About the Book

This is an edited book comprising selected papers submitted to the National Seminar on ‘GST and the Consumer: Issues and Challenges’ organised by the Chair of Excellence on Consumer Law and Jurisprudence of the Tamil Nadu Dr. Ambedkar Law University, Chennai in association with Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs, Government of India on 15th September, 2017. The papers have been classified under four sections as follows: I. GST – A Work-in Progress; II. Management Issues in GST; III. Impact of GST on MSMEs and IV. GST and the Consumer.

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The Tamil Nadu Dr. Ambedkar Law University is a premier institution for legal education, established in the year 1997 in pursuance of the Tamil Nadu Act No.43 of 1997. As a sui generis model, the University is the first of its kind in the country offering legal education both on its campus and through the affiliated law colleges in the State of Tamil Nadu. All the ten Government Law Colleges and one Private Law College stand affiliated to the Tamil Nadu Dr.Ambedkar Law University. The University has established the School of Excellence in Law in its campus.

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GST and the Consumer: Issues and Challenges 2017

सत्यमेव जयते

GST and the Consumer: Issues and Challenges

GST and the Consumer: Issues and Challenges

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Preface

The implementation of the Goods and Services Tax (GST) with effect from 01.07.2017 is perhaps the biggest and boldest tax reform that the country has seen since Independence. The new tax has subsumed Central levies like Central Excise Duty, Additional Excise Duty, Service Tax, Countervailing Duty, Special Additional Duty of Customs etc., and State levies such as State VAT/Sales Tax, Entertainment Tax, Central Sales Tax, Octroi and Entry Tax and Purchase Tax. What is unique about this reform is that neither the Centre nor the States gave up their sovereignty while bringing about the change. They have pooled their sovereignty to make joint decisions with respect to indirect taxation, truly reflecting the spirit of cooperative federalism.

It is claimed that the introduction of GST will have several advantages: the entire Indian market will be a unified market which may translate into lower business costs; it will facilitate seamless movement of goods across states and reduce the transaction cost of businesses; it will reduce the cost of doing business enabling fairer price for consumers; it will mean lower prices for consumers in the long run; it is good for export oriented businesses, because it is not applied for goods/services which are exported out of India; it can bring more transparency and better compliance; more business entities will come under the tax system thus widening the tax base; this may lead to better and more tax revenue collections; and companies which are under unorganized sector will come under tax regime.

The tax reform has had its share of critics too, who point out that multiple rates would increase litigation and lobbying by business entities to shift goods or services from one bracket to another; the structure proposed for implementation will result not only in tax evasion but also considerable hardships to small businesses and that inadequacy of IT infrastructure could pose serious problems in the initial years. It is also pointed out that countries like Australia, New Zealand, Canada, Korea. South Africa and Singapore collect tax at a single standard rate.

Consumer activists have also expressed concern that the burden on the consumer will be heavy under the new regime. They point out that already some commodities of daily use have been imposed 18% and 28% tax rate which will be a clear strain on the budget of middle class and the down-trodden people. Their argument is that while the manufacturer, wholesaler and retailer in the supply chain can avail themselves of input tax credit, no such relief is available to the consumer who has to pay GST on the final price of the commodity. It is also feared that the hike in prices of raw material and components resulting from the cost of GST compliance will increase the product price and affect the consumer only. Yet another grievance of consumers is that the tax rate for services has been raised from 15 to 18%. Lastly, it is also apprehended that the choice of products will be restricted for the consumers since many micro, small and medium enterprises (MSMEs) and mini traders are likely to be driven out of business due to their inability to comply with GST norms.

Is GST a Good and Simple Tax? Is one nation, one tax a myth or reality? Is the preparation for GST adequate? Will GST spur economic growth? What will be its impact on micro small and medium enterprises? To discuss the above issues, the Chair of Excellence on Consumer Law and Jurisprudence (CECLJ) of The Tamil Nadu Dr.Ambedkar Law University, Chennai organised a One Day National Seminar on **'Goods and Services Tax & the Consumer: Issues and Challenges'** in association with the Ministry of Consumer Affairs Food and Public Distribution, Department of Consumer Affairs, Government of India on 15th September, 2017.

The papers presented at the seminar have been edited and grouped under the following sections in Part-A of this publication:

Section-I	GST – A work in progress
Section-II	Management issues in GST
Section-III	Impact of GST on micro, small and medium enterprises
Section-IV	GST and the Consumer

We have also reproduced the clarifications issued by the Government of India from time to time and the important notifications in Part-B.

We thank Prof.(Dr.)N.S. Santhosh Kumar, Director of Legal Studies and Convenor of the Management Committee of the University for his guidance and enthusiastic support in organizing the seminar and bringing out this publication. We also thank Dr.C.Chandramouli, IAS, Additional Chief Secretary and Commissioner of Commercial Taxes, Government of Tamil Nadu for inaugurating the seminar and Shri.C.P. Rao, Principal Chief Commissioner of GST and Central Excise, Chennai for delivering the valedictory address.

The Editors wish to thank the contributors of the papers for their very good response. Subsequent to the organization of the seminar, there have been many changes approved by the GST Council and notified by the Government of India which may not be reflected in the papers. The views expressed in the papers are of the respective authors only. The Editors are no way responsible for the authenticity of the facts or contents of the articles. We hope that readers will finds this publication useful.

Chennai **Editors**

08.03.2018.

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Section-I

GST – A WORK IN PROGRESS

GOODS AND SERVICES TAX : ISSUES AND CHALLENGES

Dr. C.Chandramouli, IAS[1]

It gives me immense pleasure in taking part in this One Day National Seminar on Goods and Services Tax, and I convey my thanks to the organizers for inviting me to deliver the inaugural address.

I am happy to note that technical sessions on research papers relating to various aspects of GST are scheduled to be deliberated in today's seminar. These deliberations would to a great extent create awareness among all including legal fraternity on this new tax regime. This would no doubt help in allaying the apprehensions in the minds of the stakeholders.

The launch of the Goods and Services Tax (GST) is a transformative reform in the indirect tax regime in India. Amalgamating a large number of Central and State taxes into a single tax, preventing cascading or double taxation and paving the way for a common national market are the main purposes of this reform. The biggest advantage, for the consumer would be a reduction in prices due to rationalization of taxes and streamlining of the logistics. A major aim of GST is to make Indian products competitive in the domestic and international markets and give an impetus to economic growth. Another objective is to usher in a transparent and self-policing tax regime that would be easy to administer. The GST is designed to yield several benefits, say:

1. To help create a unified common national market for India, giving a boost to Foreign investment and "Make in India";
2. To prevent cascading of taxes as Input Tax Credit will be available across goods and services at every stage of supply;
3. To harmonize laws, procedures and rates of tax;
4. To boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth;
5. To improve the overall investment climate in the country;
6. To reduce the incentive for evasion by eliminating rate arbitrage between States and between intra- and inter-State sales;
7. To reduce average tax burden on companies and thereby reduce prices;
8. To promote ease of doing business;
9. To reduce compliance costs;

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1 Inaugural address of Dr. C.Chandramouli, IAS, Additional Chief Secretary, Commercial Taxes and Registration Department, Government of Tamil Nadu, in the seminar on "GST and the Consumer" conducted by the TamilNadu Dr. Ambedkar Law University, Chennai, on 15th September, 2017

10. To increase efficiency by simplified and automated procedures for registration, returns, refunds, tax payments, etc;
11. To reduce price of goods by providing seamless flow of input tax credit between the manufacturer, retailer and supplier of services;
12. To streamline the movement of goods across the country;

The genesis of the GST dates back 2006-2007 when the idea was mooted in the Budget speech of the Union Finance Minister. An Empowered Committee of State Finance Ministers (EC) was requested to come up with a roadmap and structure for the GST. The EC released its First Discussion Paper (FDP) on GST in November, 2009. However, concrete steps to introduce GST were taken by introducing the Constitution (122nd Amendment) Bill on 19.12.2014. The Constitution Amendment Bill was passed by the Lok Sabha in May, 2015. The Bill with amendments was finally passed in the Rajya Sabha and Lok Sabha in August, 2016. The Bill was ratified by the required number of States and received assent of the President on 8th September, 2016 and has since been enacted as the Constitution (101st Amendment) Act, 2016, with effect from 16th September, 2016.

On the basis of the Constitutional Amendment, the Goods and Services Tax Council (GSTC) has been constituted. Twenty one meetings [as on the date of this inaugural address] of the GSTC have been held so far.

The salient features of GST are:

i. GST is applicable on "supply" of goods or services as against the earlier concept of tax on the manufacture of goods or on sale of goods or on provision of services;

ii. GST is based on the principle of destination as against the earlier principle of origin;

iii. It is a dual GST with the Centre and the States simultaneously levying it on a common base (CGST+SGST);

iv. An Integrated GST (IGST) is levied on inter-State supply;

v. Import of goods/services would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties;

vi. CGST, SGST and IGST are levied at rates approved by the GSTC;

vii. Central Taxes that have been subsumed within the GST are: a) Central Excise Duty; b) Duties of Excise (Medicinal and Toilet Preparations); Additional Duties of Excise (Goods of Special Importance); d) Additional Duties of Excise (Textiles and Textile Products); e) Additional Duties of Customs (commonly known as CVD); f) Special Additional Duty of Customs (SAD); g) Service Tax; h) Cesses and surcharges insofar as they relate to supply of goods or services;

viii. State taxes that have been subsumed within the GST are: a) State VAT; b) Central Sales Tax; c) Purchase Tax; d) Luxury Tax; e) Entry Tax (All forms); f) Entertainment Tax (except those levied by the local bodies); g) Taxes on advertisements; h) Taxes on lotteries, betting and gambling; i) State cesses and surcharges insofar as they relate to supply of goods or services;

ix. GST is applicable to all goods and services except Alcohol for human consumption;

x. GST on five specified petroleum products (Crude, Petrol, Diesel, Aviation Turbine Fuel & Natural gas) is not applicable at present but can be made applicable from a date to be recommended by the GSTC;

xi. Tobacco and tobacco products are subject to GST. However, in addition, the Centre has a right to levy Central Excise duty;

xii. A common threshold exemption applies to both CGST and SGST. Taxpayers with an annual turnover of Rs. 20 lakh (Rs. 10 lakh for special category States) are exempt from GST;

xiii. A compounding option is available to small taxpayers (including manufacturers other than specified category of manufacturers and service providers) having an annual turnover of up to Rs. 75 lakh (Rs. 50 lakh for certain special category States) [as on the date of this inaugural address]. The threshold exemption and compounding scheme are optional;

xiv. All Exports and supplies to SEZs and SEZ units are zero-rated;

xv. Credit of CGST paid on inputs can be used only for paying CGST on the output and the credit of SGST/UTGST paid on inputs may be used only for paying SGST/ UTGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilized, except in specified circumstances of inter-State supplies for payment of IGST;

xvi. Accounts are to be settled periodically between the Centre and the State;

xvii. Input Tax Credit (ITC) is available in respect of taxes paid on any supply of goods or services or both used or intended to be used in the course or furtherance of business;

xviii. Electronic filing of returns has been enabled based on self assessment;

xix. Taxpayer can make payment of tax through: internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS);

xx. Audit of registered persons can be conducted in order to verify compliance with the provisions of Act;

xxi. Limitation period for raising demand is three (3) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in normal cases. Limitation period for raising demand is five (5) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in case of fraud, suppression or wilful mis-statement;

xxii. Arrears of tax to be recovered using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person;

xxiii. Goods and Services Tax Appellate Tribunal to be constituted by the Central Government;

xxiv. Provision for penalties for contravention of the provision of the proposed legislation has been made;

xxv. Advance Ruling Authority to be constituted by States;

xxvi. Anti-profiteering clause has been provided in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers;

xxvii. Elaborate transitional provisions have been provided for smooth transition of existing taxpayers to GST regime.

Goods and Services Tax Network (GSTN) has been set up by the Government as a private company under erstwhile Section 25 of the Companies Act, 1956. GSTN provides three front end services to the taxpayers namely registration, payment and return.

It would be relevant to examine some of the major criticisms that have been raised. The first relates to the multiplicity of rates and the possibility of litigation and lobbying by business lobbies. In order to answer this criticism, one would have to understand the principle on which the rates have been fixed. The first principle was that the incidence of taxation in GST should be as close as possible to the incidence of tax in the pre-GST regime. For this purpose, the tax incidence on account of Central Excise, Service Tax, VAT as well as embedded taxes on account of CST, Octroi, Entry Tax, etc, were taken into account and each commodity was fixed in the bracket closest to the present incidence. In certain cases, taking into account the current economic and social realities, lower GST rates vis-à-vis the earlier tax incidence has also been fixed. Thus, the apprehension that litigation and lobbying by business lobbies will increase is not well-founded. There is a well-established principle and empirical data to justify the rate that has been fixed.

The second principle was to ensure revenue neutrality. This necessitated multiple rates as the present revenue of the Centre and States could not be generated by a single rate or fewer rates. The stated policy of the GST Council has been to move progressively towards fewer rates or even a single rate once the economies/efficiencies of the new tax regime kick in. The rates are decided by the GST Council which is an apex body of the Centre and States. Lobbying will not be possible in such a forum.

Accordingly, a major portion of the basket of commodities that determine the Consumer Price Index have been totally exempted or have been placed in the lower tax rate of 5%. A majority of the remaining items have been fitted in the standard rates of 12% and 18%. Only demerit goods have been placed in the higher band of 28%. If we see the present fitment, 81% of the goods and services have rates below 18%.

The second criticism relates to tax evasion. The GST by design is a self-policing mechanism that will curb evasion. The essence of GST is in providing set-off for the tax paid earlier, and this is given effect through the concept of input tax credit or ITC which provides for setting off the amount of input tax by a registered dealer against the amount of his output tax. Under the GST, the ITC will be allowed only if the tax credit claimed has been paid by his input supplier. If the supplier has not paid it, the final supplier will have to pay. Therefore evasion will automatically come down.

The third point relates to difficulty in compliance. This is a myth that needs to be exploded. The GST has provided a transparent system which is completely automated. This has greatly reduced the human contact which was the cause of many ills in the previous tax regime. Under this on-line system, the dealer has to normally file only one monthly return. In other words, 12 returns a year. The remaining returns are automatically generated by the system. Furthermore, all Checkposts have been abolished. This has facilitated a hassle free movement of goods across the country. Previously, the dealers had to face Central and State Government authorities and were subject to compliance requirements under several Central and State Laws. This has been abolished and now the dealer has to face only one authority and comply with one law only. The compliance burden has therefore been reduced to a very large extent.

The next criticism relates to the difficulties faced by small and medium tax payers. Under the GST, exemption threshold for dealers has been raised to Rs. 20 lakh (Rs.10 lakh in special category States). It may be recalled that most States had lower threshold limits in the pre-GST regime. In Tamil Nadu, it was only Rs.10 lakh. Further, under the Composition scheme, the threshold has been raised to Rs. 75 lakh [as on the date of this inaugural address]. This threshold was much lower in the pre-GST period (Rs.50 lakh in Tamil Nadu). Thus a large number of dealers have now come under the exempted category or can opt for the simpler system of composition. Moreover, certain categories of manufacturers and service providers have also been given the option of composition in addition to traders. Therefore, the scheme has facilitated small and medium business, rather than the contrary.

The IT infrastructure has been a cause for criticism in the recent past. It needs to be understood that in a reform that is so transformative and all encompassing in nature, technical glitches are to be expected. These are initial teething issues and will definitely be overcome.

The final and probably the most relevant criticism is that the burden on the consumer has increased. The prices of goods and services should have normally come down due to the seamless flow of input tax credit between the manufacturer, retailer and supplier of goods and services. The economies of a barrier-free common national market should also have contributed to the lowering of prices. The exemption of a number of goods and services as well as lowering of tax rates on items of mass consumption should also have had a similar effect. However, it is a matter of great concern that there have been distortions with sections of trade and industry not passing on the benefits to the consumer. Instances of windfall profits are also being reported. These are transitory, as such unscrupulous elements would soon attract penal action under the anti-profiteering provisions of the law.

In conclusion, "One Nation, One Tax and One Market" is not merely a slogan. It is a bold National effort being jointly undertaken by the Central and State Governments. It is probably the finest example of cooperative federalism with the Federal and Provincial Governments giving up "individual sovereignty" in favour of a "pooled sovereignty". The fact that thirty one State Governments and the Centre parleyed hard at every stage but finally came to a consensus in the National interest is in itself a unique achievement that probably has little parallel. The die has been cast and it is inevitable that some obstacles have to be overcome. However, the experience so far suggests that the endeavor is moving in the right direction and will reach its full potential in the near future. Thank you.

NEED FOR GOODS AND SERVICE TAX AND ITS LEGISLATION FOR CURRENT SCENARIO

S.V. SABARI RAJ [1]

Abstract

This paper traces the evolution of tax system in India in the context of the introduction of GST from 1st July 2017. The need for GST in India, the present structure of GST as per the Act and the role of the GST Council in bringing about consensus among various States and becoming a new model of cooperative federalism have been discussed. The need for setting up of National Anti-profiteering Authority and modification of GSTN system for flawless function have been emphasized.

Introduction

Goods and service tax is a multi stage tax system in which the tax burden is intended to fall on the final consumer. It is a tax based on domestic consumption. It was first levied by France in 1954. In India, in order to avoid various types of indirect taxes, Goods and Service Tax (GST) was introduced by enacting Goods and Service Act, 2017 as a part of money bill. The objective of GST is to consolidate multiple indirect tax levies into a single one, overcoming the limitations of existing indirect tax structure and creating efficiency in tax administration. GST is generally determined on whether the consumption is intra-state or inter-state. It is enacted to provide positive consumer protection and empowerment by bringing all different type of indirect taxes under a single umbrella. It facilitates seamless credit across the entire supply chain across all states under a common law basis. GST also reduces the cascading effect which makes the consumers to pay considerable amount of money by tax over tax mechanism. Revenue also increases, with enhanced transparency that reduces the rate of inflation. The establishment of Goods and Services Tax Network (GSTN) simplifies and automates various procedures in this aspect and helps in saving time and energy of citizens. The system of claiming input tax credit

system is a special feature in the new taxation system as per section 16 of GST Act. This paper strives to convey the eminent need for GST.

Keywords :-

Goods, services, indirect tax, cascading effect, input credit.

