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Goods and Service Tax framework in India

Abstract

Due to current complex, ambiguous, and multiple tax system prevailing in the country, there is a keen need to introduce new refines system of tax collection, payment and more over with simplified understanding of tax structure. This research paper has been prepared to provide a comprehensive guide on the transitional law to conveniently subsume the current taxes into the GST regime. The researcher has included the concept of GST in nutshell along with its need. Moreover gradual development of GST regime is also included. Researcher has also tried to elaborate different GST models at state and national levels. In brief researcher has tried to include theoretical aspects and practical implementation of GST in India.

Introduction :

The Goods and Service Tax Bill or GST Bill, officially known as The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014, proposes a national Value added Tax to be implemented in India from April 2016. "Goods and Services Tax" would be a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India, to replace taxes levied by the Central and State governments. GST would be levied and collected at each stage of sale or purchase of goods or services based on the input tax credit method, irrespective of State. Taxable goods and services are not distinguished from one another and are taxed at a single rate in a supply chain till the goods or services reach the consumer. Administrative responsibility would generally rest with a single authority to levy tax on goods and services. Exports would be zero-rated and imports would be levied the same taxes as domestic goods and services adhering to the destination principle.

What is GST?

[i]GST is a comprehensive tax levy on manufacture, sale and consumption of goods and services at a national level. GST is a part of proposed tax reforms in India having an extensive base that instigate the applicability of an efficient and harmonized consumption tax system. GST has been commonly accepted by world and more than 140 countries have acknowledged the same. Generally the GST ranges between 15%- 20% in most of the countries.

Goods and Service Tax (GST) is a comprehensive tax levy on manufacture, sale and consumption of goods and service at a national level.

GST is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set-of benefits from the producer's/ service provider's point up to the retailer's level where only the final consumer should bear the tax.
GST stands for "Goods and Services Tax", and is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. Its main objective is to consolidates all indirect tax levies into a single tax, except customs replacing multiple tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in tax administration.

[ii]GST would be a destination based consumption tax which seeks to provide a simple structure to levy, collect and administer the taxes in the Country. GST also seeks to consolidate many and different taxing statutes at the Central and the State level into a comprehensive tax structure, enabling the exchequer to have a larger taxing base and consequently reducing the compliance cost of the assesses. To the assesses,[iii] it would enable him to take seamless credit of all taxes, eliminating cascading and better compliance with simple tax and compliance structure. This research paper has been prepared to provide a comprehensive guide on the transitional law to conveniently subsume the current taxes into the GST regime.

Need for GST :

Introduction of a GST to replace the existing multiple tax structures of Centre and State taxes is not only desirable but imperative in the emerging economic environment. Increasingly, services are used or consumed in production and distribution of goods and vice versa. Separate taxation of goods and services often requires splitting of transaction values into value of goods and services for taxation, which leads to greater complexities, administration and compliances costs. Integration of various taxes into a GST system would make it possible to give full credit for inputs taxes collected. GST, being a destination-based consumption tax based on VAT principle, would also greatly help in removing economic distortions and will help in development of a common national market.

[iv]STEPS TOWARD IMPLEMENTATION OF GST YEARWISE DEVELOPMENTS

Year	Events
2004	Dr. Kelkar Task Force recommended the need of a National GST
First Jan.2007	GST study released by Dr. Shome
2007	Consultation with stakeholders on GST Model
April 2007	CST phase out started
May 2007	Joint Working Groups appointed by E.C.
Nov 2007	13th Finance Commission Constituted
Nov 2007	Joint Working Groups submitted Report
Feb 2008	F.M. Announced introduction of GST from 1.4.2010 in Budget Speech 2008-09
April 2008	Empowered Committee (EC) finalized its views on GST Structure
July 2009	F.M. announced Dual GST from April 1, 2010 in Budget Speech 2009-10
Oct 2009	13th Finance Commission to submit its Report
Nov 2009	Release of First Discussion Paper on GST
2009-2010	Consultation on Model of inter-State transactions, RNR and other issues - In progress Nandan Nilekani given the responsibility for creating the required IT structure and NSDL has been chosen as the technology partner for operating the structure.
Dec 2014	122nd Constitution Amendment Bill introduced in Parliament
May 2015	122nd Constitutional Amendment bill passed by Lok Sabha and referred to the Select Committee of Rajya Sabha to submit its report in first week on Monsoon Session.

What will be out of GST?

