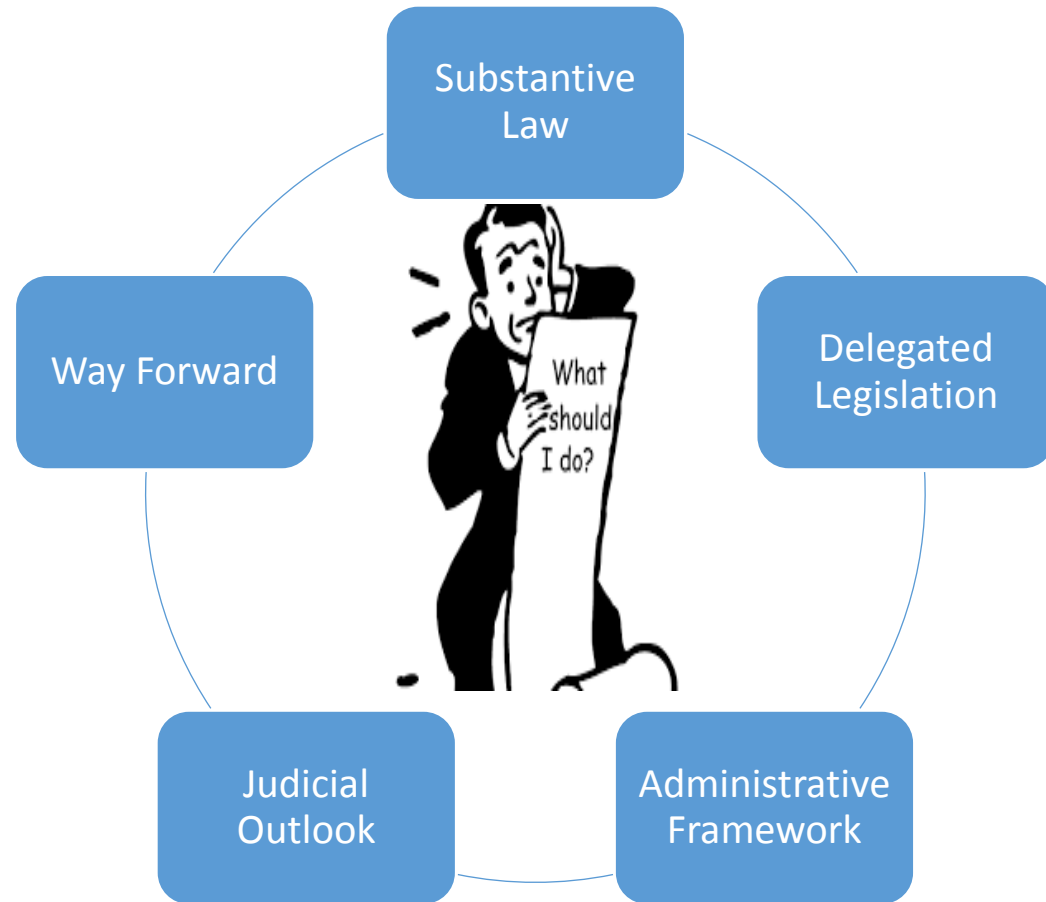




Million Moments - Experience so far....



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Substantive Law – Select Amendments

- GST (Amendment) Act, 2018
 - Proposed in August 2018
 - Effective from 1 February 2019 Some provisions with retrospective effect
- Finance (No. 2) Act, 2019
 - Not yet effective (except one provision)

Interpretation of Supply

- Schedule II of CGST Act no longer 'deeming provision' but merely 'classification provision'
- Implications of some recent decisions
 - Forced Supplies – Bai Mamubai Trust (Bombay High Court)
 - Mutuality Principle – Calcutta Club (Supreme Court)
- New Entries inserted in Schedule III (Neither Supply of Goods nor supply of services)
 - High Seas/ Out and Out / Bonded Warehouse sales
 - Not to be treated as exempted supply for credit reversal
 - Whether accumulated ITC is available for refund ? (Atin Krishna/ Flamingo)