1 The author is presently studying the under graduation course in law B.A., B.L (Hons) at The Tamil Nadu Dr.Ambedkar Law University, Chennai.

Introduction

Sound tax[2] policies of a nation are an indication of strong governance and sustainable development. Observation of history explicitly shows a nation flourishes when it has an excellent revenue collection system. India unleashed its most revolutionary taxation[3] reform, the goods and service Tax, that promises to infuse a fresh vigor into Indian economy by unifying the entire country under a single tax system. A good tax system should keep in view issues of income distribution and, at the same time, endeavor to generate tax revenues to support government expenditure on public services and infrastructure development. In order to protect the interest of the consumers at large the Consumer Protection Act, 1986 was passed which confers several rights to the customer to protect them. The malady which is challenged under Goods and Service Act, 2017 is the unscrupulous exploitation of the consumer.[4] The new Goods and Service Tax Act,2017 was introduced in order to consolidate multiple indirect tax levies into a single one, overcoming the limitations of existing indirect tax structure and creating efficiency in tax administration. The past indirect tax system was complex, with at least seven major multi-stage value added taxes levied on many financial transactions. This has led to an unreasonable burden on taxpayers, who have had to deal with administrative hassles, the detrimental effects of double taxation, and confusion over archaic regulations.[5] Hence in India there happened to be an utter need for introduction of GST by which the consumers will benefit from lower prices, due to removal of cascading of taxes, and efficiency gains. Hence the new era roll out for Indian economy from July 1, 2017.

Evolution of Tax System in India

From primitive and ancient period, there are traces of evidence that shows that taxes on income in some form or the other were levied. References to taxes in ancient India are found in "Manusmriti" and Kautilya's "Arthashastra". Manu the ancient sage and law giver stated that king should levy taxes according to sastras. Evidently, Tax in its modern form was introduced in India for first time in 1860 by the British Government

2 The word tax is derived from the Latin word "taxare" meaning to estimate.

3 According to Article 366(28) of The Constitution of India "taxation includes the imposition of any tax or impost, whether general or local or special, and tax shall be construed accordingly"

4 According to section 2(d) of the consumer protection Act,1986 "consumer" means any person who:-
(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
(ii)[hires or avails of] any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person [but does not include a person who avails of such services for any commercial purpose];

5 "Clear tax. in" benefits of registering under registering GST composition scheme http://clear tax. in/s/ benefits-of-registering-under-GST-composition-scheme/.

to overcome the financial crisis following the events of 1857. It was introduced as a temporary measure of raising revenue under the Income Tax Act 1860 for a period of five years. Different tax rates were prescribed for different heads of income. Several enactments and amendments like this were made till 1886. Thus, the period from 1860 to 1886 was a period of experiments in the context of tax in India. Later due to increased financial obligation there arose an imminent need for efficient tax legislation. In 1922, a historic enactment was made by setting up a comprehensive taxing system with its own administrative machinery that is the Income Tax Act, 1922, which gave specific nomenclature to various income tax authorities.[6] After independence the Constitution of India, 1950, had clearly demarcated the financial avenues between the centre and states. Articles 268 to 300 of the Constitution of India deal with financial matters. Article 246 of the Constitution, lays down that Parliament has exclusive power to make laws with respect to any matter enumerated in Union List (List I of schedule VII). The states have complete power to make laws with respect to any matter enumerated in the State List (List II of schedule VII) and both Parliament and State Legislature have power to make laws with respect to any matter enumerated in the Concurrent List (List III of schedule VII). The Constitution of India under Article 265 clearly states that no taxes shall be levied or collected except by the authority of law. Entries 82 to 92B of List I of the VII Schedule describe the taxation powers of the Union Government. Entries 45 to 63 of List II of the VII Schedule specify the taxation powers of the state governments. List III do not contain any head of taxation which means the Union and the States have no concurrent powers of taxation. This provision has been made in the Constitution so as to avoid duplication in tax administration, and to minimize tax rivalry between the Union and States; and among the States. Based on this various Acts regarding sales tax, value added tax, customs duty, excise tax, modified value added tax etc. were enacted to meet the challenges of the growing economy. Finally the idea of introduction of GST was started in 2000, when the Vajpayee Government started discussion on GST by setting an empowered committee headed by Dr. Asim Dasgupta (the then Finance minister, Government of West Bengal). As a result after several discussions and challenges Goods and Services Act, 2017 was introduced to achieve a new balance.

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6 Income Tax Department, Government of India, http//www.incometaxindia.in/pages/about-us/history of direct taxation.aspx on 23/10/2016.

administration, and to minimize tax rivalry between the Union and States; and among the States. Based on this various Acts regarding sales tax, value added tax, customs duty, excise tax, modified value added tax etc. were enacted to meet the challenges of the growing economy. Finally the idea of introduction of GST was started in 2000, when the Vajpayee Government started discussion on GST by setting an empowered committee headed by Dr. Asim Dasgupta (the then Finance minister, Government of West Bengal). As a result after several discussions and challenges Goods and Services Act, 2017 was introduced to achieve a new balance.

GST in various Countries

The GST council has set tax rates for goods and services under five brackets of 0%, 5%, 12%, 18% and 28% as the bill is just a month away from its implementation. This concept of GST is not new to the world as nearly 160 countries as on 31.12.2016, have opted for this mode for bringing different tax rates into a single tax. In most countries value added tax (VAT) is taken as a substitute for GST. Presently, countries like Australia, Canada, Singapore, New Zealand, Malaysia, Indonesia and Pakistan have a GST system while the remaining follow a VAT system.[7] The first country to introduce GST was France. The main purpose of implementing the GST regime in France was to stop tax evasion which was prevalent in the country due to high tax rates. The European Union adopted the system to replace turnover tax, with an aim to generate revenue on general consumption items. In Australia, the GST regime was implemented as a federal tax that is collected by the Centre and distributed to the States. In China, the tax system applies only to goods and the provision of repairs, replacement and processing services. Singapore introduced the system in 1994 and saw a spike in inflation soon after the implementation as the effective tax rate was higher than what prevailed before. This means administrators need to keep a check on the movement of product prices. Countries like New Zealand levied tax on almost everything at a single rate. Indonesia has five positive rates, a zero rate and over 30 categories of exemptions.[8] USA does not have GST as it ensures high autonomy for the states. Thus we find GST model across the commonwealth countries are similar with some variations. Unlike India, other countries have a much higher threshold for GST applicability thus reducing the burden for small businesses. This will bring in challenges for our SMEs.

Structure of GST

VAT is Value Added Tax, which is considered the first step towards moving to a GST regime. VAT is charged on the increase in value of an article at each stage of its production or distribution. This is exactly how GST is levied on products. However, VAT applies to goods sold and not services, which comes under service tax. GST is

7 "GST in India versus GST in the other countries: What differentiates India" By Pooja Jaiswar Updated: Mon, May 29, 2017, Mumbai, ZeeBiz WebDesk

8 "Lessons from outside as India Readies itself to Implement GST" by Surbhi Gupta May 26, 2017, makaan.iq.

applicable for both goods[9] and services,[10] and at a uniform rate. Also, a host of other indirect taxes were levied at various levels along with VAT; by introducing GST these taxes are removed. There are two types of rates being mentioned commonly, a general rate of 18 % and the RNR. RNR (which stands for revenue neutral rate) is an economic rate at which the Centre and States would collect the same amount in taxes. Also the term "Unified Tax" does not mean a single tax. It means a uniform tax rate across the country. The central GST,[11] Integrated GST[12] and State GST,[13] if needed, can be levied concurrently and can be administered by a single body. The reason for such a structure of GST is because the Indian Constitution has a federal structure that gives the Centre and States powers to legislate and govern on several subjects. Under this structure, the Centre and States have been empowered to levy taxes on goods and services under different indirect tax laws. The dual GST system that is followed in India gives equal powers to both the Centre and the States to levy GST. This ensures that the fiscal autonomy of the States and the overall spirit of cooperative federalism are maintained. Given the fact that a dual GST is implemented in India on account of the federal structure of the Constitution, it is not possible to have a single body administering the levy and collection of GST across the country.

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9 According to section 2(52) of the Central Goods and Services Tax Act, 2017, "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

10 According to section 2(102) of the Central Goods and Services Tax Act, 2017, "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

11 According to section 9 of the Central Goods and Services Tax Act, 2017, (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.
(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

12 According to section 2(58) of the Central Goods and Services Tax Act, 2017, "integrated tax" means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act"

13 According to section 2(104) of the Central Goods and Services Tax Act, 2017, "the State Goods and Services Tax Act" means the respective State Goods and Services Tax Act, 2017"

Function of GST council

The GST council,[14] in its 18 meetings held before the roll out of the GST on July 1, 2017 has done commendable work in developing consensus over a number of issues which looked intractable at one time. The council was able to recommend draft legislations pertaining to the central GST, the state GST, the union territory GST, Integrated GST and compensation to the states and number of GST related Rules within a span of a few meetings. The difficult issue of cross empowerment and administrative division of tax payers between the states and the centre was resolved in true spirit of give and take. Despite varying rates of VAT on goods and services, they have been fitted into different slabs in a smooth manner. The newly created constitutional body, the GST council, has emerged as a new model of cooperative federalism, where the centre and the states are willing to share and pool in their sovereignty and give fiscal space to each other. The council has taken unbelievable fiscal and tax related decisions through consensus and is seen as example to be followed in other spheres of cooperation between the centre and the states.[15]

Need for Goods and Service Tax

Goods and Services tax becomes the need of the hour in the present scenario. The old legislation which was made to achieve a proper objective of taxation laws inevitably faced its crisis in many ways by passage of time. The first and foremost need for the new legislation is the cascading effect. It means tax over tax. To illustrate – say A sells goods to B after charging sales tax, and then B re-sells those goods to C after charging sales tax. While B was computing his sales tax liability, he also included the sales tax paid on previous purchase, which is how it becomes a tax on tax. Later the introduction of VAT

14 According to Article 279A of The Constitution of India, "279A. (1) The President shall, within sixty days According to Article 279A of The Constitution of India, "279A. (1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council. (2) The Goods and Services Tax Council shall consist of the following members, namely:- (a) The Union Finance Minister........................ Chairperson; (b) The Union Minister of State in charge of Revenue or Finance................ Member; (c) The Minister in charge of Finance or Taxation or any other Minister nominated by each State Government.................... Members. (3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide. (4) The Goods and Services Tax Council shall make recommendations to the Union and the States on:- (a) The taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax; (b) The goods and services that may be subjected to, or exempted from the goods and services tax; (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply; (d) The threshold limit of turnover below which goods and services may be exempted from goods and services tax; (e) The rates including floor rates with bands of goods and services tax; (f) Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster; (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and (h) Any other matter relating to the goods and services tax, as the Council may decide.

15 "GST regime – A flip to make in India" by Arun Goyal, YOJANA, August 2017.

and Central Excise Duty reduced the cascading effect to some extent. Yet the credit of VAT is not available against excise and vice versa.[16] VAT is computed on a value which includes excise duty, and no CENVAT credit is allowed for it. This eventually led to cascading effect. Excise duty and service tax are levied by the Central Government, while the VAT is levied by the State Government, which is one of the reasons why such a cross-utilisation of credits was not allowed. This is one of the reasons for the introduction of GST. Being a dual tax system model it can establish a reasonable base for cross utilisation and to avoid tax over tax.

The system of Input Tax Credits[17] which was introduced through Central Goods and Services Tax Act, 2017 will be the fundamental backbone to reduce the inflation. In the longer run, ultimately the GST is expected to attract foreign investment reducing the cost of capital goods; raise manufacturing and exports, increase tax collections and create jobs. Also it is expected that GST will put an end to tax evasion which will eventually lead to end of "Tax Terrorism" because of its stricter rules.[18] Also different tax rules in different states for VAT registration and procedural compliance made business

16 https://sreibonds.com/blogs/why-we-need-gst by Mr. K.R. Muthuraman, Sr. VP – Treasury, Srei Infrastructure Finance Limited last visited: 29 /08/2017

17 According to section 16 of Central Goods and Service Act, 2017 "(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person. (2) Notwithstanding anything contained in this section,no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless:- (a) He is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other taxpaying documents as may be prescribed; (b) He has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise; (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and (d) he has furnished the return under section 39: Provided that where the goods against an invoice are received in lots or installments, the registered person shall be entitled to take credit upon receipt of the last lot or installment: Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed: Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the Cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed. (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual

` return, whichever is earlier."

18 Why is Goods & Service Tax (GST) the need of the hour in India? By Alok Patnia, Taxmantra, 2nd June, 2017.

a complicated and difficult one but under GST the registration[19] is made uniform and systematic by bringing up modern technology called the Goods and Services Tax Network (GSTN).[20] Finally, as there will be only one indirect tax framework, it will help transform the economy by encouraging transparency and thereby facilitating 'one country, one tax' concept.

Conclusion

The launch of GST in India is a transforming and challenging reform. It ushers a transparency to measure taxes levied on product, bringing an end to the host of hidden and embedded taxes that had been levied so far. It promises to improve the ease of doing business, reduce the tax burden for the producers and the consumers and the government. The GST can also assimilate the informal sector into the greater Indian economy and provide a much needed boost for India's flagging export market. Yet there are implementation issues that could be problematic for India's small businesses and, perhaps more importantly, undermine public trust in the GST. Need of setting up of National Anti-profiteering Authority (NAA) and modification of GSTN system for flawless function is of utmost importance. By all means the success of introducing GST and protection and empowerment of the consumer is totally dependent on how the Act evolves in future.

19 According to section 22 (1) of Central Goods and Service Act, 2017 "Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:
Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees. (2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day. (3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession. (4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.
Explanation.–For the purposes of this section:- (i) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals; (ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker; (iii) the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution."

20 Under Section 8 (under new companies Act, not for profit companies are governed under section 8), non-Government, private limited company GSTN was incorporated on March 28, 2013.The Company has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).

IMPACT OF GST ON THE INDIAN ECONOMY: A CRITICAL ANALYSIS

Prof. B. Bhagwan Das[1]

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&

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Abstract

This paper seek to address issues that challenge the suitability of a uniform tax regime for a country like India, given the diversity of resources and needs across States. The impact of the GST on producers, the impact on consumption and the impact of the GST on State Revenue with special reference to manufacturing States like Tamil Nadu are also discussed.

Introduction

"The beauty of the world lies in the diversity of its people"

The most significant economic reform in India in recent decades was the winds of liberalization that swept across the nation in 1991. The tax system in India has ever since been structured and restructured to make it not just transparent and effective but also attractive for foreign investors. After the 1991 reforms, the policy decision that is presumed to have serious ramifications for the economy is the Goods and Services Tax. The Goods and Services Tax is a uniform tax regime, that recently came into force by a constitutional amendment, making it the first of its kind for India that hitherto had a complicated and multiple tax system. It is a destination based tax governed by the GST council chaired by the Union Finance Minister of India. The economic rationale behind the Goods and Services Tax system is to:

- purge the shortcomings of multiple tax rates
- reduce the complexity of administrative procedures and documentation
- eliminate the cascading effect of indirect taxes
- increase tax compliance and position the Indian economy on a higher growth trajectory
- make local products competitive in the global arena

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Taxes subsumed under GST:

Table1: Taxes under CGST & SGST

At Central Level	At State Level
Central Sales Tax	- State Value Added Tax
Service Tax	Local Sales Tax
Central Excise Duty	Entry Tax (All forms)
Additional duties of excise (textiles and textile products)	Luxury Tax
Additional duties of excise (Goods of special importance)	Taxes on Advertisements
SACD - levied on imports in lieu of VAT	Entertainment and Amusement Tax
Countervailing Duty (CVD) - levied on imports in lieu of Excise duty	Taxes on Lotteries, Gambling, and Betting
Excise Duty levied on Medicinal and Toiletries preparations	Purchase Tax
Surcharges and Cesses.	State surcharges and Cesses

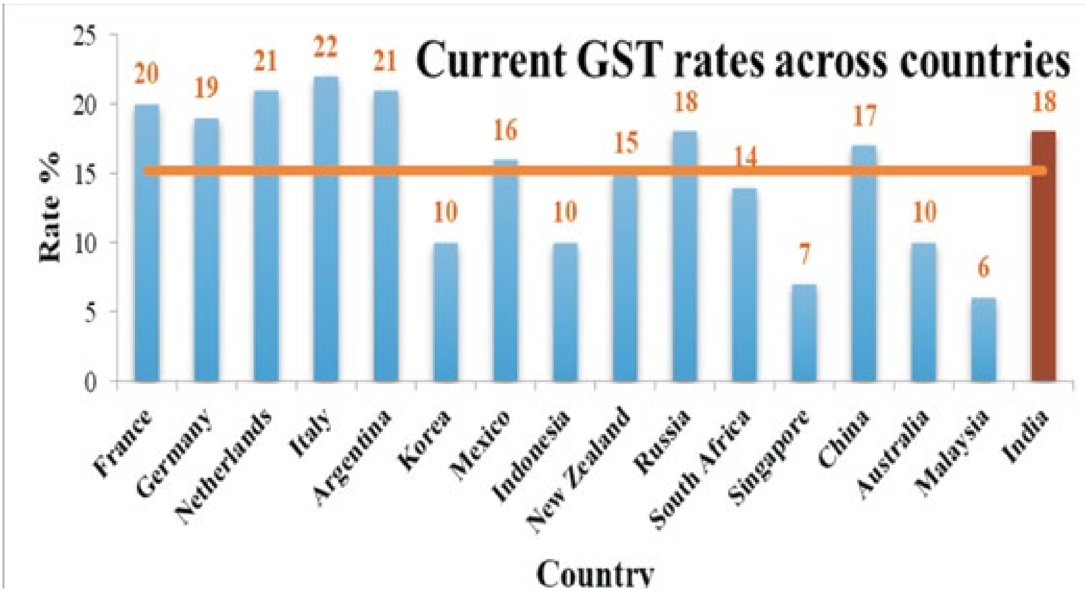
Source: Central Board of Excise and Customs (www.cbec.gov.in)

There have been historical experiences of economies switching over to a uniform tax system and in the recent years this trend has only been increasing with even emerging economies adopting single VAT/GST system.

Some of the countries that espoused the uniform tax system include Canada, Singapore, France, Italy, UK, South Korea, Japan and Australia among a total of over 160 countries. The Indian GST model is most closely related to the Canadian model that simultaneously levies two taxes, the Federal GST and provincial (QST).

