of service. Without prejudice to the above submission, alternatively, the recipient of service be allowed to take input tax credit against the "receipt voucher" issued by the supplier of service. In view, BAI requests that Section 16 of CGST Act, 2017 and Rule 36 of GST Rules are suitably amended to validate "receipt voucher" as a bona fide document for availing input tax credit. In this regard, kindly refer the **recent direction of Delhi High Court** in the writ of one of our members to decide on our earlier representation on this point. The industry requests for favorably considering our plea for maintaining equity for supplier of services in line with supplier of goods.
7	**To allow JVs formed by construction companies to treat advances received from project authorities as "transaction in money" and not liable to GST:**	
	Construction companies frequently form JVs to collaborate on projects where a single company does not have expertise and know-how to execute entire project. Though the project is awarded to JV, the actual work is entrusted to JV members under a subcontract agreement. JV is only responsible for billing the project owner after adding	BAI humbly request GST Council to consider one of the options mentioned below to JV to avoid the loss. CBEC vide Circular No.179/5/2014 – ST issued under F.No. 179/5/2014-ST dated 24.09.2014 had clarified that if cash calls are merely transaction in money, then they are excluded from the definition of service provided in Section 65B (44) of the Finance Act, 1994 . Since the advance made by client is simply collected and passed on by JV, JV is not providing any

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	a nominal(~1%) profit margin. JV members will raise invoices on JV for their portion of work on monthly basis, JV will club the invoices and raise single invoice to client by adding 1% profit margin. All risks related to project and actual work is carried out by JV members including execution of bank guarantee to client etc. Being a legal entity, JV has a separate GST registration for filing GST returns separately. Advance received by JV from client is passed on to the JV members in proportion to their share. Under GST law, tax is collected either on raising of a tax invoice or on receipt of advance. Hence the advance received by JV is taxable in the hands of both the JV as well as JV Members. As the advance received by JV members are out of taxable advance received by JV, it amounts to double taxation qua advance, especially in view of the fact that JV is not entitled to get any input tax credit on advances so paid since Advance receipt voucher is not bona fide document for availing credit under Rule 36 of GST. In the absence of reporting requirement in GSTIN, GST included in advance paid will not reflect in electronic credit ledger of payer at the time of advance. At present, there is no provision in the GST Act to refund un-utilized input tax credit except in the cases enumerated under Section 54 (3) of the CGST Act.	services to JV members. This can be verified by examining the JV agreement. Thus, in such cases the advance payment from JV to its members should be considered as cash transaction and not taxable in the hands of JV and It will continue to be taxable only JV members. In this regard, kindly refer the **recent direction of Delhi High Court** in the writ of one of our members to decide on our earlier representation on this point.

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	JV will have to adjust the input tax credit against its output tax liability only. But, since JV is only adding 1% profit margin, net GST liability of JV is 12% tax on 1% JV profit i.e. 0.12% of JV turnover whereas GST paid on advance is almost 1.2% (12% GST on 10% advance on contract value). Moreover, JV is formed for a specific project and hence there is no scope to utilize accumulated credit against future liability. Resultantly, 1.2%- 0.12% = **1.08% of turnover is accumulated as blocked credit** with GST which cannot be utilized or refunded resulting in ultimate cash loss to JV. Authorities would appreciate that construction companies operate on less than 5% profit margins and this cash loss would be atremendous financial burden on JV.	
8	**Request for reducing the rate of GST to 12% for Construction services provided to the Power sector**	
	At the time of introduction of GST on 1st July 2017, the rate of GST for Supply of Construction Services was fixed at the rate of 18%. Subsequently, the Government vide Notification No 20/ 2017 – Integrated Tax (rates) dated 22nd August 2017, the rate of GST for certain specified services was reduced to 12 % (i.e 6% CGST + 6% SGST) for the following services with effect from 22nd August 2017. a) Services provided to Government, a local authority or a	While the reduction in GST rate for the above projects is very welcome, one important sector i.e the Power sector continues to attract 18% GST wherein construction services to Power projects has not been reduced and the rate continues to be 18%. The Infrastructure sector would like to emphasize that as the Government is giving special thrust to Power projects to make the country Self sufficient of Energy resources, it would immensely help both the Power Sector as well as the Construction sector. The high rate of 18% GST is a dampener as the cost of the projects has gone up considerably due to the high tax cost. Further in the earlier regime, the Power sector enjoyed various Tax concessions like Mega Power project status for Excise and Deemed Export

Sr. No	Issue	Suggestion / Recommendation
	Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – i) canal, dam or irrigation works ii) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment / disposal. b) Supply of services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a road, bridge, tunnel or terminal for road transportation for use by general public. c) Supply of services by way of construction, erection, commissioning, installation of original works pertaining to- i. a railways ii. a single residential unit otherwise than as a part of a residential complex. The Government further reduced the rate of GST to 12% with effect from 21st September 2017 for construction services provided to the Central Govt, State Govt, Union Territory, a local authority or a Governmental authority	benefits for certain other projects. **The Construction industry therefore requests the Government to reduce the rate of GST to 12% for construction services provided to Power projects in line with the above Construction projects**.