Reverse Charge Mechanism

- Section 9(4) substantially amended
 - Blanket provision for URD RCM deleted
 - Govt. has powers to notify class of taxpayers where URD RCM can apply
 - Real Estate Developers notified as class of persons where deficit of procurement of goods or services below 80% from registered tax payers is liable for URD RCM
- Import of Services from related persons by non taxable person liable under RCM even if without consideration
- Whether RCM vs. Forward Charge is a choice?
 - Reverse Charge – Section 2(98) - “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

Input Tax Credit : Blocked Credits

- Services related to motor vehicles ineligible for credit
- Vehicles with seating capacity above 12 & associated services eligible for credit
- Credit eligible for employee related costs if employer under a legal obligation to provide such facilities
- KKC not eligible for transition credit – retrospective amendment
- Change in sequence of utilisation of credit

Finance (No. 2) Act, 2019

- Interest payable only on the net amount paid through Cash
 - Provide Relief from the adverse decision of Megha Engineering
- Inter-fungibility permitted for Cash Ledgers
- Composition Scheme extended to service providers
- Interest on loans not to be treated as value of exempted supplies for composition, etc.
- Empowerment to increase threshold for supply of goods to 40 lakhs
- Aadhar Authentication made mandatory

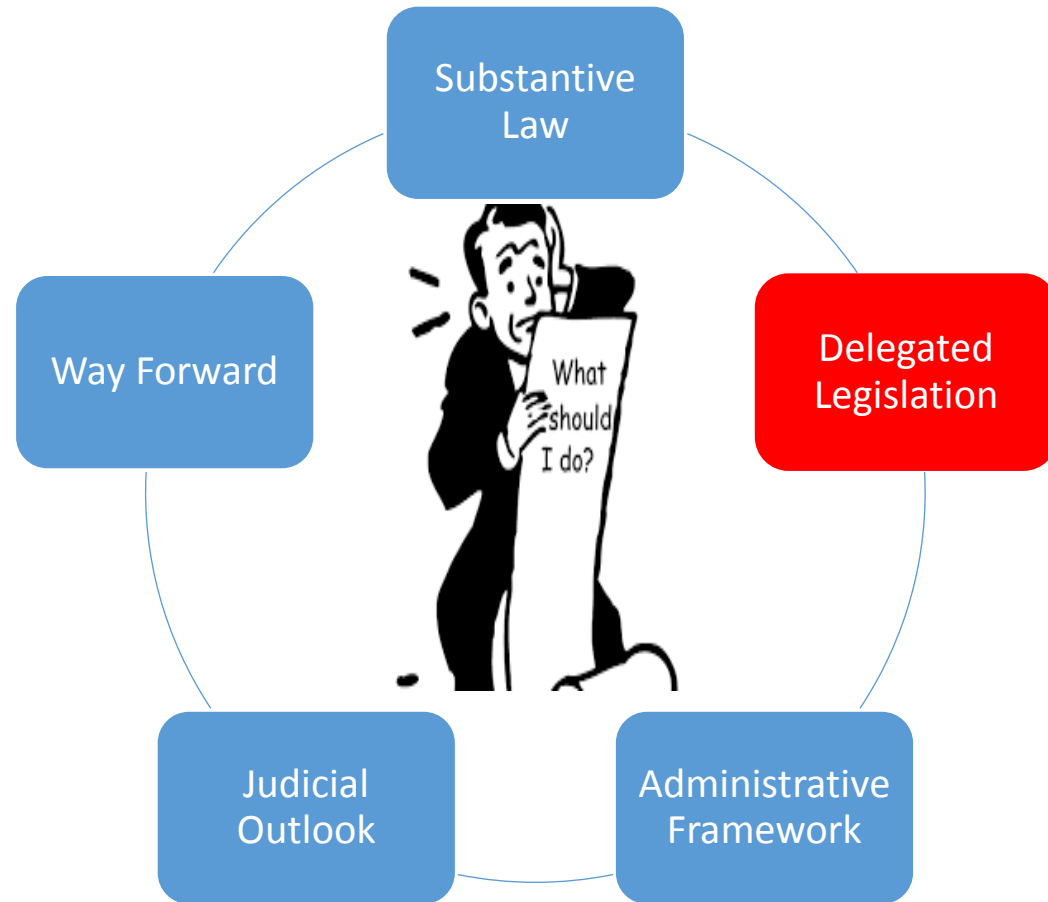
Legacy Dispute Resolution Scheme

- One time amnesty scheme for closure of pending litigations in central excise and service tax
- Similar scheme announced earlier by many state Governments for VAT
- No such benefit under Customs Act.
- Benefits offered under the Scheme:
 - Substantial tax relief ranging from 40% to 70% of disputed tax dues/ arrears
 - Complete waiver of interest, penalty and prosecution and
 - Closure of further proceedings in respect of such disputes