GST rates across the Globe

Figure 1: GST rates across major economies



Source: UN

Although countries that adopted GST accounted for higher tax revenues, most economies suffered from one major pitfall, inflation. The importance of a comprehensive and effective tax system in leading the economy to desirable levels of growth can never be overstated. In this regard, taxes become crucial in determining receipts of the Government and also governing consumption patterns of individuals, thereby indirectly influencing overall Private Final Consumption Expenditure (PFCE), nature and quantum of production, levels of investment and so on. The aim of this paper is to address issues that challenge the suitability of a uniform tax regime for a country like India, given the diversity of resources and needs across states.

Impact of GST on producers

There are many challenges faced by businesses in adopting the new indirect tax regime. It is said that the rollout of GST will ensure easy compliance, as all firms will have to file their returns and payments online. For India which is traditionally a pen-and-paper economy, this change to digital record-keeping is going to be massive. According to a report from the Internet and Mobile Association of India and market research firm, IMRB International, the number of internet users in India is around 432 million and the overall internet penetration in the country is about 31% as on December 2016.

But the ability to use computers and smartphones remains low in India, in spite of campaigns for digitalisation, as analysis of National Sample Survey Office (NSSO) data reveals. An estimated 8.8% of the rural and 30.2% of urban population of India has computing ability, according to a study conducted by Australian National University based on the data from NSSO 71st round (2014).

Above all, India has the world's largest energy access deficit in terms of electricity – 270 million people (2014), according to the World Bank's 2017 State of Electricity Access report.

Goods and Services Tax Network (GSTN) is the organisation that manages the entire IT system of the GST portal. It is expected to handle around 300 crore invoices on a monthly basis. Given the growing threat of cyber-attacks globally, there is a high risk of security concern. As per data from Indian Computer Emergency Response Team (CERT-In), there were 50,362 cyber security threat cases in 2016 and 27,482 such cases reported till June 2017.

Another challenge faced by businesses is the increase in their operating costs. They need to upgrade or purchase new GST-compliant software for filing tax returns and will have to train employees on how to use it. Most small businesses do not employ tax professionals, and have traditionally preferred to pay taxes and file returns on their own to save costs. However, they will require professional assistance to become GST compliant as it is a completely new system. While this will benefit the professionals, the small businesses will have to bear the additional cost of hiring experts.

There is a lot of confusion and lack of clarity especially among small and medium scale enterprises (SMEs) in understanding the nuances of the new tax regime. A business will have to now file 37 returns in a year (three returns per month and one annual return) per state as against 13 in the previous tax regime. If it does business from offices in more than one state, the number of returns will go up accordingly. For instance, a business with offices in three states will have to file 111 tax returns in a year.

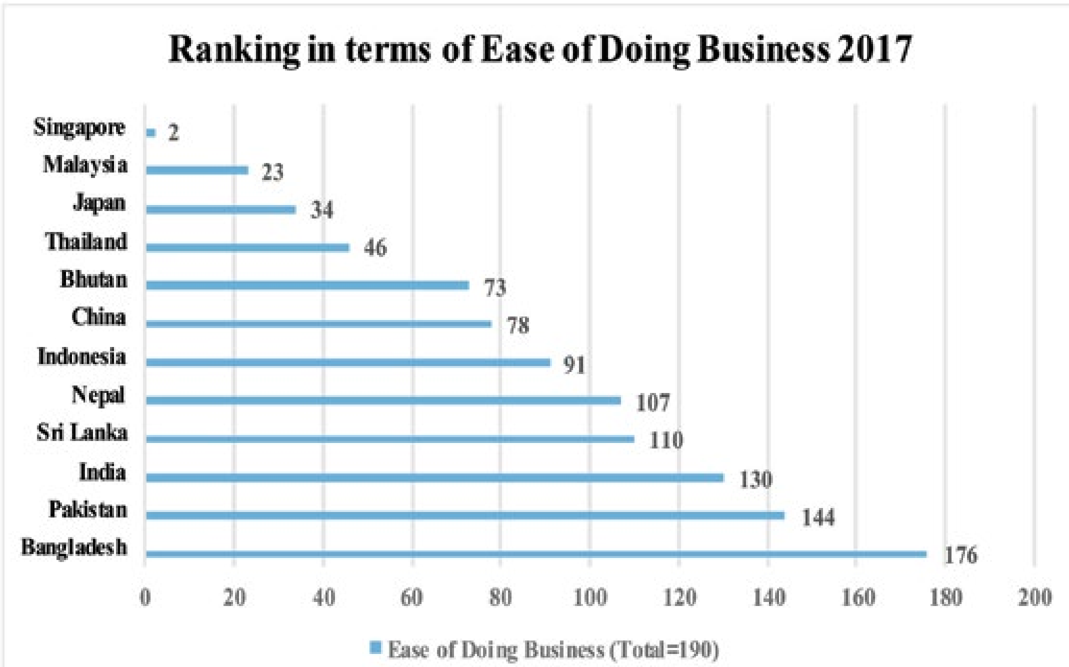
Moreover, many small businesses are not tech-savvy and do not have the resources for fully computerized compliance. Even as the rest of the nation gets ready to go digital, businesses in small cities across India face a huge technology problem in the days ahead.

Ease of doing business: India and its neighbours

When we compare India's performance against its neighbours and other South Asian countries, we notice that India seriously lags behind its counterparts in the following parameters such as ease of doing business, global competitiveness and Human Development Index (HDI).

According to World Bank report 'Doing Business 2017', India ranks 130 out of 190 countries in terms of ease of doing business. Except for Pakistan and Bangladesh, India ranks lower compared to its neighbours: Bhutan (73), China (78), Nepal (107), Sri Lanka (110) and South Asian countries like Singapore (2), Malaysia (23), Japan (34), Thailand (46) and Indonesia (91).

Figure 2: India's 'Ease of doing business' ranking in comparison to world economies



Source: Doing Business 2017, World Bank

The report stated that the most problematic factors for doing business in India are tax regulations, corruption and tax rates.

India ranked 39 out of 138 countries in Global Competitiveness Index in 2016-17. There has been a significant improvement in ranking due to opening the economy to foreign investors and international trade, lower oil prices and increasing transparency in the financial system. But bottlenecks remain in terms of lack of infrastructure and Information and Communication Technology (ICT) use.

India also ranks low in terms of Human Development Index or HDI (131 out of 188 countries) which is a way to measure the well-being of people in a country in terms of a long and healthy life, access to knowledge, and a decent standard of living.

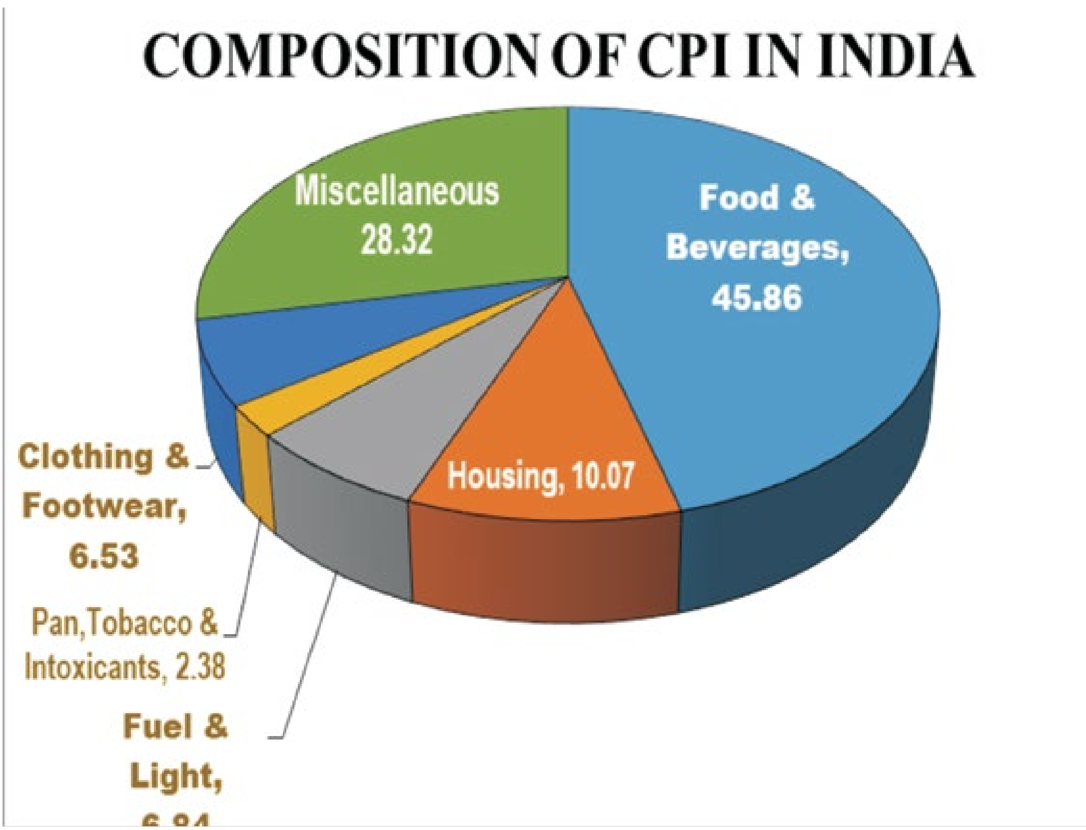
Given the fact that India now follows a dual GST system which is complex and the challenges we face in terms of access to electricity, digital connectivity and lack of infrastructure, it is doubtful if India's ranking will improve significantly post GST.

Impact of GST on consumption:

Among the various impacts of GST on macroeconomic variables, consumption is expected to take the hardest hit. Claims that GST would have a negligible influence on inflation must not rule out the possibility of it affecting consumption patterns. In reality, inflation rates might not reflect the increased price of goods and services because food products constitute about a half of the CPI basket in India and also because items like fuel and petroleum products have been kept outside the ambit of GST. This means that a substantial part of the CPI basket itself is kept out of GST which might be why the current inflation rates fail to spell out the increased cost of goods and services to the consumers.

For better understanding, we graphically depict the consumption basket for the new base year 2012. It is evident from the graph that items like food, fuel and alcohol for human consumption that are exempt from GST form a sizeable portion of the CPI basket.

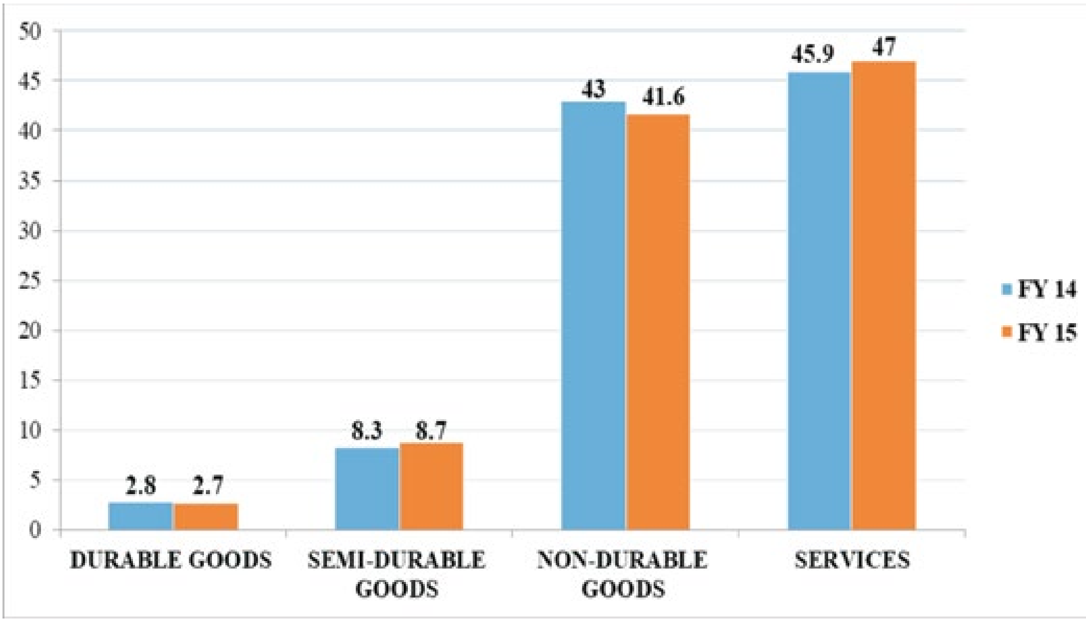
Figure 3: Composition of the CPI basket in India



Source: MOSPI

The rationale behind GST resulting in higher cost to consumers is due to the nature of products consumed by them. The price impact of GST can be explained by the weightage that services receive in the Private Final Consumption Expenditure. GST rate on services is among the highest and it is therefore plausible that it impinges on the services consumed by the people.

Figure 4: Weightage of various types of goods for the Indian consumer



Source: Motilal Oswal Securities

Even among services, a declining trend may not be explicitly experienced by essential services like Healthcare or Education. However, discretionary services rendered by the hospitality industry and the entertainment industry are likely to suffer. The consumers of banking services would have to pay 18% for services as opposed to the earlier 15%. Earlier in the entertainment industry, taxes were levied autonomously by states on cinema tickets. While some states like Maharashtra levied a 50% on movie tickets, states like Uttar Pradesh taxed cinema tickets at 30-40%. This was decided by a judicial assessment of the demand for such goods and services in different states. By introducing a uniform tax rate across all states, the GST not only deprives the states of making autonomous fiscal decisions but also completely neglects the diversity in resource endowments, population compositions and income levels across different states in India.

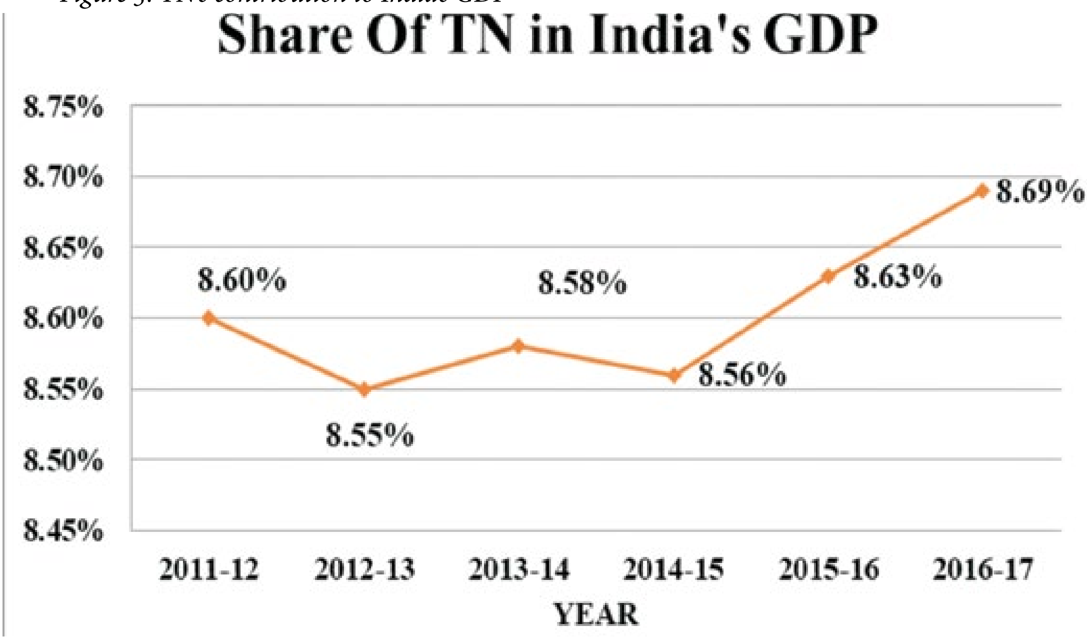
GST is likely to have an adverse impact on the "Make in India" drive as the landed cost of imports that attract an IGST (subsuming CVD and SAD) along with the basic customs duty and a compensation cess on luxury goods to compensate for state revenue losses (which would work to 30-32%) is likely to cost the consumer lesser compared to goods produced within the domestic territories of the country. With a burgeoning middle class and progressive standard of living, goods like washing machines and televisions have today become necessities. Imposing GST to the tune of around 45% on such goods would naturally result in consumers preferring to import washing machines, dish washers, vacuum cleaners, et cetera as a feasible alternative to consuming locally produced goods. This would directly result in a decline in the demand for goods "made-in-India".

Another industry that is likely to take a hard hit post-GST is the automobile sector in which prices of majority vehicles, especially luxury cars have shown a hike after the introduction of GST. Luxury cars, which account for 10% of the industry's demand would result in lower contribution to national income from the automotive sector.

Impact of GST on State Revenue with special reference to Tamil Nadu

Tamil Nadu is a strategically significant state in southern India due to the size of its population and also its openness to progress from a predominantly agricultural economy to one competitively attracting heavy industry establishments, especially from the automobile sector. Besides, it is the second fastest growing economy within the Indian territory consistently contributing over 8 percent of the country's GDP.

Figure 5: TN's contribution to India's GDP



Source: MOSPI

Tamil Nadu is a highly industrialized state exporting manufactured engineering goods, machine components, automobiles, hardware, textiles besides providing high-quality software and support services. Services sector contributes around 45% of the economic activity, followed by manufacturing sector at 34% and agriculture at 21%.

Tamil Nadu has been a favourable destination for foreign investors owing to its excellent infrastructure, favourable environment for doing business and harmonious industrial relations. The state is being deemed a "manufacturing hub" due to its openness to establishing manufacturing plants across the state in various regions. The earlier VAT in Tamil Nadu was composed of the following:

- Household consumption
- Industrial consumption
- Sales Tax/VAT from consumption of petroleum products
- Sales Tax/VAT from alcohol for human consumption
- Others (goods used for Construction, Medical, Educational Institutions, etc)

This VAT component will suffer the most because items like petroleum and alcohol for human consumption are exempt from the GST umbrella. Post-GST, the production-based VAT will move to the consuming states. Besides, this would mean more centralization and states losing the autonomy to make fiscal decisions. This is opposed to the very idea of a federal system on which the country is built.