Sr. No	Issue	Suggestion / Recommendation
	by way of construction , erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of *a civil structure or any other original works.* The Government also reduced the rate of GST for construction services provided to Metro and Mono rail to 12% with effect from 25th January 2018.	
9	**Exemption from GST on goods used in projects financed by the World Bank Asian Development Bank, UN etc.**	
	Prior to Introduction of GST, goods imported as well as procured indigenously for use in a Project financed by World Bank, Asian Development Bank or any other international organization were exempted from: i) Imported goods from the whole of Basic Customs Duty and countervailing duty under Notification No.84/1997-Cus. dated 11.11.1997 and ii) Indigenous goods from Central Excise under Not. No.108/95-C.E. dated 28.08.1995	With the introduction of GST from 01.07.2017, the exemption from countervailing duty (cvd) on imported goods and excise duty on indigenously procured goods have been withdrawn from 01.07.2017 resulting in applicability of IGST on imported goods and GST on indigenously procured goods. This has far reaching implication especially in respect of on-going projects where the contractors are required to pay GST on all procurements whether imported or indigenous and seek reimbursement from the project owners. This will not only block the cash flow of the Contractors who are already reeling under cash crunch but also lead to delay in settling the reimbursement from the project owners Being projects financed (whether by a loan or grant) by World Bank or Asian Development Bank etc. the Government will agree that such projects should not be burdened with taxes. BAI requests the Government to **reinstate the exemptions as provided in the erstwhile indirect tax regime for the projects financed by World Bank, Asian Development Bank, UN etc.**
10	**Interest on Late Payment under GST –to be applicable only on Cash Component**	

Sr. No	Issue	Suggestion / Recommendation
	After 31st meeting of the GST Council, it has been published on 22nd December, 2018 that the Council has principally approved to amend section 50 of the CGST Act to ensure that interest is charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e., interest would be leviable only on the amount payable through the electronic cash ledger. **Thereafter, a standing order has been passed by the Principal Commissioner of Central Tax, Hyderabad on 04/02/2019.** The said order inter-alia contained "Since ITC/Credit in balance in the 'Electronic Credit Ledger' cannot be treated as the Tax paid, unless it is debited in the said credit ledger while filing the return for off-setting the amount in the 'Liability Ledger', the interest liability under Sec. 50 is mandatorily attracted on the entire Tax remained unpaid beyond the due date prescribed".	Section 50 of the CGST Act has been interpreted by the authorities in a way that it casts an obligation to pay interest on the total amount of tax payable without deducting input tax credit there from. However, the content of the said section does not support said interpretation. If this interpretation is applied, it will cause undue hardship. People will be liable to pay interest at rate of 18% which is far higher than the market rate of interesteven in cases where input tax credit is in excess of the output tax. Interest has always been treated as a compensatory levy and being so it should be calculated on the actual amount of tax withheld or on the actual amount of tax which was deposited belatedly. **Suggestion** The in-principal approval granted by the GST Council with regard to levy of interest only on the net cash liability is highly progressive and has created the possibility of a more practical and logically driven interest/penalty system. We humbly prayed to the Authorities to reconsider and revoke the standing order and to take appropriate decision in the interest of justice to ensure that interest is charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit. BAI requests for issuance of Board Instructions / circular, clarifying that the interest is to be calculated based on the net tax liability.
11	**Inter-state movement of construction equipments other than on the wheels from one branch to another :**	
	Vide Circular No 21/21/2017 – GST dated 22nd November 2017,Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes], (except in cases where movement of such goods is for further supply of the same goods) is now neither treated as a supply of goods nor supply of	**Restricting applicability of Circular 21/21/2017 to inter-state movement of construction equipment "on wheels" needs re-consideration** due the fact that equipment like concrete mix plant, cable cranes, crawler cranes, generators, transformers, tunnel-boring machines, piling rigs etc. are also construction equipment but have been totally overlooked only because they are not equipment "on wheels".