Relief available

Nature of Tax Dues	Amount of Tax Relief (Full Interest and Penalties waived in all such cases)	
	Amount of Duty \leq Rs. 50 Lakhs	Amount of Duty $>$ Rs. 50 Lakhs
Relatable to Show Cause Notice or one or more appeal pending as on 30.06.2019	70% of the total tax dues	50% of the total tax dues
Relatable to Show Cause Notice liable for late fees or penalty only and amount of duty has been paid or is Nil	Entire amount of late fees or penalty	Entire amount of late fees or penalty
Relatable to an amount in arrears	60% of total tax dues	40% of total tax dues
Relatable to an amount in arrears and the said amount is disclosed in the return as payable but not paid by the declarant	60% of total tax dues	40% of total tax dues
Linked to an enquiry, investigation or audit against the declarant on or before 30.06.2019	70% of total tax dues	50% of total tax dues
On account of voluntary disclosure	No Relief in Tax Dues	No Relief in Tax Dues

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Issues in delegated legislations

- Benevolent Clarification – how will it be interpreted?
- GST Council Announcement
 - Interest on net amount but no amendment made in law
 - Conflicting decisions from the High Courts
- Binding nature of clarifications and other literature *inter-se*

Recent Notifications...

- Notification 49/2019-CT – Amendment in Rules
 - Rule 21A - Suspension of Registration – Implications during the interregnum period especially if suspension revoked later
 - Rule 36 – Restriction of claim of non uploaded ITC to the extent of 20% of eligible ITC (see later slide)
 - Rule 61 – Retrospective Amendment to specify GSTR3B as a return
 - Rule 142 – Pre SCN Intimation of dues under sections 73/74

ITC Restriction –

Rule 36 – inserted with effect from 09.10.2019

(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

Section 43A – not yet notified

(4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section

ITC Restriction - Implications

- Whether Rule can be effective prior to the Act?
- Whether transaction Level matching required ?
- Is there a time dimension – how to address quarterly filers ?
- How will this be implemented?
 - Portal Generated Notices / Inquiries – whether monthly or annually or cumulative?
 - GSTR3B also includes re-credit, previous year's credits

ITC Restriction – Case Study 1

Comments	GSTR2A	GSTR3B	Difference
Matched totally & eligible	750000	750000	0
Matched totally & ineligible	25000	0	25000
Available in 2A but not claimed in books	25000	0	25000
Available in earlier 2A and claimed in books this period	0	120000	-120000
Available in earlier FY 2A and claimed in books this period	0	75000	-75000
Not Available in 2A and claimed in books	0	20000	-20000
Recredit claimed of earlier reversals	0	100000	-100000
	800000	1065000	-265000
Aggregate Basis for the month			-33.13%
Aggregate Basis cumulative			-18.13%
Transaction Level			-2.67%

ITC Restriction – Case Study 2

	GSTR2A	GSTR3B	Difference
Matched totally & eligible	750000	750000	0
Matched totally & ineligible	25000	0	25000
Available in 2A but not claimed in books	250000	0	250000
Available in earlier 2A and claimed in books this period	0	20000	-20000
Available in earlier FY 2A and claimed in books this period	0	75000	-75000
Not Available in 2A and claimed in books	0	200000	-200000
Recredit claimed of earlier reversals	0	100000	-100000
	1025000	1145000	-120000
Aggregate Basis for the month			-11.71%
Aggregate Basis cumulative			-9.76%
Transaction Level			-26.67%

Recent Notifications (Contd.)