Conclusion

With the implementation of GST, there will definitely be a negative impact on both the production and consumption front. India lacks critical infrastructure such as electricity supply, computer literacy, digital connectivity, IT infrastructure and cyber security which are all essential for the effective execution of the new tax law. A uniform tax system for states of diverse nature, as in India, is likely to create a lot of confusion and complexities. The dual GST system with multiple tax slabs and higher tax rates will affect 'Make in India' as local manufacturers will find it cheaper to import from countries like China which undertakes mass production of good quality cheap goods, than produce domestically. Also, the higher rates of taxes will lead to a reduction in the personal disposable income of consumers as they will have to bear the entire burden of tax. The Government needs to work on solving the issues and challenges faced by the producers and consumers due to GST and not withdraw its commitments to the public such as providing good administration, infrastructure, health and education among others.

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MULTIPLE TAX STRUCTURE UNDER GST

Arokia Sushma Paldano[1]

Abstract

The GST is a consumption based indirect tax on sale, manufacturing and consumption of goods and services at the National level. The types of GST, the various tax slabs and the impact the tax will have on society and the individual consumer have been discussed in this paper with illustrations.

What is GST?

GST stands for Goods and Service tax, which by virtue of its launch, has replaced the previous structure of multiple taxes levied by the state and central governments. It is a consumption based indirect tax which is charged on sale, manufacturing and consumption on goods and services at the national level.

Exports and direct taxes like income tax, corporate tax and capital gain tax will not be affected by GST.

The Need for GST

VAT rates and regulations differ from state to state. And it has been observed that states often resort to slashing these rates for attracting investors. This results in loss of revenue for both the Central as well as State government.

Types of GST

Indian economy is highly diverse due to numerous industries operating in different sectors having different location, supply chain and target consumers. To understand the detailed impact of GST, let's discuss its four types:-

1. Central Goods & Service Tax (CGST)

As per the Central Goods & Services Tax Act 2016, CGST is the centralized part of GST that subsumes the present central taxations and levies- Central Sales Tax, Central Excise Duty, Services Tax, Excise Duty under Medical & Toiletries Preparation Act, Additional Excise Duties Countervailing Duty (CVD), Additional Custom Duty and other centralized taxations.

CGST is applicable on the supply of goods and services of standard services and commodities which can be amended periodically by a specialized body under the central government. The revenue collected under CGST belongs to the central government. The input tax is given to the state governments which they can utilize only against the payment of CGST.

2. State Goods & Services Tax (SGST)

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SGST is an important part of GST. It stands for State Goods & Services Tax as per the 2016 GST bill. Various taxations and levies under the state authority are subsumed by SGST as one uniform taxation. It includes the amalgamation of State Sales Tax, Luxury Tax, Entertainment Tax, Levies on Lottery, Entry Tax, Octroi and other taxations related to the movement of commodities and services under state authority through one uniform taxation- SGST.

Revenue collected under SGST belongs to the State Government. However, the mainstream framework of the state governing body will be supervised by the central government. Each state will be having their own State Authority to collect SGST.

3. Integrated Goods & Services Tax (IGST)

GST focuses on the concept of one tax, one nation. IGST stands for Integrated Goods and Services Tax which is charged on the supply of commodities and services from one state to another state. For example, if the supply of goods and services occurs between Gujarat and Maharashtra, IGST will be applicable.

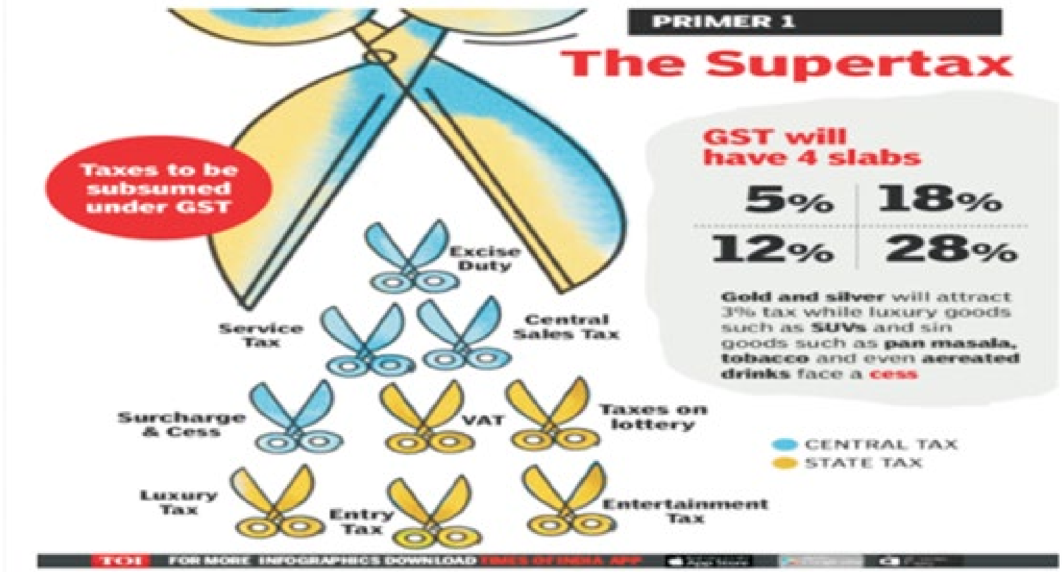
Under Article 269A of the Indian Constitution, the inter-state trade and commerce activities that involve the movement of commodities and services shall be levied with an integrated tax (IGST) under the GST regime. The Government of India will collect the revenue under IGST. Further changes can be made by the Goods and Services Tax Council of India.

4. Union Territory Goods & Services Tax (UTGST)

As we have already learned about CGST and SGST which are intra-state taxations and IGST which is inter-state, the union territories in India are accounted under a specialized taxation called Union Territory Goods and Services Tax as per the GST regime 2016. It will subsume the various taxations, levies and duties with one uniform taxation in Union Territories as well.

Various GST Slab

The new tax structure was carefully crafted to keep both the burden of the common man and inflation rates in mind, which were the biggest concerns of several economists who have been keenly following the progression of the GST bill since its approval.



Source: Times of India

The four-tier tax structure contains four separate rates: a zero rate, a lower rate, a standard rate, and a higher rate. This article is aimed at providing a brief overview of each GST rate.[2]

Zero rate

The zero rate tax is a nil tax rate that is applied on goods and services. This is equivalent to tax exemption and does not have any effect on the price of the product. Items that are eligible for zero rate tax are decided by the government.

As per the four-tier tax structure, the zero rate tax will be applied on 50% of the items of the consumer price index (CPI) basket - an index that constantly measures prices of commonly purchased consumer goods and services to measure inflation. The zero rate items could include items such as, food grains, milk, curd, and other food items like eggs, cereal and meat. Also, metro travel, education and healthcare are exempted from GST.

Including zero rate as part of the GST structure will keep the prices of basic items in check, regardless of whether the government decides to increase tax rates in the future.

2 Source: Times of India

No Tax

- Goods - No taxes will be levied on goods like milk, fruits, vegetables, bread, salt, bindi, curd, sindoor, natural honey, bangles, handloom, besan, flour, eggs, stamps, printed books, judicial papers, and newspapers.
- Services - All hotels and lodges who carry a tariff below ₹ 1,000 are exempted from taxes under GST.

Lower rate

A lower rate of 5% will be applied on the rest of the items in the CPI basket and other items of mass consumption. This includes food items like sugar, tea, coffee, oil, and other essentials like PDS kerosene and LPG. Since the taxation on coal is likely to reduce from 11.69% to 5% under the GST regime, electricity generation is expected to be less expensive.

The GST council has decided to place transport services in the 5% sector, which is applicable to Ola and Uber aggregators. Air-conditioned train tickets will be taxed at a rate of 5%, while non-AC train tickets will be exempt from GST. This, along with the zero rate tax, will help prevent inflation from having much of an impact on zero rate and lower rate items, keeping the prices of all essential items in check.

Tax Slab of 5%

- Goods - The goods which will attract a taxation of 5% under GST include skimmed milk powder, fish fillet, frozen vegetables, coffee, coal, fertilizers, tea, spices, pizza bread, kerosene, medicines, agarbatti, insulin, cashew nuts, lifeboats etc,
- Services - Small restaurants along with transport services like railways and airways will come under this category.

Standard rate

There are two standard rates that have been finalized by the GST Council: 12% and 18%. The Council had finalized two standard rates in order to keep inflation in check.

Imagine a product, which is currently taxed at 13%, charged a rate of 18% GST. This would increase the price of the product by 5%, leading to inflation. To avoid this, the GST council decided to tax all goods and services that are currently taxed at 9-15% at a standard rate of 12%. Processed foods will also be taxed at 12%. The rest of the goods and services will be taxed the second standard rate of 18%. Toiletries like hair oil, soap, and toothpaste will be taxed at 18%. Also, capital goods, industrial intermediaries, iron and steel, financial and telecom services will be included under this sector.

Tax Slab of 12%

- Goods - Items coming are the tax slab of 12% include frozen meat products, butter, cheese, ghee, pickles, Ayurvedic medicines, sausage, fruit juices, bhujia namkeen, tooth powder, umbrella, instant food mix, cell phones, sewing machine etc.
- Services - All Non-AC hotels, , business class air tickets will attract a tax of 12% under GST.

Tax Slab of 18%

- Goods - As mentioned above, most of the items are part of this tax slab. Some of the items are flavored refined sugar, cornflakes, pasta, pastries and cakes, preserved vegetables, tractors, ice cream, sauces, soups and mineral water.
- Services - All those AC hotels which serve liquor, IT and Telecom services and financial services along with branded garments will be part of this tax slab.

Higher rate

A higher rate of 28% will be levied on white goods such as washing machines, air conditioners, refrigerators, small cars, etc. Aerated drinks and cement are also included in this tier.

Previously, the tax on white goods was around 27% (including an excise of 12.5% and VAT of 14.5%), but the cascading effect elevated the tax as high as 30-31%. This will be minimized by the new higher rate of 28%.

Tax Slab of 28%

- Goods - Over 200 goods will be taxes at a rate of 28%. The goods which will be part of this category under GST are deodorants, chewing gum, hair shampoo, sunscreen, pan masala, dishwasher, weighing machine, vacuum cleaner. Other items include shavers, automobiles, hair clippers, motorcycles.
- Services - As mentioned above, five-star hotels, racing, movie tickets and betting on casinos and racing will come under this category.

Additional cess

The additional cess, which had been a topic of debate since the proposal of the GST rates, is now finalized.

People worried that demerit goods (such as tobacco products and aerated drinks), which were previously taxed at 65% and 40%, would become cheaper and too easily accessible with the new higher rate of GST set at 28%. Keeping this in mind, the new GST structure will collect an additional cess on top of 28% GST. The cess will only be applied on certain demerit goods. The percentage of additional cess has been fixed by the government as 15% for luxury vehicles, 1% for petrol powered small cars and 3% for diesel powered small cars. Motorcycles with an engine capacity of over 350 cc will be liable for an additional cess of 3%.

Even though this might not look close to what was expected of GST, the newly proposed tax structure is the first of the many steps that government wants to test. The idea of the current structure is to lower the burden of the common man by taxing items of mass consumption at 0-5%, followed by taxing most major goods and services at a standard rate of 18%.

GST Application with examples

Question: How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?

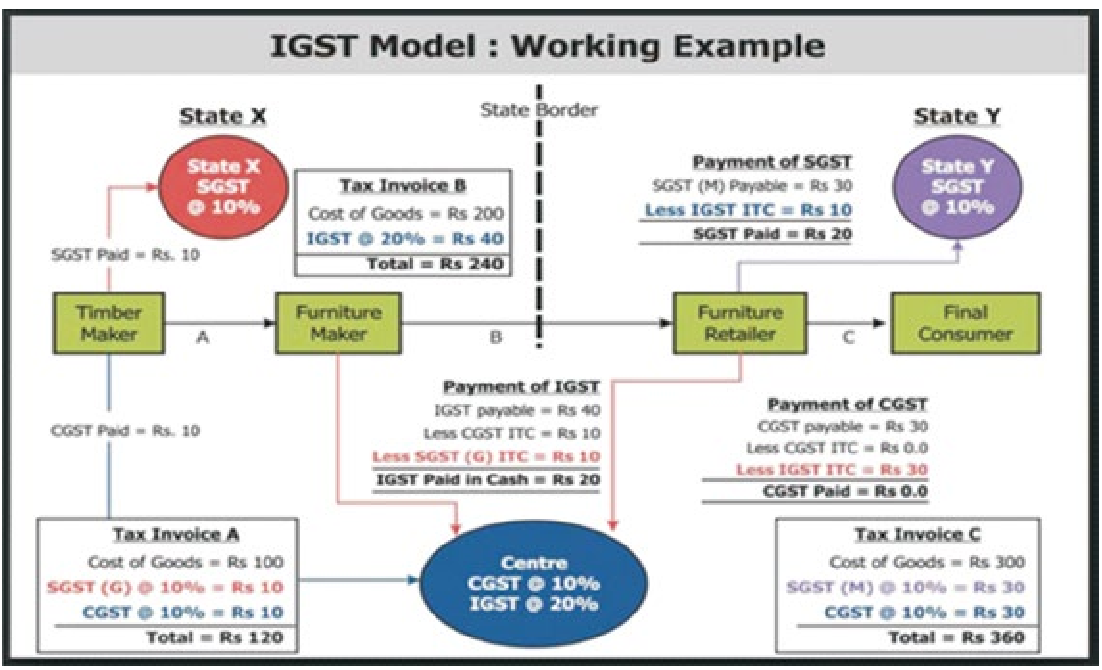
- Answer: The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except on exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Further, both would be levied on the same price or value unlike State VAT

which is levied on the value of the goods inclusive of Central Excise.[3]

Source: https://in.pinterest.com

3 https://in.pinterest.com

- Question: How will be Inter-State Transactions of Goods and Services be taxed under GST in terms of IGST method?
- Answer: In case of inter-State transactions, the Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supplies of goods and services under Article 269A (1) of the Constitution. The IGST would roughly be equal to CGST plus SGST. The IGST mechanism has been designed to ensure seamless flow of input tax credit from one State to another. The inter-State seller would pay IGST on the sale of his goods to the Central Government after adjusting credit of IGST, CGST and SGST on his purchases (in that order). 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 (both CGST and SGST) in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. Since GST is a destination-based tax, all SGST on the final product will ordinarily accrue to the consuming State.[4]



Source: https://gst.caknowledge.in

Which Indirect Taxes Would GST Not Subsume?

Yes, the GST is expected to subsume a bundle of indirect taxes. However, a few of them would be out of GST ambit. These include-

- Export Duty
- Basic Customs Duty

4 : https://gst.caknowledge.in

- Toll Tax
- Stamp Duty
- Property Tax
- Road & Passenger Tax
- Electricity Duty
- Impact of GST

Since India has different GST tax rates compared to a single GST rate in most prosperous nations across the globe, the national economy would undergo a major shift from the times of multiple taxes. From a common man to the richest, the word GST will have a significant bearing. While some goods and services would become cheaper, others may just take out more from the pocket of the consumers. The game changer, however, could be the input tax credit that the manufacturers can avail, which hopefully should benefit the consumers at large. The manufacturers can claim tax credit for the raw materials they procure, as well as for using the services like advertising, marketing and training. Similarly, the service providers can avail the credit for the goods they procure.

While GST is expected to have a positive impact on the economy in the medium to long term, as it aims to widen the tax net, it might lead to some disruptions in the near term. A report prepared by ICRA states that the implementation of GST would have three major implications for the corporate sector — expand availability on input tax credit, higher tax compliance with business moving to organized sector and reducing bottlenecks and improved efficiencies in supply chain and logistics.

Impact on the Economy

GST is expected to have a favourable impact on the economy in the following ways:

1. Removal of tax barriers with seamless credit will make India a common market leading to economies of scale in production and efficiency in supply chain.

2. Removal of cascading effect of taxes embedded in cost of production of goods and services, significantly reducing cost of indigenous goods and indirectly promoting 'Make in India'.

3. Facilitating ease of doing business - Integration of existing multiple taxes into single GST will significantly reduce cost of tax compliance and transaction cost.

4. Stable, transparent and predictable tax regime to encourage local and foreign investment in India creating significant job opportunities.

GST effect on society

With respect to those living below the poverty line, there might not be a direct impact of the GST on them as such since basic necessities like food are unlikely to attract the GST but increased collections of the GST with a larger tax base should provide an impetus to the government to allocate more money for social and poverty alleviation programs. Thus, the GST should benefit all sections of the society. Additionally, the

GST, being a nationwide tax, could lead to possibly higher inflation in the first few years of its introduction but would gradually increase the overall GDP.

The GST is an indirect tax collected from customers who buy manufactured goods or services. So whether one is earning a salary or not, as long as one buys something, he'll be paying tax.

GST effect on a day to day activity of a consumer

After a lot of deliberation, our GST council has finalised the rates for all the goods and major service categories under various tax slabs, and the GST is expected to fill the loopholes in the current system and boost the Indian economy. This is being done by unifying the indirect taxes for all states throughout India.

The tax rate under GST are set at 0%, 5%, 12%, 18% and 28% for various goods and services, and almost 50% of goods & services comes under 18% tax rate. But how is our life going to change post GST? Let's see how GST on some day-to-day good and services will have an impact on an end user's pocket.

Footwear & Apparels / Garments

Footwear costing more than INR 500 will have a GST rate of 18% from an earlier rate of 14.41 rate but rates for the footwear below INR 500 has been reduced to 5%. So, one needs to shell out more for buying a footwear above INR 500/-. And with respect to the ready-made garments, the rates have been reduced to 12% from an existing 18.16% which will make them cheaper.

Cab and Taxi rides

Now, taking an Ola or an Uber will be cheaper because the tax rate has come down to 5% from an earlier 6% for a cab booking made online.

Airline tickets

Under the GST, tax rate for economy class for flight tickets is set at 5% but the tax for business class tickets will have a higher tax rate of 12%.

Train Fare

There will not be much of an impact. The effective tax rate has increased from 4.5% to 5% in GST. But, passengers who travel for business trips can claim Input Tax Credit on their rail ticket which can help them to reduce expenses. People travelling by local trains or in the sleeper class will not be affected, but first-class & AC travellers will have to pay more.

Movie Tickets

Movies tickets costing below INR 100 will be charged a GST rate of 18% but prices above INR 100 will have a higher tax rate of 28%.

Life Insurance Premium

The Premium Amounts on policies will rise, with an immediate impact can be seen on one's term and endowment policy premiums as the rates have been increased under GST across life, health and general insurance.