- Levies on petroleum products
- Levies on alcoholic products

- Taxes on lottery and betting
- Basic customs duty and safeguard duties on import of goods into India
- Entry taxes levied by municipalities or panchayats
- Entertainment and Luxury taxes
- Electricity duties/ taxes
- Stamp duties on immovable properties
- Taxes on vehicles

Inter-State Transactions of Goods & Services

- The existing CST will be discontinued. Instead, a new statute known as IGST will come into place. It will empower the GC to levy and collect the tax on the inter-state transfer of the GS.
- The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.
- The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

Benefits of GST :

[v]GST will create a single, unified Indian market to make the economy stronger. In totality GST will benefit the Government as well as the consumers in the long run thus creating a win-win situation for both. Some of the benefits of GST are enlisted as follows:

(a) Abolition of multiple layer of taxes :

Implementation of GST in India will integrate the existing line of taxes like Central Excise, Service Tax, Sales Tax, Value Added Tax etc. into one tax i.e. GST. This will help avoiding multiple taxes currently being levied on products and services. For Example in case of

Restaurant Services we end up paying both Service tax and VAT making taxable amount approximately 140% for the total amount.

(b) Mitigation of Cascading Taxation :

Under the GST regime the final Tax would be paid by the Consumer of the goods/ services but there would be an input tax credit system in place to ensure that there is no cascading of taxes. GST would be levied only on the value added at every stage unlike the present scenario wherein Tax is also required to be paid on Tax in few cases i.e. VAT is payable on Excise duty.

(c) Development of Common National Market :

GST would introduce a uniform taxation law across states and different sectors in respect to indirect taxes which would make it easier to supply goods and services hassle free across the country. This will help in removing economic distortions, promote exports and bring about development of a common national market. This will definitely give a boost to India’s tax-to-gross domestic product ratio and thus help in promoting economic efficiency and sustainable long term economic growth.

(d) Increase in Voluntary Compliance :

Under GST regime, the process will be simple and articulate with a lesser scope for errors. As all the information will flow through the common GST network it would make tax payment and compliances a regular norm with lesser scope for mistakes. It will only be upon the payment of tax, the consumer will get credit for the taxes they pay on inputs. This will generate an automatic audit trail of value addition and income across the production chain, creating a unified base of tax potential that can be tapped. Thus GST model will do away the need of the current patchwork of indirect taxes that are fractional.

(e) Reduced Litigation :

Taxation under GST would reduce litigation on account of clarity regarding the jurisdiction of taxation as against the present structure where there still exists an uncertainty regarding jurisdiction of taxation by Centre and State in few cases like in case of Software, Right to use of Goods etc. In GST Regime, with a single tax law in place, there would be smooth assessments as compared to the present multiple assessments in different tax laws.

(f) Efficient Administration by Government :

Presently, on account of multiplicity of taxes and there cascading Presently, on account of multiplicity of taxes and there cascading effects, lack of integrated network, the administration of indirect taxes is a mammoth task for the government which also adds to the compliance & administration costs. Under proposed GST regime, with unified tax rate, simple input tax credit mechanism and integrated GST Network, information would be readily available and administration of resources would be easy and efficient for the Government. There would be a single tax, reduced errors and litigations thus resulting in reduced administration costs too.

(g) Will act as a Tax Booster for Government :

With a wider tax base, minimum floor rates, facility of seamless credit the Goods With a wider tax base, minimum floor rates, facility of seamless credit the Goods & Services Tax would prove to be an efficient tax booster for the Government. With ease of compliance and integrated network data tax collection would be much easier for the government.

[vi]Latest updates on GST :

Parliament panel might propose optional GST for states

- The panel, to consider its draft report on the Constitution (115th Amendment) Bill on the GST, feel states should be given enough fiscal space if the success of Value Added Tax (VAT) is to be replicated.
- To address concerns of the states on revenue loss, the panel might recommend an automatic compensation mechanism, wherein a fund is created under the proposed GST Council. It also wants a study to evaluate the impact of GST on the revenue of states. It could suggest a floor rate with a narrow band, decision by voting and not consensus in the GST Council, omitting the provision on setting up a Dispute Settlement Authority, subsuming entry tax in GST and giving powers to states to levy tax in the event of a natural calamity, among other things.
- The report of the standing committee could be adopted in its next meeting and the finance ministry, after incorporating the panel's views, would approach the cabinet to present the Bill in Parliament with the changes.

Emerging Issues of GST :

- What preparations are required at the level of CG and SG for implementing GST?
- Whether the Government machinery is in place for such a mammoth change?

- Whether the tax-payers are ready for such a change?
- What impact it can have on the revenue of the government?
- How can the burden of tax, in general, fall under the GST?
- In what respect, it will affect the manufacturers, traders and ultimate consumers?
- How will GST benefit the small entrepreneurs and small traders?
- Which type of administrative work will be involved in complying with the GST requirements?

Justification of GST :

Despite the success of VAT, there are still certain shortcomings in the structure of VAT, both at the Centre and at the State level.