- Notification 48/2019-CT – Waiver of late fees for J&K Assesseees
- Notification 47/2019-CT – Annual Return optional if
 - Aggregate turnover is below 2 crores
 - Have not already furnished
 - Follow Special Procedure ?
 - Return deemed to be furnished on the due date
- Notification 46/2019-CT – GSTR1 due dates for monthly tax payers
- Notification 45/2019-CT– GSTR1 due dates for quarterly tax payers
- Notification 44/2019-CT– GSTR3B due dates

Recent Rate Notifications

- Notification No.25/2019-Central Tax (Rate) – Neither supply of goods nor supply of service (and therefore no RCM)
 - Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called
- Notification No. 24/2019-Central Tax(Rate) – corrects a typo in URD RCM Notification for cement
- Notification No.23/2019-Central Tax(Rate) – Development Rights - Notification 4/2018 not applicable for supplies after 01.04.2019

Recent Rate Notifications (Contd.)

- Notification No.22/2019-Central Tax (Rate) – RCM on Services
 - Authors permitted choice of forward charge
 - Renting of motor vehicle by non body corporate to body corporate brought under reverse charge if
 - “paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business”
 - Services of lending of securities under Securities Lending Scheme, 1997 brought under reverse charge
- Notification No.21 /2019-Central Tax (Rate) – Exemption to Specific Services

Recent Rate Notifications (Contd.)

- Notification No. 20/2019-Central Tax (Rate) – Changes in tax rates for services

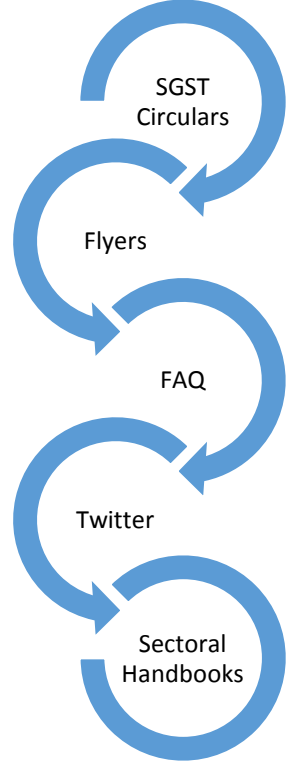
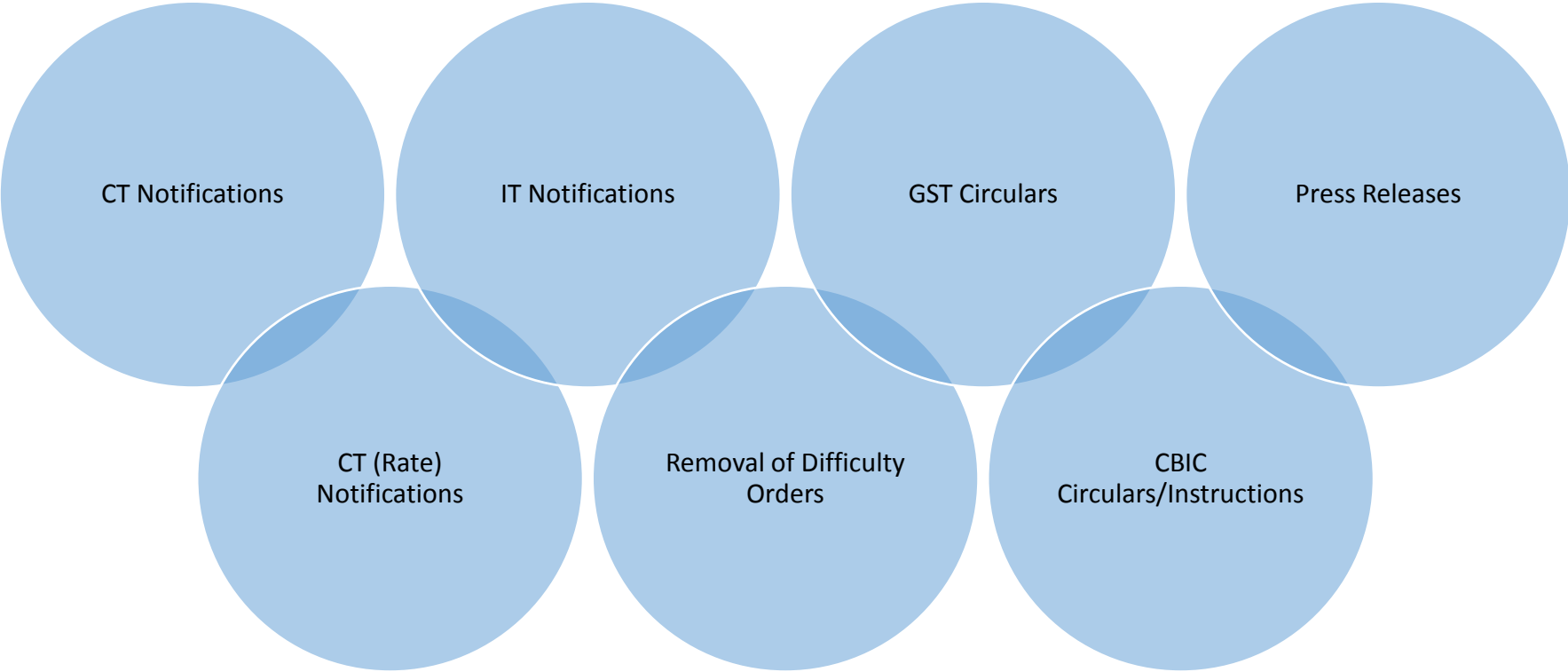
- Food and Beverages