Mutual funds Returns:

GST impact on returns from mutual funds' investments will largely be marginal as the GST will be charged on the TER i.e. Total Expense Ratio of a mutual fund. The TER is commonly called as expense ratio of a mutual fund company, and the same is set to go up by 3%. The return what one gets as an investor will be reduced to that extent unless the respective mutual fund company i.e. AMC absorbs it but that anyhow will be a marginal difference.

Jewellery

The gold investment will become slightly expensive because there will be 3% GST on gold & 5% on the making charges. The earlier tax rate on gold was around 2% in most of the states and the GST is increased from the existing rate to around 2% to 3%.

Buying a Property

Under construction properties will be cheaper than ready-to-move-in properties. The GST rate for an under-construction property is 18% but the effective rate on this kind of property will be around 12% due to input tax credits the builder will avail of.

Education & Medical Facilities

Education and Medical sectors have been kept outside the GST ambit and both the primary education & healthcare is exempt from GST. It means a consumer will not pay any tax for the money spent on these services. But due to increase in the rate of taxes for certain goods & services as procured by these organisations, they may pass on the additional tax burden to the consumers.

Hotel Stay:

For hotel stay, if the room tariff is less than Rs 1,000, then there will be no GST, but anything above Rs 5,000 will attract 28% tax.

Buying a Car

Most of the cars in the Indian market will become slightly cheaper, except for the hybrid cars because the GST rate will be 28% tax on all the vehicles irrespective of their make, engine capacity or model. However, over and above this 28%, an additional cess will be levied which can be either 1%, 3% or 15 %, depending on the particular car segment.

Mobile Bills

People will have to pay more on mobile phone bills as GST on telecom services is now 18%, as opposed to the earlier tax rate of 15%. However, telecom companies may absorb this 3% rise due to fierce competition.

Restaurant Bills/EATING OUT

The restaurant bill would depend on whether one dined at an AC or Non-AC establishments which do not serve alcohol. Now dining at five-star hotels will be charged at 18% GST rate and the Non-AC restaurants will be charged 12% and a 5% GST will be charged from small hotels, dhabas and restaurants which do not cross an annual turnover of INR 50 Lakh.

IPL & other related events

Events like IPL i.e. sporting events will have a 28% GST rate which is higher than the earlier 20%.rates. This will increase the price of the tickets. And the GST rate for other events like theatre, circus or Indian classical music shows or a folk dance performance or a drama show will be at 18% GST rate, this is lesser than the earlier tax rate.

DTH and cable services

The money one pays towards DTH (Direct-To-Home) connections or to the cable operator will reduce a bit as the rate is fixed at 18%, which is lower than the earlier taxes which were consisting of entertainment tax in the range of 10% to 30%, apart from the service tax of 15%.

Here's is a list of some items which are completely exempt from the GST regime

*The unprocessed cereals, rice & wheat etc.

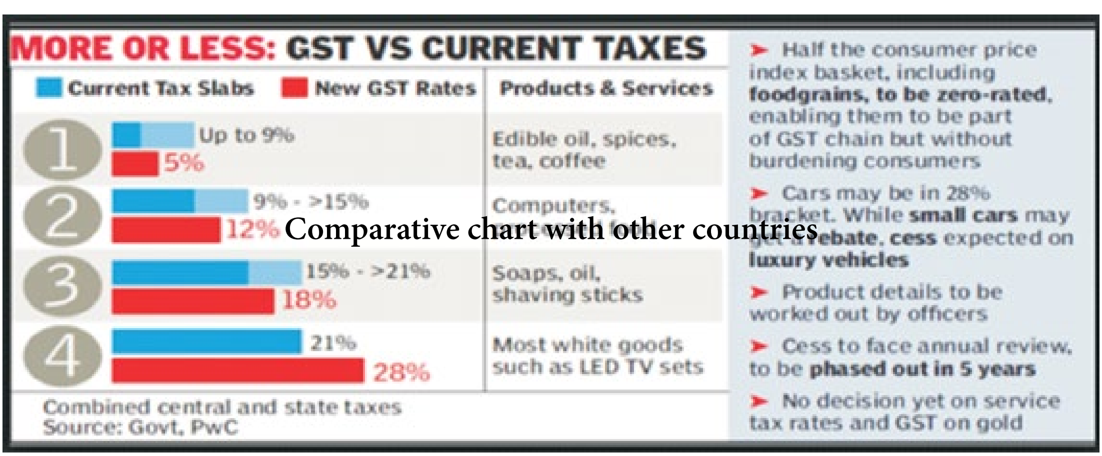
*The unprocessed milk, vegetables (fresh), fish, meat, etc.

*Unbranded Atta, Besan or Maida.

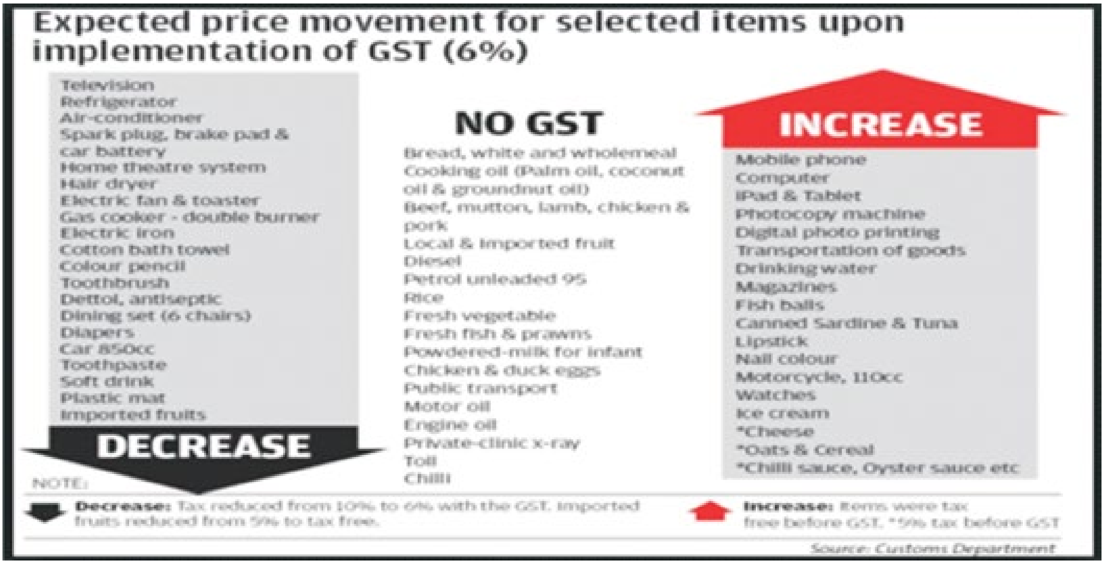
*Kid's colouring book / drawing books.

*Sindoor / Bindis, bangles, etc.

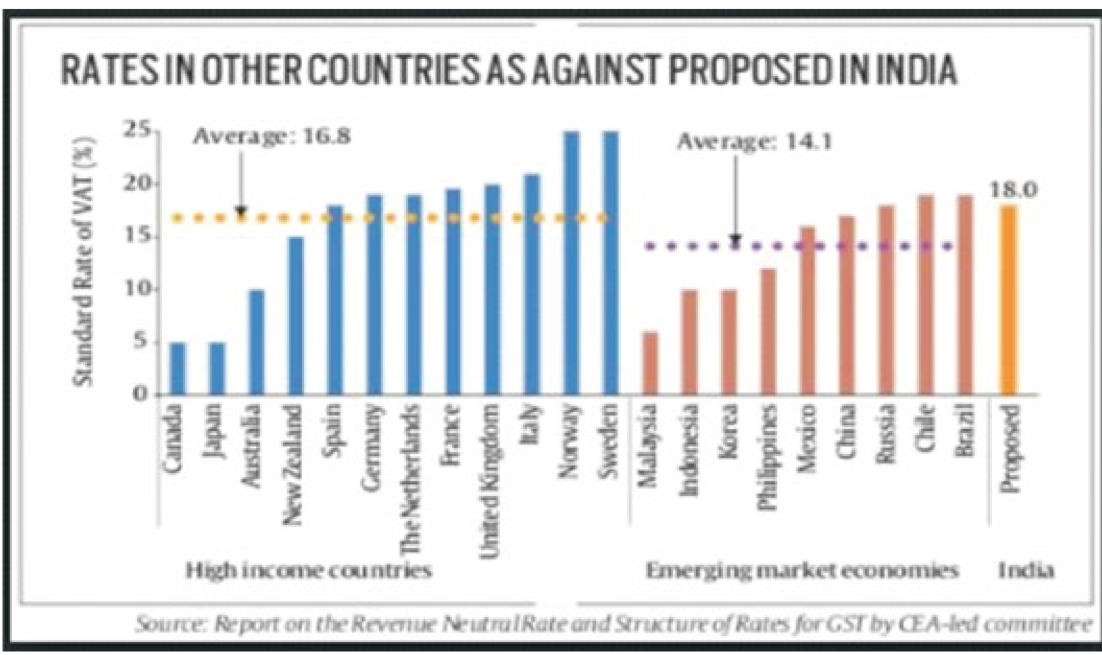
Comparative Analysis of GST Vs Current Taxes



Comparative chart with other countries



Comparative chart with other countries



Conclusion

GST will surely boost the country's economic growth and ease of doing business in overall industrial sectors. The significant types- CGST, SGST, IGST and UTGST will provide a smooth mechanism of tax collection for the respective central, state and union territory governments of India. It will begin a new phase in India's economy by providing logistics and supply chain efficiency and state-based parity that the country requires the most.

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Implementation of GST in France: A Case Study

Deepa Christina Jayaraj

&

Shanmugapriya.S[1]

Abstract

France was the first country ever to introduce GST in 1954. This paper traces the history of introduction of GST, the rates for different goods in France, the effect of GST on French economy and provides a comparison between GST in France and India.

Introduction

The GST as a Value added Tax (VAT) is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. Though France is known for its change in government it has a standard comprehensive goods and services tax. Out of 165 nations which have GST France is the pioneer of implementing a comprehensive tax system. France is known for its tourism, food and fashion, in such situation standard indirect tax i.e. GST can greatly contribute to its national revenue.

History

With the introduction of GST in 1954, France became the first country ever to introduce GST. Its introduction (as a value added tax) was required because very high sales taxes and tariffs encouraged cheating and smuggling.[1] France introduced VAT to replace the tax on production. Initially directed at large businesses, it was extended over time to include all business sectors in 1968 and was then adopted by the European Community - and by other states located outside the EC. In France, it is the most important source of state finance, accounting for more than 50% of state revenues.[2] The main purpose of implementing the GST regime in France was to stop tax evasion which was prevalent in the country due to high tax rates. [3]

VAT system in France

Whilst France follows the EU rules on VAT compliance, it is still free to set its own standard (upper) VAT rate. The only proviso is that it is above 15%. Suppliers of goods or services registered in France must charge the appropriate VAT rate, and collect the tax for onward payment to the French tax authorities through a VAT filling.[4]

1 II-B. A., LL. B. (Hons), TNDALU, Chennai & IV-B. A., LL. B. (Hons), Saveetha School of Law, Saveetha University, Chennai.

Rate	Type	Which goods or services
0%	Zero	Intra-community and international transport (excluding road and inland waterways).
2.1%	Reduced	Some pharmaceutical products; some newspapers and periodicals; TV licence.
5.5%	Reduced	Some foodstuffs; water supplies, medical equipment for disabled persons; books (excluding those with pornographic or violent content); e-books; admission to certain cultural events; writers and composers; some social housing; admission to sports events; some domestic care services; cut flowers and plants for food production.
10%	Reduced	Some foodstuffs; some pharmaceutical products; domestic passenger transport; intra-community and international road (some exceptions) and inland waterways transport; admission to amusement park (with cultural aspect); pay/cable TV; some renovation and repairs of private dwellings; some cleaning in private households; some agricultural supplies; hotel accomodation; restaurants (excluding alcoholic beverages); some domestic waste collection; certain domestic care services; firewood; take away food; bars, cafes and nightclubs; cut flowers and plants for decorative use.
20%	Standard	All other taxable goods and services.

France has adopted an expenditure-based consolidation strategy while at the same time reducing the tax burden on labour to boost competitiveness. As a complement to this strategy to reignite growth and rein in the deficit, the design of the tax system could be further improved. In this context, the fairly widespread application of reduced rates and exemptions in Value added taxation (VAT) is adding to the complexity of the tax system and weighing on its efficiency. VAT receipts in France were below the EU average in 2014 as a percentage of total tax revenue (14.5%; EU average of 17.5%). Since VAT is easier to administer and relatively less harmful to growth compared with other forms of taxation, increasing revenues from VAT could be important in alleviating the tax burden on labour, which remains relatively high in France despite the recent policy initiatives to reduce it. In comparison with other Member States, the extensive application of reduced rates and the use of exemptions diminish the revenue efficiency of the VAT system. The revenue foregone from reduced VAT rates and exemptions considered as tax expenditures by the French authorities carry a substantial budgetary cost of around 1% of GDP.

France has a complex VAT rate structure, applying four different rates. EU Member States are obliged to apply the common European VAT system, which was set up in 1967. The VAT Directive sets out general rules framing Member States freedom to set VAT rates. These rules were intended to guarantee, above all, the neutrality, simplicity and workability of the VAT system. As a default rule – a standard VAT rate – not less than 15%- is applied to all taxable supplies of goods and services. It permits also two reduced rates, set at 5% or more, which are confined to certain goods and services listed in the VAT Directive. In addition a number of reduced rates, including lower than 5%, are allowed in certain Member States according to 'standstill derogations. This system has experienced several major reforms, resulting in different VAT rate structures across Member States In order to avoid that policy recommendations encourage cross-border shopping, it is important to consider also the VAT structure in other peer Member States,

In order to avoid that policy recommendations encourage cross-border shopping, it is important to consider also the VAT structure in other peer Member States, especially in neighbouring countries; France applies on average lower VAT rates for all categories of goods in comparison to neighbouring peer countries. The 10% rate is applied to approximately 15% of the products and services in the price index, with almost 20% of product being taxed at the reduced rate of 5% and a more limited amount of products at the super reduced rate of 2.1%. A reduced rate of 5.5% is particularly low, given that countries with a two-rate structure, applying a standard rate and one reduced rate, often apply a reduced rate varying between 10 and 12%. Moreover, only five Member States (Spain, France, Ireland, Italy and Luxembourg) apply a super reduced rate. At the time of the introduction of the Single Market in 1992, there was a political commitment to phase out these upper-reduced rates at a four years times horizon but this has not materialized. For certain products and services France is an exception in applying reduced rates. Certain products or services such as food, hotels and transport are taxed at reduced rates in France and practically everywhere in Europe. For example, Denmark, Bulgaria, Slovakia, Lithuania and Estonia are the only Member States to tax all food at the standard rate. However, France is one of the only countries to tax non-alcoholic beverages, TV licenses and pay TV at reduced VAT rates. Also, in other countries domestic care is often taxed at the standard rate, but not so in France.

France makes use of optional exemptions provided for in the VAT Directive and applies certain mandatory exemptions in the public interest without restrictions (e.g. certain paramedical services). The VAT Directive (2006/112/EC) requires EU Member States to exempt certain goods and services from VAT ('compulsory exemptions') (e.g., postal services, medical and certain paramedical services). For the purposes of ensuring a correct and straightforward application of those exemptions and preventing any possible evasion, Member States may lay down conditions under which compulsory exemptions are applied. The exemption for certain other goods and services is optional ('optional exemptions') under the VAT Directive. France applies those special derogations by exempting certain services such as the supply of services by authors, artists, lawyers (up to EUR 42.000 of annual turnover) and other liberal professions. The high level of public expenditure and the application of the mandatory exemptions in the public interest without restrictions imply that the exemption for public good results in a much stronger loss in revenue than on average in the EU.[5]

VAT system in the European Union

The European Economic Community (EEC) adopted VAT throughout Europe, replacing cascading multi-stage turnover tax. VAT was implemented due to the ease with which it handled cross-border transactions and facilitated the development of a common market.

The VAT Directive sets the framework for VAT structure in the EU, but leaves national governments with the freedom to set the number and level of rates they choose. They may use provisions of VAT Directives in national legislation, subject to the following basic rules:

1. Goods or services supplied in the course of business by a taxable person within the EU are subject to VAT at a standard rate not lower than 15%, unless specifically exempt.
2. EU member states can opt to apply one or two reduced rates of not less than 5%.
3. Member states may subject certain goods or services listed in Annex III of the VAT Directive, such as food, water, pharmaceuticals, books, admission to cultural/ amusement/sporting events, social services, medical services and equipment, agricultural inputs, to lower rates, including zero rates, which were in place on Jan. 1, 1991, though they cannot introduce any new rate under 5%.
4. Goods and services in the public interest, such as medical care, services linked to welfare and social security work by public entities or charitable organizations, certain education and cultural services, specific financial and insurance services, certain supplies of land and buildings, export of goods, and shipments of intra-EU supplies are exempt from VAT.[6]

Effect of GST on French Economy

Colbert served as the finance minister for King Louis XIV of France for almost two decades, from 1665 to 1683, and hugely improved the state of French finances. France was almost bankrupt when he took over. His taxation policies also improved the state of French manufacturing. His method was issuing edicts. There was none of the democracy nonsense back then. What Colbert wanted, Colbert took. His greatest achievement was goods and services tax (GST). Annoyed that different provinces in France imposed different taxes and that he could do nothing about it, he more or less equalized them. One France, one tax, one market. Revenue policy -- rates and coverage -- was run by a Royal Council.[7]

When Hollande became France's president in 2012, in spite of an already poorly performing French economy, he kept his election-time promise to raise taxes. New or higher levies were imposed on bank profits and corporations in general. Individuals were also subject to tax increases, including higher taxes on inheritances, dividends, bonuses, and stock options. The Value Added Tax (France's version of the GST) was increased to 20 per cent; the top marginal tax rate was increased to 75 per cent from 48 per cent.[8]

Comparison between GST in India and France

1. France is not monetarily sovereign. It is like any state in India. It uses taxes as revenue.

India, being monetarily sovereign, creates zero cost money and trashes taxes. Not a cent supports federal projects.[9]

2. In France, single tax system is followed throughout the nation. But in India, we have a dual system i.e. State and central levels.

