Tax evasion under GST

What is the issue?

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Inflated input tax credit claims as well as devising means to show revenues below the threshold limit are commonplace in the GST era.

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What is an Input tax credit?

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- Input Tax Credit means reducing the taxes paid on inputs from taxes to be paid on output.
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- When any supply of services or goods is supplied to a taxable person, the GST charged is known as Input Tax.
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- For example, if the tax to be paid on the final product by a manufacturer is INR 450 and the purchase tax paid is INR 300, the he/she can claim the input credit of INR 300, and the final taxes to be paid will remain as INR 150.
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- The concept is not entirely new as it already existed under the pre-GST indirect taxes regime (service tax, VAT and excise duty).
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- Only its scope has been widened under GST.
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- Under the erstwhile Cenvat Credit Rules, there were a number of rules enunciated to claim input tax credit.
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- A valid tax invoice was the principal document on which credit could be claimed.
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What are the benefits?

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- Though there were some issues in taxpayers claiming improper credits, the law evolved over a period of time to minimise tax evasion on a large scale.
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- Tax authorities have been able to nab and arrest offenders in cases in which ITC claims were extremely high.
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- Statistics show that there has been an increase in the number of registrations under GST.
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- Earlier, there have been instances wherein a single business has more than one PAN, thereby creating another GST registration.
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- However, the GST framework help in syncing these registrations and linking to PANs.
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- However, the government has recently detected GST evasion to the extent of Rs. 38,896 crores in the period between April-October 2018.
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- This shows that the evasion of GST is increasing and that the government is aware of this.
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What are the concerns?

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- - The CGST Act had a Section 9(4) which proposed that GST **Reverse charge provision**be paid on reverse charge for purchases made from unregistered persons.
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- Reverse charge is a mechanism where the recipient of the goods and/or services is liable to pay GST instead of the supplier.
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- If a vendor who is not registered under GST, supplies goods to a person who is registered under GST, then Reverse Charge would apply.
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- This means that the GST will have to be paid directly by the receiver to the Government instead of the supplier.
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- Implementation of this section has been deferred till September 2019 due to ground-level difficulties in enforcing the provision.
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- - To postpone registration, **issues Invoicing**invoice was made under different names, thereby making maximum use of the threshold exemption limit of Rs. 10 lakhs (under service tax).
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- Even after the introduction of GST, many taxpayers continue to opt for the easy route of invoicing under multiple names.
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- Also, GST laws used the concept of automatic matching of invoices on the portal to prevent tax evasion.
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- The surge in cases of false ITC claims can be attributed to the failure of this concept.
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- The frequent deferral of the automatic matching of invoices as well as the ease with which credit could be claimed in the GSTR 3B (monthly return) made taxpayers to either increase claims or delay payments.
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- Some taxpayers even claim credits initially and then figuring out how to work around the documentation and compliance.
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- **HSN code** - Compliance with GST involves providing details of HSN code-wise details of outputs and inputs.
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- The main purpose of HSN is to classify goods from all over the world in a systematic and logical manner.
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- This brings in a uniform classification of goods and facilitates international trade and thus the HSN code system should be simple.
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- Unfortunately, the GST tariff as it stands today has a long list of HSN codes with different rates of tax and extremely complex descriptions of items within the codes.

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- During the transition into GST, the government has attempted to fit items into the nearest higher rate.
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- However, during compliance, some taxpayers made use of the complex descriptions to fit their products into the nearest lower rate thereby minimising their tax outgo.
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What should be done?

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- The ideal tax environment is one where tax rates are reasonable, rules are simple, taxpayers are compliant and tax officers aren’t demanding.
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- Tax evasion occurs when taxpayers are well aware of the loopholes in a patchy law, while continue to evade taxes.
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- There are enough and more penal provisions in GST laws to punish the evaders.
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- All that the government needs to do is to ensure that the GST environment improves holistically.
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Source: Business Line

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