- Hotel Accommodation (Value between 1000 – 7500) 12% with ITC
- Restaurant Services (other than at specified premises-OSP) 5% without ITC
- Supply of Food in trains or at platforms 5% without ITC
- Outdoor Catering Services OSP 5% without ITC
- Composite Supply of Outdoor Catering & renting (OSP) 5% without ITC
- Other Accommodation, F&B Services 18% with ITC

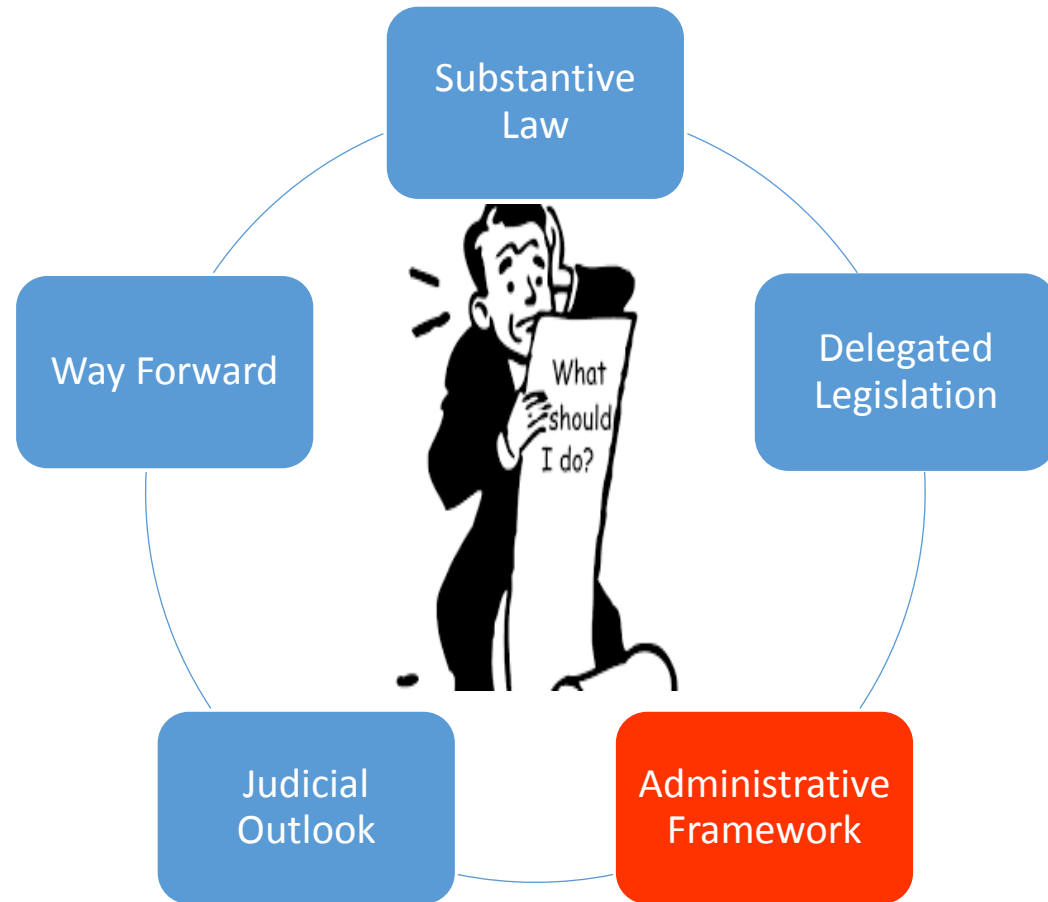
- Job Work

- (ib) Services by way of job work in relation to diamonds 1.5%
- (ic) Services by way of job work in relation to bus body building 18%
- (id) Services by way of job work other than (i), (ia), (ib) and (ic) above 12%
- (iv) Manufacturing Services on physical inputs (goods) owned by others 18%
(Other than (i), (ia), (ib), (ic), (id), (ii), (iia), (iii))

The list is endless..



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GST Implementation