Conclusion

Even though if a nation is less tax compliant state by means of standard comprehensive tax a balanced relationship can be laid between direct and indirect tax. Though India and France have widely varying socio-economic culture, India can adopt few of its economic policies relating to tax structure and slabs. Economy is just a continuous trial and error process, so India can try tax slabs of France to attain betterment in economic status.

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COMPARATIVE STUDY OF INDIAN GST MODEL WITH OTHER COUNTRIES

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Abstract:

In this paper we will explore the concept of GST as it applies around the world, then delve into the specifics of how GST relates to India. This paper will also examine the VAT/GST structure of some major world economies, including tax rates, threshold limits, exemptions, and zero-rated transactions. This provides a foundation for understanding India's GST.

Introduction

The rise of Value Added Tax is an unparalleled tax phenomenon. The history of taxation reveals no other tax has swept the world in some thirty years, from theory to practise, and carried along academics who were once dismissive and countries that once rejected it. [2]

In order to understand the concept of "unparalleled tax phenomenon" we have to turn through the literature of policy transfer which seeks to explain the process through which policy innovations spread from one jurisdiction to another. There has also been a process of policy emulation by which VAT was introduced in different jurisdictions. It is reported that Egyptians were the first to introduce general sales tax at their major markets. VAT with the aim of taxing value added at each stage of the production process has its origin in the United States in 1920's. Ironically, Japan was the first country to bring a legislation on VAT, after the second world war because its public finances were in a state of disarray, which prompted the allied powers to initiate a comprehensive review of the Japanese tax system conducted by American tax experts. While the VAT legislation was enacted, its implementation was postponed several times till it was completely abandoned in 1953. Despite its American origin the first modern VAT or GST was introduced by France on 10th April, 1954 although it must be noted that tax was applied only to wholesale level.

Currently 154 countries have introduced GST or a national level VAT. The terms GST and VAT are generally interchangeable. For example, New Zealand, Singapore, Canada and South Africa use the term GST while France, Germany, UK and other European

1 LLM, Final Year, TNDALU. Chennai

2 Richard Eccleston; Taxing Reforms-The Politics of the Consumption Tax in Japan, United States, Canada and Australia; EE Publishers; Pg.41.

countries use the term VAT. In principle, the two systems are very similar but may have a few modifications as per the specific requirements of the respective countries. For example, there may be a difference between the two systems in the number of exemptions- European Union VAT has more exemptions than those of the GST systems in New Zealand and Australia.

GST is a consumption tax and it is applied to expenditure rather than to income. It is a tax that is finally borne by the consumers, rather than the producers or suppliers. The previous indirect tax system was characterised by multiplicity of taxes - at different rates - at multiple points. Further, absence of setting off mechanism results in cascading effect of these taxes. Many countries in the world have adopted a single unified GST system. India has adopted a dual GST system (CGST and SGST) for every transaction of supply of goods and services.

Canada

Like India, the federal government of Canada follows a federal GST which was introduced in 1999. This replaced the existing sales tax imposed on manufacturers and certain licensed wholesalers at a general rate of 13.5%.[3] The introduction of Harmonized Sales Tax or HST has reduced the 'cascading effect' and businesses that purchase goods and services that are consumed, used or supplied in the course of their "commercial activities" can claim "input tax credits" subject to prescribed documentation requirements. The HST is a combination of Goods and Service tax (GST) and Provisional Sales Tax (PST). Even after the introduction of HST, Provisional Sales Tax was continued in the provinces, thereby having two levels of tax. HST is mposed in provinces that have harmonised their PST and GST.

Depending upon the province, tax is collected in any of the three methods:

- • **HST:** HST combines PST with GST to create one tax. Operation in an HST-participating province leads to collection of sales tax at the following rates-combination of a federal component and a provincial component (5-8%) applicable generally on the same base of property and services as the GST.
  - New Brunswick: 15%
  - Newfoundland and Labrador: 15%
  - Nova Scotia: 15%
  - Ontario: 13%
  - Prince Edward Island: 15%

3 GST in India and beyond; Available at https://www.avalara.com/in/learn/whitepapers/gst-india-beyond/ (Accessed on 22.08.2017)

- **Combination of GST and PST:** Operation in the following provinces means combination of 5% GST as well as provincial sales tax (PST), with provincial sales tax rates as follows:
  - British Columbia: 7% provincial sales tax (PST) on retail price only
  - Manitoba: 8% retail sales tax (RST) on retail price only
  - Quebec: 9.975% Quebec sales tax (QST) on retail price only
  - Saskatchewan: 6% provincial sales tax (PST) on retail price only
- **GST**: Operation in the province of Alberta or in one of the three territories (Northwest Territories, Nunavut or the Yukon), there is no need to collect sales tax on goods and services beyond the 5% GST.

British Columbia's conversion to GST on July 1, 2010 was very controversial. A referendum was initiated by the Opposition party resulting in the province reverting to the former PST/GST model on April 1, 2013.[4]

On certain goods 0% GST/HST is charged and these are called Zero rated goods: these include basic groceries such as milk, vegetables and bread, grain, raw wool, farm livestock, most fishery products such as fish for human consumption, prescription drugs and drug-dispensing services, certain medical devices such as hearing aids and artificial teeth, feminine hygiene products (as of July 1, 2015), exports (most goods and services for which you charge and collect the GST/HST in Canada, are zero-rated when exported).

Other services where no GST is charged are sale of housing that was last used by an individual as a place of residence, long-term rentals of residential accommodation (of one month or more), most health, medical, and dental services performed by licensed physicians or dentists for medical reasons, child care services, legal aid services, many educational services, the issuance of insurance policies by an insurer and the arranging for the issuance of insurance policies by insurance agents.

This is administered by the Canada Revenue Agency for the Government of Canada and also for most provinces. Canada Revenue Agency also administers various programmes related to social causes delivered through tax system. [5]

In India, majority of the manufacturing states were opposing GST as they will have revenue loss once GST is implemented. In India, only compensation is awarded to the states under a separate Act called The Goods and Service Tax (Compensation to States) Act which was passed on April 12, 2017. The compensation shall be payable to the states under this Act for a transition period which is 5 years from the date on which goods and service tax comes into force based on the difference between the projected

4 Lorne Gunter; BC-HST Referendum, glorious win for bad policy; available at http://nationalpost.com/opinion/lorne-gunter-bc-hst-referendum-glorious-win-for-bad-policy. (Accessed on 25.08.2017)

5 Canada revenue Agency; Government of Canada; Available at https://www.canada.ca/en/revenue-agency.html. (Accessed on 24.08.2017)

revenue (revenue accrued by the state in the absence of goods and service tax) of a financial year and the actual revenue (revenue accrued after the implementation of goods and service tax). Unlike Canada (British Columbia), Indian states were not given an opportunity of backing off from GST, even if such power was given we are not sure of its working later on.

An important lesson to be learnt from the Canadian model is that the GST rates have to be realistic and should not be a burden on the common man. When it was introduced in 1999 the rates were fixed as 7%, later due to internal resistance it was reduced to 6% in 2006 and was further reduced to 5% in 2008 which is still prevailing.[6] In India, we have tax rates ranging from 5-28% (different tax rates are justified in the later part of the paper). The highest rate is attracted to goods like sugar, chocolate, butter, essential oils, toilet preparations, cosmetics, shampoo, salt, sulphur, soap, washing preparations, paint, toys, clock, watches etc. The list contains goods which are also used by the common man (e.g. paint, cement, salt etc), so the Government must consider shifting some goods to a lower tax rate and not making it a burden on common man.

Australia

The present GST model in Australia was first proposed in the year 1975. This was rejected by the Labour Government in 1985. The idea of "NEVER EVER" to introduce GST was promised by the Liberals in the 1996 elections. This lasted for two years, after which John Howard introduced GST as a party platform and contested the 1998 elections. On the other hand, Labour party promised to roll back GST by calling it a 'bastard tax', but lost the election. Though the idea of GST cropped up in 1975, the implementation of New Tax System was introduced by New Tax System (Goods and Services Tax) Act of 1999. It took 25 years to settle this issue and was started only from July 2000 at a rate of 10%.[7]

Introduction of GST in Australia turned out to be successful and paved way for a true tax reform and not a revenue grab. GST replaced the Wholesale Tax imposed by States which was a nuisance that imposed high costs while the States could earn very little income, which was not beneficial for both the people and the States.

GST is a tax on consumption of goods and services in Australia. The Australian Tax Office (ATO) defines GST as a "broad based tax…. on most goods, services and other items sold or consumed in Australia. [8]

6 GST/HST Statistics table; Government of Canada; Available at https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/income-statistics-gst-hst-statistics/gst-hst-statistics/gst-hst-statistics-2007-2011-calendar-years.html

7 Sincliar Davidson; 10 years of GST; Available at http://www.abc.net.au/news/2010-07-01/36428 (Accessed on 25.08.2017)

8 Mike Braid; Do Australians pay less GST than other OCED Countries; Available at http://www.abc.net.au/news/factcheck/2015-07-30/fact-check-rate-of-gst/6650406 (Accessed on 25.08.2017)

Under this model, GST is collected by the federal government and redistributed among the states and territories.

- GST free supplies implies no GST is payable on it, but the supplier is entitled to claim credits for the GST payable on its business inputs that relate to that supply. This includes certain food products, education courses, medical and health services, childcare, export, international transport, certain activities of charity and related bodies.
- If a supply is "input taxed" no GST is payable on it, but the supplier cannot claim input tax credit for the GST payable on its business inputs that relate to the supply. They include certain financial supplies, residential rent, residential premises, precious metals, school shops and canteens, certain fundraising etc.
- Tourist Refund Scheme is available to temporary visitors and Australian Residents and issued at any Australian International Airport for a purchase of $300 or more including GST from any single business. Most of the goods are eligible for refund of 10% except certain goods like alcohol and tobacco products, goods that do not have GST included, gift cards, vouchers etc.

An important difference between Australia's GST and OECD nations' tax system is that Australia follows one tax rate- 10%. OECD collects data on tax systems of the member nations, according to data collected in 2015, the average rate of GST in OECD countries is 19.2%. Comparatively, Australia has a relatively low GST of 10%.[9] From 1999 Australia has managed to maintain the same tax rate of 10%. This has reduced the tax revenue from taxes on goods and services to GDP than most OCED nations. Only 7.5 % of the GDP comes from taxes on goods and services in Australia, whereas the average of 11% is contributed to GDP from OECD countries.[10] Many scholars propose increase of the GST from 10-15% to help fund Australia's future health needs. They also suggest that increasing the rate would be easier than applying it to current goods like food and education which are exempt from GST. Thus lower GST rates may also have a direct impact on GDP of the country.

India's tax (direct and indirect) to GDP ratio is 16.6% for the year 2015-2016. The Finance Minister has announced that Rs.92, 283 crore has been collected for first filing of GST, which exceeded the target of Rs. 91,000 crore.[11] We will have to wait and see the contribution of GST towards GDP.

Singapore

GST in Singapore was implemented on 1 April, 1994. The GST Act was based on UK VAT legislation and New Zealand GST legislation. GST was first introduced at 3%. The GST rate was increased to 4% in 2003 and to 5% in 2004. As announced in

9 Ibid.

10 Mike Braid; Do Australians pay less GST than other OCED Countries; Available at http://www.abc.net.au/news/factcheck/2015-07-30/fact-check-rate-of-gst/6650406 (Accessed on 25.08.2017)

11 GST collection hits Rs. 92,283 crore; The Times of India; Available at http://timesofindia.indiatimes.com/business/india-business/rs-92000-crore-collected-for-first-filing-under-gst/articleshow/60278603.cms

Budget 2007, GST rate was raised to 7% on 1 July 2007 [12]. Singapore has a standard rate of 7% GST as of now.

[13]The basic principle is a GST registered person has to charge GST on its output and Pay GST on its input. GST charged on its output is known as output tax and GST aid on its input is called as input tax. The taxable supply is a supply of goods or services made in Singapore other than an exempt supply. It can either be standard-rated (7%) or a zero-rated (0%) supply or it can fall under exemption. The difference between zero-rate and an exempt supplies, is that a person who makes exempt supplies cannot claim input GST and ends up bearing it as an expense. Because a person who makes zero-rated supplies is able to claim a credit for input tax paid on purchases of inputs. Subject to certain conditions exported goods and provisions of international service are zero-rated supplies.

Exempted supplies are of two divisions; the sale and lease of residential land and the supply of financial services. Financial services include:-

- The operation of any current, deposit or savings account.
- The provision of any loan, advance or credit
- The provision or transfer of ownership, of a life insurance contract.

Next to Singapore, Malaysia stands with the lowest GST rate of 6%. Currently, In India the goods and services are categorized under four slabs- 5, 12, 18 and 28 per cent. This has attracted criticism from many, given that it's not exactly 'one nation, one tax'. The slabs have been created keeping the interests of the poor in mind. A single rate for all goods and services could have been introduced as that would have generated almost the same amount of revenue, but it would have been unfair to the poorer sections of the society. A single-rate GST would have lead to slapping tax on food items that are exempted under the existing GST structure.

United States of America

In the United States, the system of taxation is very complex. The taxpayer may need to pay tax at three different levels of government. Sales taxes in the United States are taxes placed on the sale or lease of goods and services in the United States. In the United States, sales tax is governed at the state level and no national general sales tax exists. States may also delegate to local governments the authority to impose additional general or selective sales taxes.

In the U.S. if there is a "sales tax" on purchased items, it is not marked as such on the label or menu. The tax normally will be added to the price at the cash register or added on the bill. Alcohol, medicines, jewellery, cigarettes, restaurant meals, clothing, electronics, services, and many other things except gasoline can have a tax tacked on to it at the end. For example a bottle of wine will retail for $50. The local tax on alcohol

12 Goods and services tax; Available at http://www.mof.gov.sg/Policies/Tax-Policies/Goods-and-Services-Tax (Accessed on 28.08.2017)

13 Deloitte; Singapore-Master tax guide handbook 2010/1; 29th Edition; CCH a Wolters Kulwer business; Pg 698.

is 20%. 20% of $50 is $10. This means that $10 will be added to the price of the bottle of wine, $50, to cover the tax and the total sum that must be paid is actually $60 .[14] The levy of Sales Tax in the United States (US) is largely on retail sales or on supplies to the ultimate consumer and all intermediaries is generally exempted. States in the US also have the power to levy and collect tax on many specified services. Inter-state supplies of goods and services are not liable to sales tax in the US, unless the supplier of goods or services has a presence in the selling state. Goods or services that may be exempt from Sales Tax in the US are often liable to a Use Tax levied in the State where these goods are used or consumed.

Use tax is self assessed by a buyer who has not paid sales tax on a taxable purchase. Unlike the value added tax, a sales tax is imposed only at the retail level. In cases where items are sold at retail more than once, such as used cars, the sales tax can be charged on the same item indefinitely.

The definition of retail sales and what goods and services are taxable vary among the states. Nearly all jurisdictions provide numerous categories of goods and services that are exempt from sales tax, or taxed at reduced rates. The purchase of goods for further manufacture or for resale is uniformly exempt from sales tax. Most jurisdictions exempt food sold in grocery stores, prescription medications, and many agricultural supplies.

The US tax system is set up on both a federal and state level. Federal and state taxes are completely separate with its own authority to levy tax. The central government doesn't have the privilege to meddle with the state tax collection. Each state has its own tax assessment law which is separate from different states tax assessment. As the US tax system is mind boggling and states and government can't meddle with the tax collection of other, it is exceptionally hard to actualize GST (One nation one tax) in US. This study on US tax system is compared to show why GST can't be actualized in that capacity as India.

Conclusion

GST has been shown to be a simple, efficient, and successful form of indirect taxation globally, that would contribute significantly towards economic growth. India can learn from other countries which have already implemented GST. From Singapore India can learn how administrators need to keep a check on the movement of product pricing. The Canadian government confronted resistance inside finished the GST law. Accordingly, the legislature decreased the rate twice after execution. This implies the GST rate must be sensible which ought not load the common man and need not require adjustment every now and again. Businesses in Malaysia showed harsh resentment even when the government gave them 18 months to prepare themselves for the new tax regime. Looking at the complexity of the Indian GST, businesses need to start early

14 United States: Sales Tax; Available at https://www.tripadvisor.in/Travel-g191-c1484/United-States:Sales.Tax.html (Accessed on 26.8.17)

to be GST-ready at the time of implementation. As the Central government has asked businesses to go live with the new GST within nine months of implementation, it is going to be a challenging task for all the stakeholders.

Ultimately, GST should have a single rate. That is the ideal GST. In Singapore, there is a single rate of 7%. We have two problems. One, we are starting from a legacy which is so bad because we have so many rates. If you combine the total incidence of entertainment tax, luxury duty, VAT, service tax, sales tax, everything put together, the total incidence runs into, say, from zero to 35…40…50 % for various commodities. Now, if you want to bring such a large spectrum of commodities into one basket and choose a median rate of 18% on all these items, what will happen? Just imagine. Immediately, the items which were attracting 40% rate, the luxury items, will become cheaper and the items which had a 5% rate or no tax will all become very, very costly. So for India, (a single GST rate) would have been a very regressive action to take immediately. What we decided was that we will narrow the number of bands and a large part of commodities; at least 50% of items in the CPI basket have been put in the exempt list. We don't want the common man to be hit by the introduction of GST. And we have put many other items in the CPI basket in the 5% band. So that's why we didn't want to have a single rate to begin with. We started with a lot of imperfections. We are trying to improve it over a period. Once we find that revenues are stabilising and everything is okay, then we can slowly reduce the number of slabs.

"Will the GST actually help India in the development of a national common market? Will there be free flow of goods and services? Only time will tell about India's experiment with indirect taxation." [15]

15 GST: Lessons for India from Other GST-Compliant Countries for Enterprises and Businesses; Available at http://bwdisrupt.businessworld.in/article/GST-Lessons-for-India-from-Other-GST-Compliant-Countries-for-Enterprises-and-Businesses/05-07-2017-121525/ (Accessed on 29.08.2017)

Amendments to GST

Vidyasri & Abirami [1]

Abstract

The Goods and Services Tax (GST) is beyond doubt the most revolutionary tax-related reform to be seen in India in several decades, since it will eliminate the conflicting and cascading taxation structures which have confounded several industries over the past few decades. It will most certainly have a profound effect on India's economic prospects.