Sr. No	Issue	Suggestion / Recommendation
	services, therefore not subject to IGST. Construction companies are required to move their construction equipment from one state to another for executing projects. These equipments are also not meant for sale but for aid in construction and fully satisfy the conditions of Circular 21/21/2017. Majority of such equipment may not be equipment on wheels e.g. concrete mix plant, cable crane, crawler cranes, generators, transformers, tunnel-boring machines, piling rigs etc. These equipment generally include old and used ones and its movement are on principal to principal basis and there is no consideration or value addition.	These equipments also satisfy the logic applied in Circular 21/21/2017 (through which exemption has been granted to equipment on wheels) and deserve to be treated at par with rigs, tools, and spares, all goods on wheels (like cranes).
12	**Tax Deduction at Source – Section 51**	
	Government has mandated Central/State Govt. Dept., local authority, Govt. agencies, etc. to deduct tax at source and deposit the same to the credit of the Deductee which results in a credit in the electronic cash ledger.	The GST on the transaction is generally discharged by the Deductee immediately in full either through ITC/cash balance. The TDS, which is generally effected on payment, has a lag leading to unnecessary blockage of Deductee's funds. TDS should not be applicable for registered persons since they are already discharging the liability on due dates and this recovery results in blockage of funds necessitating filing of refunds claims.
14	**Input Tax credit Section 17(5)**	
	ITC on health/life insurance, food & beverages/catering services/Rent a cab service is eligible only if employer is under statutory obligation to provide such service to its employees	Credit of food & beverage services, rent a cab etc. is allowed only if it is mandatory for an employer under any statute to provide to its employees.

Sr. No	Issue	Suggestion / Recommendation
		Perhaps, the intention of the Govt. is to bar ITC on supplies meant for final personal consumption. However, facilities provided to employees by the businesses helps the businesses to generate output supply on which output GST is discharged. Employees are critical for furtherance of business of any organization and hence GST credits should be allowed without any restrictions. Section 17(5) should be further amended to delete sub clause (a), (aa), (ab) and (b).
15	**Section 43A – Joint Liability to pay tax if supplier defaults**	
	Clause V of the Section 43A states that the supplier and the recipient shall be jointly and severally liable to pay tax where supplier fails to pay tax to the govt.	Recipient taxpayer has no control over actions of the supplier. Recipient taxpayer avails the input tax credit based on receipt of goods and services of goods and services, copy of invoice and payment made to supplier including GST. Under these circumstances, it is unfair to hold recipient jointly liable if supplier defaults to make payment. Clause (v) of the section should be deleted and replaced with following : "*For the purposes of clause (ii) and (iii), the supplier shall be primarily responsible to pay taxes and the recipient shall not be made liable to reverse the input tax credit availed against such tax. Only on failure of recovery of tax from supplier, the recipient could be approached for discharge of liability or reversal of Input Tax Credit availed."*
16	**Exemption to Charitable and social welfare activities (Notification No. 12/2017 entry No.1)**	
	Exemption to charitable and social welfare activities	Certain charitable activities are exempted from GST by way of Notification No.12/2017-CGST (rate). The notification prescribes limited activities related to public health, religion or spiritually and education which are exempt. This leaves many other charitable activities for example sanitation, relief to poor, women empowerment, skill building, and old age

Sr. No	Issue	Suggestion / Recommendation
		homes, etc. which do not get covered under the exemption. Considering the need and larger objective served by doing/contributing to charitable activities, GST should clearly be not made applicable thereon. Accordingly, the definition of "charitable activities" needs to be enlarged to include all types of charitable activities including activities covered under CSR mandatory as per Companies Act, 2013, activities exempt under Income Tax Act, etc. This will help in the noble cause of upliftment of poor and needy who in turn will contribute to economic development.
17	**Abatement for land value in construction contract**	
	Standard abatement of 1/3rd of total value is prescribed irrespective of the location of construction activity	Land value in metro cities particularly in Mumbai/Delhi is substantially higher compared to Tier-I, Tier-II cities. Deemed Value of Land can be provided as per the location of property i.e. Metro / Non-Metro, tier I/II/III cities etc. as value of land varies significantly according to Location. In any case abatement for land in Mumbai, Delhi & Bangalore should be at least 70%.
18	**GST penal provisions**	
	High penalty for wrong availment of credit	As per Section 132(I) of CGST Act, in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds Rs.5 crores, imprisonment for a term five years with fine is prescribed. The limit of Rs.5 crores is very small for large corporate and such defaults may occur due system issues, manual errors, etc. These inadvertent errors in availment of credit should not be made liable to prosecution. We suggest that provision should be suitably modified to include only those cases where credit is wrongly utilized and not in cases of wrong availment. The rationale is that Government is not out of pocket. This will be in line with erstwhile service tax provision.

Sr. No	Issue	Suggestion / Recommendation
		We also suggest that, the limit for wrong availment of credit, which is liable for penal action should be linked to annual taxable turnover of outward supplies in previous year. Accordingly, the limit could be reset to Rs.5 crores or 10% of previous year's taxable turnover whichever is higher.