- GST Council
 - Good Example of Co-operative Federalism
 - Rate Fitment & Rationalisation
 - Receptive to Trade and Industry Representations
 - Dual GST Structure – Law Amendment becomes time consuming and difficult
 - Workaround through delegated authority
- Anti Profiteering Authority
- Advance Rulings

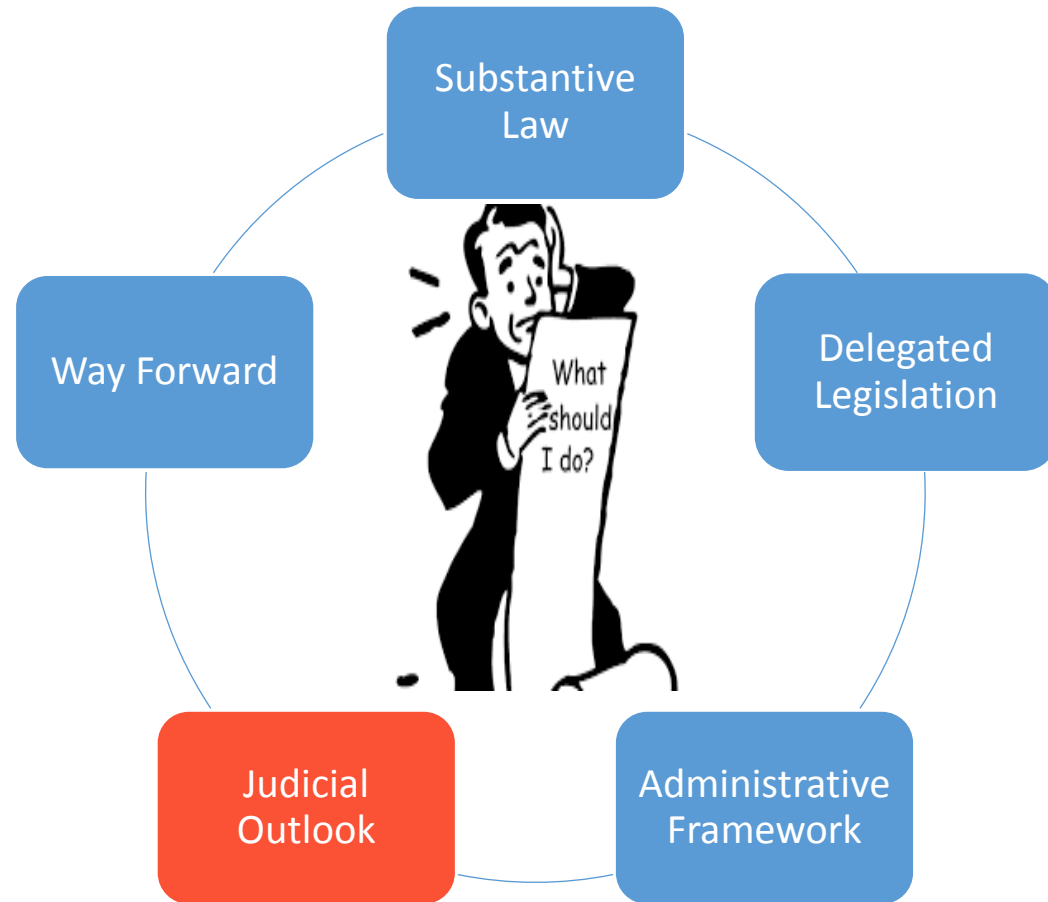
GST Administration

- Allocation of Taxpayers to Centre and State Authorities
- Capacity Building Initiative for the Officers
- Education Initiatives
- State and Centre – Distinct Skill Sets / Access to Data Points
- Physical Trail vs. Electronic Trail

GSTN Portal

- Constant Work in Progress
- Stabilised to a large extent
- Conflicts between Law and Portal Validations
- Huge Repository of Data
- Analytics and Enforcement

Million Moments - Experience so far....