A single indirect tax which covers all goods and services will, in the long run, increase tax collection by making it easier for retailer and several other businesses to comply and also moderate overall taxation levels. In this paper, an attempt has been made to identify the shortcomings in the GST Act and to suggest amendments to make it easier and more effective for all concerned.

Introduction

The President of India approved the Constitution Amendment Bill for Goods and Services Tax (here after GST) on 8 September 2016, following the bill's passage in the Indian parliament and its ratification by more than 50% of state legislatures. This law will replace all indirect taxes levied on goods and services by the central government and state governments and implement GST by April 2017. The implementation of GST will have a far-reaching impact on almost all the aspects of the business operations in India. With more than 140 countries now adopting some form of GST, India has long been a stand-out exception.

In keeping with the federal structure of India, it is proposed that the GST will be levied concurrently by the central government (CGST) and the state government (SGST). It is expected that the base and other essential design features would be common between CGST and SGSTs for individual states. The inter-state supplies within India would attract an integrated GST (IGST), which is the aggregate of CGST and the SGST of the destination state.

GST is a much needed piece of legislation – amendments are not new as far as India is concerned. We need to correct the flaws in the Act for achieving a convenient form and to have a comfortable mechanism of taxation in India. Some of the shortcomings which have to be rectified through amendments are discussed below:

physically disabled', in the census survey. In India, especially rural areas, disability is a big taboo and the use of such direct questions has possibly been the reason for under reporting.

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(a) Petroleum and GST

The Centre and the States need to bring petroleum products into the goods and services tax (GST) framework sooner rather than later. Oil products garner hugely disproportionate indirect tax revenues, but we need to widen the tax regime, modernise it and rev up efficiency by eschewing tax-on-tax and cascading rates along the value chain. There's a solid case for the Centre to include all petro-products in the GST regime, levy a top-up cess to account for externalities like pollution, and to proactively share the proceeds with the states.

Reports say that with the GST rollout, oil producers, refiners and marketers could take a hit of as much as Rs 25,000 crore per annum. True, the GST Council, the body of Union and state finance ministers, is to decide the date for bringing petroleum products under GST.

But as of now, petroleum crude, natural gas, diesel and petrol are all out of the GST framework. So, input taxes paid on the output of crude oil, gas and automotive fuel would not be creditable, thus jacking up the tax burden. Thankfully, oil products such as cooking gas, kerosene and naphtha are included in the GST regime, so some taxes can be set-off against taxes already paid. But it would be a messy situation that is wholly avoidable.

Oil companies would need to comply with both the old and new tax regimes, and in any case, tax credits won't be transferable between the two systems.

Instead of muddling along with a suboptimal tax regime, we need to promptly bring all petroleum products into the GST framework. India's large and fast-growing transportation, logistics and distribution sector needs to be made tax-efficient with GST on fuels. It would be very much as per global practice and boost India's competitive advantage right across the board. It makes sense to do this fast.

(b) Registering under the GST Composition Scheme

The GST Composition Scheme is extremely important for those traders who have a turnover below Rs.75 lakhs annually. While it has its benefits, there are also several drawbacks of registering under the GST Composition Scheme

- **Limited Territory for Business:** A taxpayer registered under the composition scheme is barred from carrying out inter-state transactions and cannot offer import-export of goods and services. Thus, he is compelled to carry out only intra-state transactions and this limits the territory of his business. Furthermore, this section is in contradiction of "One nation One tax" as this section limits the benefit only to the boundary of the state.
- **No Credit of Input Tax:** There has been no provision of input credit on B2B transactions. Thus, if any taxable person is carrying out business on B2B model, such person will not be allowed the credit of input tax paid from the output liability. Also, the buyer of such goods will not get any credit on tax paid, resulting

in price distortion and cascading. This will further result in a loss of business as a buyer registered as a normal taxpayer will not get any credit when buying from a person registered under composition scheme. Eventually, such buyers might avoid purchases from a taxpayer under composition scheme.

- **No Collection of Tax:** Though the rate of composition tax is kept very nominal at 0.5%, 1% or 2.5%, a taxpayer under composition scheme is not allowed to recover such tax from his buyer, as he is not allowed to raise a tax invoice.

Consequently, the burden of such tax is kept on the taxpayer himself and this has to be paid out of his own pocket. Thus the fundamental principle of limited compliance and tax burden on small taxpayer is defeated here.

- **Penal Provision:** Another provision which is heavily debated is the penal provision for a taxpayer under composition scheme. As per the GST Law, if the taxpayer who has previously been given registration under composition scheme is found to be not eligible for the composition scheme or if the permission granted earlier was incorrectly granted, then such taxpayer will be liable to pay the differential tax along with a penalty which can extend up to the amount of total tax liability i.e. 100%. On analysis of this provision, it can be fairly said that if a small taxpayer who has limited knowledge of tax laws and compliance makes any mistake under composition scheme, he shall be liable to pay tax at the standard rate on his total turnover along with a penalty which will be equal to the total tax liability.
- **Electronic Commerce out of scope:** One of the major industries which has flourished in recent times, is the e-commerce in India. There have been numerous companies who are into e-commerce, some of them have turnover into crores, however many of them are still at nascent stage and have not achieved breakeven as well. Such units carry out their business online through internet and supply across states. Since they are into inter-state supplies they are not eligible for composition scheme and thus the benefit of this section has been kept away from them. This is further in contradiction with the government vision of "Digital India" and "Startup India" which are aimed to promote the startup ecosystem and a digital experience for Indian citizens.
- Not applicable to the supplier supplying goods through E-commerce.

Composition scheme is considered instrumental in enabling small taxpayers to reduce the burden of compliance. However, under the current scenario a small taxpayer has to act very consciously if he chooses to get registered under the composition scheme.

- Comprehensive GST Compliance Assistance :

The new born legislation needs an inbuilt body for

- assistance in monthly and Annual filings under GST
- assistance in rectifying errors / Validation of GSTR 1A, 2A

- assistance in determining of rightful tax liability
- assistance in claiming rightful inputs on various expenses / inward supply
- assistance in determining and rightful claim of Refunds under GST
- assistance in payment of GST under different heads
- assistance in raising of correct invoices as applicable under GST
- determination and assistance in registration under GST
- assistance in getting Auditing by a Qualified professional as required by GST

According to government sources, to tide over this problem, the returns for the composition scheme will also be very simple in which the business will just have to mention its turnover, tax liability and the tax paid.

The objective of filing returns is also to ensure that more firms come into the formal economy and pay taxes.

GSPs, too, are working with small businesses to make them aware of compliance under the new tax regime and automating their invoices.

"Technology selection for GST compliance is the biggest challenge for small traders. They must be educated about which technology solution provider they should choose based on parameters such as 24x7 availability of platform, security of their data and high-level performance to upload large number of invoices a day," said Ashish Mittal, co-founder, EasemyGST.

(c) Amendments to get the luxury items at reasonable rates

Buyers of luxury items, such as apparel and leather goods, are unlikely to benefit under the new goods and services tax (GST) regime. Effective tax rates for most of the items under GST are more or less at the same level at which they were before the GST regime came into place on 1 July.

A partner of a leading consulting firm noted that "for most of the items, except watches and cars, rates are almost at the same level as pre-GST. There would not be much impact. However, companies will gain from the supply chain efficiency in the GST regime. This may result in marginal price correction at a later stage."

Luxury watches will cost more while buyers of luxury cars will benefit the most in the GST regime. Other luxury items are likely to be cheaper by around 2-3% over a period of time.

Bitter taste

- The GST Council has put luxury goods in the highest slab, of 28 per cent
- Many more regular items such as butter, sauce, mustard flour, instant coffee, condiments, hair dyes, shampoos and shaving products will share space with the likes of yachts, jets and racehorses

- Products not seen as being essential in nature have been slapped with a higher tax under GST, say product makers
- Among those that have made it to 28 per cent are cosmetics and beauty products, room air fresheners, deodorants and oral care products such as dental floss
- Products not seen as being essential in nature have been slapped with a higher tax under GST, say experts

(d) Rates for Telecom

The GST council, a committee headed by the Finance Minister and comprising representatives of all states which is tasked to fix tax rates on various goods and services, has decided that telecom services will attract tax rate of 18 per cent, three percentage points higher than the current 15 per cent services tax.

The industry has expressed its apprehension over the higher tax rate saying that it will further stress the already bleeding sector.

The Cellular Operators Association of India (COAI) - which has Bharti Airtel, Vodafone, Idea Cellular and Reliance Jio as members - has been pushing for lowering of Goods and Services Tax, or GST rate, for telecom services to five per cent in sync with essential services. The debt-ridden industry has been saying that benefit of input credit is not enough to fully compensate the higher tax incidence in the new regime, and that telecom services are bound to become expensive for consumers once the new rates come into effect.

The apex industry body had highlighted that Singapore has a GST rate of only 7 per cent on telecom services, Malaysia (6 per cent), and Australia (10 per cent).

The COAI letter to Government had stated that the sector, which has over a billion consumers and offers one of the lowest voice call rates in the world, is undergoing one of its most disruptive phases and that the sector is reeling under a "daunting" debt burden of Rs.4.6 lakh crore.

(e) Import of Goods

GST as it has been introduced will certainly impact the business of importers and the import of commodities. These should be reviewed and possibly withdrawn or converted into a refund mechanism. This could change the structure of export-linked duty exemption schemes under the FTP, where duty exemptions may get limited to exemption from the payment of BCD. However, IGST may not be exempted.

- **Import of Goods:** Under GST law, import of goods will be considered as Inter-State supply model. This means importers in India have to import goods under new Integrated Goods and Services Tax (IGST) along with existing Basic Customs Duty (BCD) and other surcharges.
- **Import of Services:** The new GST law accord liability of tax payment on the receiver

who is getting service from a person residing outside India. This is similar to the existing provision of reverse charge in which service receiver is required to pay tax & file return.

- **Transaction Value:** The concept of transaction value under GST has been taken from current customs law. This will have implication on tax liability determination as currently CVD is charged on MRP. IGST will subsume CVD and tax will be charged on transaction value under new law. This may require restructuring the working capital for importers. This may also reveal the margin of service provider, which is presently not the case.
- **Refund of Duty:** Under new tax system, importers will get credit under "Import and Sale" model during imports of goods, whereas no such credit is available today.

So, the withdrawal of exemptions could fundamentally change the viability and attractiveness of some main schemes under the FTP like Advance Authorization, STP, EOU, etc.

(f) Real Estate and GST

Though the goods and services tax (GST) tax structure has been announced, there is still a lot of conjecture about which tax rate will be applicable to the real estate and construction industry.

The tax rate is not decided yet and it would be premature to comment on it at this point. The expectations are for real estate to be in the 12% bracket. However, the GST rate is not the only important factor. The abatement rules as applicable under the service tax regime and the input tax credit facility for developers will determine if the effective tax incidence on real estate is lower or higher under GST.

Effectively, the composition scheme allowing for abatement against cost of land to the extent of 75% of the of the house cost for residential units priced under INR 1 crores and less than 2000 sq. ft. makes the effective rate at 3.75%. In other cases, the abatement goes down to 70%, making the effective rate at 4%. This will go a long way in determining whether GST is tax neutral or tax adverse for real estate.

(g) Procedural issues affecting Small Service Providers and Traders

It is becoming increasingly clear that that neither the Centre nor States are adequately prepared to launch the goods and services tax (GST) on July 1. The sheer multiplicity of taxes, as also different tax slabs for the same commodity or service, is a problem which has been analysed by experts and practitioners alike. Foreign and domestic investors are already suggesting that the design of the GST, such as it is, will produce sub-par outcomes in terms of driving higher growth or achieving lower inflation.

However, in the short to medium term, it is the sheer complexity of procedures which might make the GST a huge nightmare for millions of small service providers and traders. One common complaint from traders and shopkeepers is they have no infrastructure to be GST compliant. What do they mean by this? According to the President of Confederation of All India Traders "there are about 100 million small traders and shopkeepers and nearly 60% are computer illiterate. So at least 60 million traders are not computer enabled. But the GST can be complied with only via a computer system which connects with the GSTN network on which all businesses, traders, shopkeepers will be registered".

This is one problem the government has not adequately anticipated. The Centre says it has created some 1,000 plus tax filing hubs for traders and shopkeepers, but Khandelwal argues these are just not adequate to deal with tens of millions of GST assessments. One could well witness long queues of the kind seen during the demonetisation months, as traders and service providers rush to file their mandatory returns three times a month. Whether the GSTN system would be able to take such concentrated load on the 10th, 15th and 20th of every month is something which remains to be tested.

Procedurally, the government has made a big mistake by not preparing millions of retail traders and shopkeepers who form the end point of the chain and face the consumer. After all, that is why the GST is called a consumption tax. The success of the GST will depend upon how well aware, educated and system enabled these retail traders are. The government has totally underestimated this problem. It is the retailers who will eventually ensure that the GST works well and the benefits of lower taxes gets passed on to the end consumers, thereby keeping inflation under control.

(h) INCOME CRIDIT MISMATCH DUE TO GST

The concept of Input Tax credit has always been an issue to look into for the industry [2]. The industry has huge expectations and there are a lot of eyes on how the concept of Input Tax Credit related to goods and/or services and matching mismatching concept of input tax credit will be dealt with in the GST regime. Let us discuss whether GST has something to cherish about or not.

The eligibility and conditions for taking input tax credit are discussed under Sec 16 of the revised Model GST Law. The section broadly talks about the conditions, circumstances and ways through which the assesse can claim input tax credit under the GST regime. There are certain conditions which the assessee needs to fulfil in order to avail the input tax credit. One of the important condition provided in Sec 16(2)(c) states that:-

- **The tax charged** in respect of such supply has been **actually paid** to the account of the appropriate Government, either in cash or through utilization of input tax credit admissible in respect of the said supply;

Now let us analyze clause (c) stated above which means that though tax is duly paid by the purchasing dealer to the selling dealer for any purchases made by him but if the selling dealer has not deposited the same to the account of appropriate government

2 https://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=7326&kw=Input-tax-credit-Matching-Mismatching-Concept-in-Present-Tax-Laws-vis-vis-GST-Laws

then input tax credit of the purchasing dealer will be rejected. Similar provisions for matching the sale and purchase also exist in the present VAT regime in various states such as West Bengal, Kerala, Karnataka, Delhi, Rajasthan etc. Now let us have a brief overview of how the present law works and also how this matching/mismatching concept will work practically under the GST regime.

Under the present regime under VAT there is matching mismatching concept in order to check the availment of input tax credit. The details so filed by the selling and purchasing dealer are cross checked across dealers whose TIN is mentioned in their respective returns and a mismatch report is generated. The buyer can view the report on the website of department immediately after filing of Annexure by corresponding sellers. In case there is any mismatch in the reports i.e. let say selling dealer has shown lesser amount of sales but the Buying Dealer shows the correct amount of purchases. Thus, Buying Dealer has claimed more input and he will be penalized for no default on his part. However, in reverse case i.e. Selling Dealer having shown more amount of sales and the purchase amount being correctly entered by the Buying Dealer, the mismatch report will be generated without any penalty being levied on buyer. However, under Service Tax Laws there is no such provision or mechanism in law to check whether tax paid by the receiver of services is duly deposited by the provider of services or not. In order to have control and avoid leakage in flow of credit the Government has introduced the concept of matching and mismatching in GST laws which is very much similar to VAT laws. Thus, the principle of matching and mismatching will be applicable now on goods as well as on services.

(i) Disablity Taxes and GST

The government has clarified its decision to levy 5% goods and services tax on assistive devices for the physically challenged, rejecting the allegation that the government has been "insensitive" to the disabled.

"Tax incidence is not going up but going down," according to the revenue secretary, as he offered two reasons why these devices have not been exempted from GST.

Under GST, Braille writers and Braille paper to wheelchair, talking books, assistive listening devices and implants for the severely physically challenged will be levied 5% tax. This will allow the manufacturers to claim input tax levied on raw material used, most of which is in the 18% tax category.

Effectively, the entire 5% levy will be offset against the input taxes, leading to zero effective tax. Moreover, if the input taxes exceed the final tax, the manufacturer will even be able to claim refund of any input tax left over.

"Since final consumer tax is lower than tax on inputs, a domestic manufacturer can claim refund," an official statement said. This input credit or refund is not available for exempt goods or zero per cent.

"By keeping it in a very reasonable rate of 5% the manufacturer will be able to pay

5% out of input tax credit and the remaining amount will be refunded. So the price of this commodity should come down". However these arguments have not convinced the activists and persons with disabilities (PwDs) who want the disability aids to be completely exempted from taxation.

(j) Personal Finances

The impending implementation of GST would undoubtedly impact one's personal finances especially when it comes to financial services, albeit marginally. From the present rate of 15 percent, the GST on banking, insurance and investments such as real estate, mutual funds will see a hike of 3 percent as the GST will now be 18 percent on them.

i. GST and Insurance

Primarily, there are three major kinds of life insurance products - Term insurance plans, Ulips and Endowments (including money back). The applicability of service tax (in the current format) on their premium is not similar in all three of them.

The premium paid in life insurance policies represents two portions - risk coverage and savings. The service tax is only on the risk portion of the premium and not on savings portion.

As per the GST rules, the value of services (on which GST is to be imposed) in relation to life insurance business shall be:

(a) The gross premium reduced by the amount allocated for investment, or savings on behalf of the policy holder.

(b) In case of single premium annuity policies, ten per cent of single premium charged from the policy holder.

(c) In all other cases, 25 per cent of the premium in the first year and 12.5 cent of the premium in subsequent years. So, if the premium of an endowment plan is Rs.100, the GST of 18 percent will be applicable on the 25 percent of the premium i.e. on Rs.25, so, Rs.4.5 will be the GST amount.

(d) If the entire premium paid by the policy holder is only towards the risk cover in life insurance such as in term insurance plans, the GST of 18 percent will be on the entire premium.

Therefore, the immediate impact of GST would be the higher outgo (premium plus GST) in term and endowment plans, due to the increase in rate of tax on insurance following implementation of the GST. "In theory, this could mean an increase of 3% in premium from the existing applicable premium effective from 1st July 2017, across life, health and general insurance, life insurance, however, some of this should be offset if tax on services availed by the industry are allowed to be taken into account to decrease insurers' tax paid," according to the spokesperson of Bharti AXA General Insurance.