A. Justification at the Central Level :

1. At present excise duty paid on the raw material consumed is being allowed as input credit only. For other taxes and duties paid for post-manufacturing expenses, there is no mechanism for input credit under the Central Excise Duty Act.
2. Credit for service tax paid is being allowed manufacturer/ service provider to a limited extent. In order to give the credit of service tax paid in respect of services consumed, it is necessary that there should be a comprehensive system under which both the goods and services are covered.
3. At present, the service tax is levied on restricted items only. Many other large number of services could not be taxed. It is to reduce the effect of cascading of taxes, which means levying tax on taxes.

B. Justification at the State Level :

1. A major defect under the State VAT is that the State is charging VAT on the excise duty paid to the Central Government, which goes against the principle of not levying tax on taxes.
2. In the present State level VAT scheme, CENVAT allowed on the goods remains included in the value of goods to be taxed which is a cascading effect on account of CENVAT element.
3. Many of the States are still continuing with various types of indirect taxes, such as luxury tax, entertainment tax, etc.
4. As tax is being levied on inter-state transfer of goods, there is no provision for taking input credit on CST leading to additional burden on the dealers.

Models of GST :

There are three prime models of GST:

1. GST at Central (Union) Government Level only
2. GST at State Government Level only
3. GST at both, Union and State Government Levels

Central GST :

Under this option, the two levels of government would combine their levies in the form of a single National GST, with appropriate revenue sharing arrangements among them. The tax could be controlled and administered by the Central Government. There are several models for such a tax. Australia is the most recent example of a National GST, which is levied and collected by the Centre, but the proceeds are allocated entirely to the States.

In the case of a Central GST (where all goods and services are taxed by the Central government only), the Centre will collect most of the country's total tax revenue, leaving very little for the sub-national Governments. As against this, the present proposal is to have a dual GST.

A single national VAT has great appeal from the perspective of establishment and promotion of a common market in India. However, the States may worry about the loss of control over the tax design and rates. Indeed, some control over tax rates is a critical issue in achieving accountable sub-national governance and hard budget constraints. The States may also be apprehensive that the revenue sharing arrangements would over time become subject to social and political considerations, deviating from the benchmark distribution based on the place of final consumption.

The Bagchi Report also did not favour this option for the fear that it would lead to too much centralization of taxation powers. The key concerns about this option would thus be political. Notwithstanding the economic merits of a National GST, it might have a damaging impact on the vitality of Indian federalism.

State GST :

The second model is to have a State GST in which the States alone levy GST and the Centre withdraws from the field of GST or VAT completely. It can be a desirable option given the mismatch in resources and responsibilities of the States. In this case, the State GST will work as the redistributing mechanism. The loss to the Centre from vacating this tax field could be offset

by a suitable compensating reduction in fiscal transfers to the States. This would significantly enhance the revenue capacity of the States and reduce their dependence on the Centre. The USA is the most notable example of such arrangements, where the general sales taxes are relegated to
the States. However, there would be significant hurdles in adopting this option in India, and it may not be suitable here.

Union and State Government Levels :

Here the GST will be levied by both tiers of Governments concurrently. There will be Central GST to be administered by the Central Government and there will be State GST to be administered by State Governments. Thus, the GST would comprise a Central GST and State GST: a Central-level GST will subsume central taxes, such Models of GST 25 as, excise duty, CVD, SAD and service tax; and a State-level GST will subsume VAT, Octroi, entry taxes, luxury tax, etc. Therefore, under this model, both goods and services would be subject to concurrent taxation by the Centre and the States. This variant is closer to the model recommended by the Kelkar Committee in 2002.

Example: Under existing system Centre can levy tax on goods as well as on services, such as Excise duty on manufacture of goods and Service tax on Services but State has no power to levy Tax on manufactured goods such as VAT but in concurrent dual GST model both Centre and State will have power to levy taxes on both Goods and Services.

Figure 1 ideal GST

[1]**GST - Salient Features :**

- It would be applicable to all transactions of goods and service.
- It to be paid to the accounts of the Centre and the States separately.
- The rules for taking and utilization of credit for the Central GST and the State GST would be aligned.
- Cross utilization of ITC between the

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Central GST and the State GST would not be allowed except in the case of inter-State supply of goods.

- The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.
- The taxpayer would need to submit common format for periodical returns, to both the Central and to the concerned State GST authorities.
- Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits.

Conclusion :

The taxation of goods and services in India has, hitherto, been characterized as a cascading and distortionary tax on production resulting in mis-allocation of resources and lower productivity and economic growth. It also inhibits voluntary compliance. It is well recognized that this problem can be effectively addressed by shifting the tax burden from production and trade to final consumption. A well designed destination-based value added tax on all goods and services is the most elegant method of eliminating distortions and taxing consumption. Under this structure, all different stages of production and distribution can be interpreted as a mere tax pass-through, and the tax essentially 'sticks' on final consumption within the taxing jurisdiction.A 'flawless' GST in the context of the federal structure which would optimize efficiency, equity and effectiveness. The 'flawless' GST is designed as a consumption type destination VAT based on invoice-credit method.

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