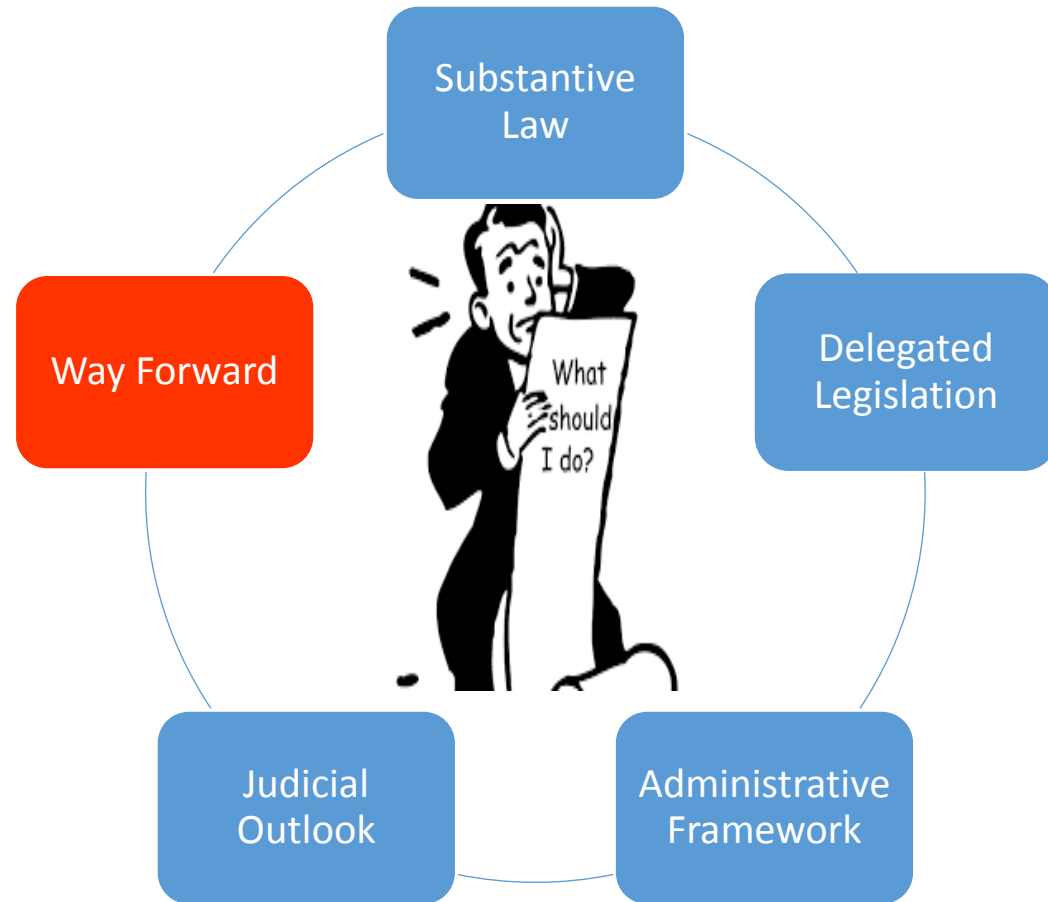
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Judicial Outlook

- Advance Rulings and Appellate Advance Rulings
 - Represented by Revenue Authorities
 - Not reasoned
 - Deluge of advance rulings
 - Has it served its' objective?
- High Courts
 - Portals and challenges
 - E Way Bills
 - Few Conceptual Issues now being determined

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Way Forward

- Tax Payers
 - GST Annual Return and Audit – 30 November 2019
 - Electronic Invoicing – Date to be announced
 - New Return Format - April 2020 onwards
 - Closure of FY 18-19 by September 2019
 - Notices and Adjudication will begin
- Government
 - Prolonged Suspense / Inaction may be detrimental