The policyholders may stand to benefit only if the insurance companies are allowed the benefit of input tax credit.

ii. GST and banking

Transaction fees in financial services are likely to increase as the government has put these under the 18% tax bracket in the new GST regime. These services were so far taxed at 15% and the hike in the tax rate means that individuals will have to pay Rs.3 more for every Rs.100 paid as charges/fees for banking transactions. It may be mentioned that recently several banks starting with SBI introduced or increased service charges for multiple banking transactions including cash withdrawals exceeding a certain number of times in a month.

Conclusion

GST Act needs amendments to rectify the following draw backs:

i. Some economists say that GST in India would impact negatively on the real estate market. It would add up to 8 percent to the cost of new homes and reduce demand by about 12 percent.

ii. Some critics are of the view that CGST (Central GST), SGST (State GST) are nothing but new names for Central Excise/Service Tax, VAT and CST. Hence, there is no major reduction in the number of tax layers.

iii. Some retail products currently have only four percent tax on them. After GST, garments and clothes could become more expensive.

iv. The aviation industry would be affected. Service taxes on airfares currently range from six to nine percent. With GST, this rate will surpass fifteen percent and effectively double the tax rate.

v. Adoption and migration to the new GST system would involve teething troubles and better access to technology.

NEED FOR GST IN INDIA

SHUBHANG GOMASTA [1]

Abstract

This paper examines the tax structure in India prior to July 2017 and the long journey which resulted in the implementation of GST with effect from July 2017. The salient features of GST as also the several benefits that accrue from the implementation of the new tax structure are also discussed.

Introduction

GST is an indirect tax which will put an end to almost all the indirect taxes of the central government and the state government and will create a unified tax system in the country. It will be levied on both the central goods and service tax (CGST) and state goods and service tax (SGST). The CGST will subsume central indirect taxes like central excise duty, central sales tax, service tax, special additional duty on customs; counter veiling duties, whereas indirect taxes of state which includes state vat, purchase tax, luxury tax, octroi, tax on lottery and gambling will be replaced by the SGST. Further the taxes like Integrated Goods and Service Tax also called as interstate goods and service tax is also a component of GST. It is not an additional tax but it is a system to examine the interstate transactions of goods and services and to further assure that the tax should be received by the importer state as GST is a destination based tax. Goods and Services Tax (GST) is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition. It's an indirect tax and is considered as advanced form of VAT. It was introduced in India by the 122nd Amendment Bill of the Constitution of India, officially known as The Constitution (101st Amendment) Act, 2016 on 1 July 2017 by Narendra Modi government and is uniformly applicable throughout India. It replaced multiple-layered taxes levied by the central and state governments. It is conceived on the principle "one nation, one tax, one market". The GST is governed by a GST Council and its Chairman is the Finance Minister of India. Under GST, goods and services are placed in different tax slabs of 0%, 5%, 12%, 18% and 28%. There is a special rate of 0.25% on precious and semi-precious stones and 3% on gold. GST was initially proposed to reshape the country's 2 trillion dollar economy (India's GDP crossed 2 trillion dollar in 2014). The tax income of the central government stood at 17.10 lakh crore, beating the target of last year by 18 per cent[2] , thus pushing more towards having a comprehensive taxation system in a country with such a huge economy. The Finance Minister Arun Jaitley in his speech touted that GST will help in integrating the country financially.

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2 Government exceeds 2016-17 tax collection target by 18%, TOI (Apr 4, 2017), Available on -http://timesofindia.indiatimes.com/business/india-business/government-exceeds-2016-17-tax-collection-target-by-18/articleshow/58008546.cms.

Timeline of the GST

The GST has been the most awaited fiscal reform introduced in India; it has a long journey of almost 17 years before being finally rolled out on 1st July, 2017 by Narendra Modi government.

- In 2000, the then Prime Minister Mr. Atal Bihari Vajpayee formed a committee for review on GST under the chairmanship of the then Finance Minister Shri Asim Dasgupta of West Bengal for preparing the complete model of GST.
- The Kelkar Task Force advised to unify indirect taxes in the form of GST. It was recommended along with implementation of the Fiscal Responsibility and Budget Management (FRBM) Act, 2003
- The proposed national level GST in April, 2010 was first proposed during the 2006 budget speech.
- In May 2007, an Empowered Committee of Finance Ministers (State Empowered Committee) was constituted to know the impact of GST on revenue of different states of India and implementation of GST.
- In 2008-09, Kelkar Task Force gave a report on the draft of GST called 'A Model and Roadmap for GST in India' and the first discussion was done after the arrival of this report in November.
- In 2010, Finance Minister P. Chidambaram had announced in his speech that GST will be implemented from April, 2011.
- In 2011, the 115th Constitution Amendment Bill was introduced for the levy of GST on all goods and services in the Lok Sabha.
- In 2013, the Standing Committee presented its report on GST and the proposal to include the government's petroleum products in GST was rejected by the Empowered Committee.
- In 2014, 122nd Constitution Amendment was passed in the Lok Sabha.
- After two years of waiting, Rajya Sabha passed the GST on August 3, 2016 and received President's approval in September 2016.
- In 2017, the government introduced four types of GST bills, including Central GST, State GST, Integrated GST and GST Bill of Union Territories.
- In August 2016, when Assam became the first state to pass GST, then in April 2017, Bihar became the first non-BJP ruled state to pass GST.
- On 22 September 2016, GST Council was formed. This council will decide on tax rate for the new indirect tax system, the exemption given in it and its limits.
- On September 23, 2016, GST Network was formed, it is an online network designed to solve the problems and questions of consumers and businessmen.
- On May 20, 2017, the GST Council fixed four rates of GST (5%, 12%, 18%, 24%).
- The launch of GST was announced in May 2017.

- On June 20, 2017, Finance Minister Arun Jaitley announced that GST will be launched on the lines of the night of Independence, on the midnight of June 30.

Reasons why we need GST

(1) One of the few reasons why the GST is needed in the Indian sector is that it helps to increase the tax base in the country which helps to greatly increase the revenues available at the states' and centres' disposal. More importantly the poorer states like Uttar Pradesh, Bihar, and Madya pradesh will experience a rise in the resources.

(2) Second before GST, there were too many tax rates prevalent, therefore it leads to imports over domestic production thereby seriously affecting the domestic producers in the country. Further GST will facilitate "Make in India" by making the Indian market into a single market. GST would get rid of the CST and subsume most of the other taxes. And since, it will also be applicable on imports, the major tax factor working against 'making in India' will disappear, greatly boosting the production and in turn exports. This will ultimately help bridge the current account deficit.[3]

(3) Further the tax governance scheme would be improved in two ways.

i) The GST is a dual monitoring structure. One part will be controlled by the state and the other part will be governed by the centre. Therefore the possibility of tax being evaded fades away. Reasons understood for the same can be even if one set of tax authorities overlooks or fails to detect evasion, there is a high possibility that the other overseeing authority may not fail.

ii) Secondly, like the value added tax (VAT), it is a self-collecting and self-enforcing tax. What it essentially means it that the companies buying supplies from outside parties will insist on tax payment on goods supplied as without this they can't get setoffs on their own final product sales.[4]

The Salient Features of the GST

One of the features of the GST is that it is applied to all taxable goods and services except for the exempted goods and services and on the transaction below the threshold limit. The exempted goods and services include alcohol for human consumption, electricity, real estate. [Article 366 (12A)]. Further Tobacco Products are included in GST are included along with central excise tax. The Petroleum Products like Crude oil, High Speed Diesel, Motor Spirit, Natural Gas are initially exempted from the GST [5]IGST is levied on supplies in the course of interstate trade including imports which is collected by central government exclusively and distributed to imported states as GST is destination based tax. The proportion of distribution between centre and states

3 https://swarajyamag.com/economy/historic-gst-reform-its-importance-design-and-a-comparison-with-tax-rules-in-other-countries.

4 Ibid.

5 Pinki, Supriya Kamna, Richa Verma (2014), "Good and Service Tax – Panacea For Indirect Tax System In India", "Tactful Management Research Journal",Vol2, Issue 10, July2014

is decided on recommendation of GST Council.(proposed article 269A). Further it is worth mentioning that CGST will be collected by central government whereas state government will collect the SGST. The power of making law on taxation of goods and services lies with both union and state legislative assemblies. A law made by union on GST will not at any stage overrule a state GST law (newly proposed Article 246 A).

The GST Council

The GST council was set up under the Control of the president under Article 279A. The GST council is chaired by the Union Finance Minister. Any decision made by the council is made by the 3/4th majority of the votes cast and quorum of council is 50 %. The representatives from the states constitute 2/3rd and those from the union the remaining 1/3rd. The council includes the Union Minister of State in charge of revenue and Minister in charge of finance or taxation nominated by the state Government.[6] It will make recommendations on (a) Taxes, surcharge, cess of central and states which will be integrated in GST. (a) Taxes, surcharge, cess of central and states which will be integrated in GST (b) Goods and services which may be exempted from GST (c) Interstate commerce – IGST- proportion of distribution between states and centre (d) Registration threshold limit for GST (e) GST floor rates (f) Special rates during calamities (g) Provision with respect to special category states specially north east states.

The tax-GDP ratio of a country is an important indicator that helps understand how much tax revenue is being collected by the government as compared to the overall size of the economy. Unfortunately, this ratio is a dismal low for India despite having years of high growth, the lowest in BRICS countries. From 2001 to 2015 the Indirect Tax-GDP ratio has increased from 10.28 to 11.6 only and therefore there is an urgent need to raise this ratio. The burden of regressive taxes is another issue that the GST aims to redress. Direct taxes are progressive taxes as they are contingent on the ability of the taxpayer to pay. In India, more than 60% of the total tax collected is accounted for by indirect taxes, implying that the tax structure is extremely regressive. Since the rich and poor are subject to the same tax rate, which is unfair, the indirect taxes need to be overhauled. Moreover, the sharing of financial resources and revenue from the tax system between the Centre and the State is made simpler by the GST tax reform. At the central level GST will subsume Central Excise Duty, Additional Excise Duty, Service Tax, Additional Customs Duty (Countervailing Duty), and Special Additional, Duty of Customs. At the State level, GST will subsume State Value Added Tax/ Sales Tax, Entertainment Tax, Central Sales of Tax, Octroi and Entry Tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling. Also, the variety of VAT tax laws in the country with disparate tax rates and dissimilar tax practices divides the country into separate economic spheres thereby creating tariff and non tariff barriers and hindering the free flow of trade in the country. This in turn also constitutes high compliance cost for the taxpayers disadvantageous to economic growth of a country.

6 Girish Garg, (2014), "Basic Concepts and Features of Good and Service Tax in India".

There is also a provision in which the centre will compensate the state for a total period of 5 years for the loss arising out of the GST Implementation. The Compensation will be made on the recommendation of the GST Council.

Benefits of the GST

1. It will make Indian goods more competitive in the global market; as all the goods exported are exempted from GST slabs making the economy more export oriented.
2. It will give a boost to the Indian economy and it will lead to a more transparent and neutral manner of raising revenue.
3. Due to clubbing of so many taxes into one, it will make administration and monitoring of revenue more easy for the government authorities.
4. At the consumer level, it would reduce the tax burden, which is currently estimated at 25-30%.
5. In the long run, it would help in lowering the tax liability for everyone who is a part of supply chain and thus lowers the price for the consumers.
6. It is based on the formula of "input tax credit" which when opted by the business entities would prevent tax cascading.
7. GST will ensure tax uniformity throughout the country; removing the inter-state barriers which obstruct the movement of goods from one state to another.
8. It will do away with cascading effect of tax, further slashing the tax burden over middle and lower class.
9. It will encourage seamless movement of goods throughout the nation.
10. The consumers will get to know the actual amount of taxes they are paying for goods and services.
11. It will keep a lid on rampant corruption and black market as the tax would be levied according to the consumption.
12. It aims at reducing the number of compliances faced due to the following reasons:-

i. It subsumes 17 indirect taxes levied by state and central government respectively.

ii. Through usage of a common, shared IT infrastructure between the central government and the states.

iii. It will also do away with local tax and duties (E.g. - Entry tax).

13. GST will bring lot of transparency since movement of a good from manufacturer to wholesaler/distributor to retailer and finally to end customer will get electronically tracked.

14. The unorganized sector which amounts for 30 % of GDP can be easily regulated.

15. E-Commerce businesses are expected to benefit from GST because till now, they suffered from the multi-tier supply chain system involving a lot of paperwork and compliances. GST will also open new markets for online commerce.

16. The online procedure for filing returns has been simplified by creating a GST network.

17. It will make India at par with other countries having a structured system making it a player in both international and domestic market.

18. GST will further contribute to economic growth by cutting down logistical and transactional costs.

19. With the setting up of anti-profiteering body, the business entities will be kept under check and would be sanctioned if they fail to pass on the reduction in tax burden.

20. With respect to those living below the poverty line, there might not be a direct impact of the GST on them as such since basic necessities are unlikely to be covered by the GST but increased collections of the GST with a larger tax base will provide an impetus to the government to allocate more money for social and poverty alleviation programmers.

21. It would introduce two-tiered One-Country-One-Tax regime.[7]

22. It would subsume all indirect taxes at the center and the state level.[8]

23. It would not only widen the tax regime by covering goods and services but also make it transparent. [9]

24. It would free the manufacturing sector from cascading effect of taxes and thus improve the cost-competitiveness of goods and services.

25. It would bring down the prices of goods and services and thereby increase consumption. [10]

26. It would create business-friendly environment and thereby increase tax-GDP ratio.

27. It would enhance the ease of doing business in India.[11]

Conclusion

Implementation of GST is one of the best decisions taken by the Indian government. For the same reason, July 1 was celebrated as Financial Independence day in India when all the Members of Parliament attended the function in Parliament House. The transition to the GST regime which is accepted by 159 countries would not be easy. Confusions and complexities were expected and will happen. India, at some point, had to comply with such regime. Though the structure might not be a perfect one but once in place, such a tax structure will make India a better economy favourable for foreign investments. Until now India was a union of 29 small tax economies and 7 union territories with different levies unique to each state. It is a much accepted and appreciated regime because it does away with multiple tax rates by Centre and States.

7 See https://www.omicsonline.org/open-access/a-research-paper-on-an-impact-of-goods-and-service-tax-gst-on-indianeconomy-2151-6219-1000264.php?aid=82626.

8 Supra note 6

9 Ibid.

10 Ibid.

11 Ibid.

Section – II

MANAGEMENT ISSUES IN GST

GOODS AND SERVICES TAX – A MAJOR REFORM IN INDIRECT TAXATION

G. Dhyaneshwar

&

S. Ganesh[1]

Abstract

The history of taxation in ancient Egypt and Greece, the tradition of taxation in India since Vedic times to the Mughal period, the changes brought about by the British, the evolution of VAT and the origin and historical background of GST have been briefly discussed in this paper. The GST models in countries like Australia and Canada with reference to the Indian model are also discussed. The significance of GST, its advantages and challenges in implementation of the new tax structure have been highlighted.

Introduction

In this world nothing can be said to be certain, except death and taxes.[2] This is a famous quote by Benjamin Franklin. Tax is a fee charged by a Government on a product, income or activity. If tax is levied directly on personal or corporate income, then it is a direct tax. If tax is levied on the price of a good or service, then it is called an indirect tax. The purpose of taxation is to finance public goods and services, such as street lighting, street cleaning, road, dams, utility services etc.

"A tax is not a voluntary payment or donation, but an enforced contribution, exactly pursuant to legislative authority" and is any contribution imposed by Government whether under the name of toll, tribute, impost, duty, custom, excise, subsidy, aid, supply or other name."[3]

"A comprehensive VAT widens tax net, as it makes tax evasion difficult. Going by the experience of other countries, VAT has proved beneficial and lead to revenue buoyancy."[4]

"India can be globally competitive as a fully integrated market in the Value Added Tax regime " said Raja Chelliah,[5] the architect of the VAT system in India. Introduction of VAT by Indian States has been hailed as one of the biggest tax reforms in several decades.

History of Taxation

The first known system of taxation was in Ancient Egypt around 3000 BC - 2800 BC in the first dynasty of the Old Kingdom. Records from that time show that the pharaoh

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2 https://www.brainyquote.com/quotes/quotes/b/benjaminfr129817.html?src=t_taxes

3 Black's Law Dictionary

4 World Bank country Director Michael Carter

5 Raja Jesudoss Chelliah (12 December 1922 - 7 April 2009) was an economist and founding chairman of the Madras School of Economics.

would conduct a biennial tour of the kingdom, collecting tax revenues from the people. Other records are granary receipts on limestone flakes and papyrus. Early taxation is also described in the Bible[6].

Athens, Greece

To the Athenians in Greece, war was a lifestyle, and a pricey one at that. As such, Athenians taxed their citizens for war costs with a tax they called "eisphora." The most historic factor of this tax was that it exempted no one, which many consider as the first democratic taxation system, as after the wars the money was often refunded to the people. There is also some documentation of a tax put on foreigners (or any individual without an Athenian mother and father), called "metoikion."

India

In India, the tradition of taxation has been in force from ancient times. It finds its references in many ancient books like 'Manu Smriti' and 'Arthasastra'. There was a perfect admixture of direct taxes with indirect taxes and they were varied in nature. India's history of taxation suggests existence of a large and composite taxable population. With the advent of the moguls in India the country witnessed a sea change in the taxation system. Although, they also practiced the same norm of taxation, it was more homogeneous in structure and collection. The Islamic rulers imposed jizya. It was later on abolished by Akbar. However, Aurangzeb, the last prominent Mughal Emperor, levied jizya on his mostly Hindu subjects in 1679. Reasons for this are cited to be financial stringency and personal inclination on the part of the emperor, and a petition by the ulema. His subjects were taxed in accordance with the property they owned.

Government servants were exempt, as were the blind, the paralyzed, and the indigent. Its introduction encountered much opposition. Jizya is a per capita tax levied on a section of an Islamic state's non-Muslim citizens, who met certain criteria. From the point of view of the Muslim rulers, jizya was a material proof of the non-Muslims' acceptance of subjection to the state and its laws, "just as for the inhabitants it was a concrete continuation of the taxes paid to earlier regimes." In return, non-Muslim citizens were permitted to practice their faith, to enjoy a measure of communal autonomy, to be entitled to Muslim state's protection from outside aggression, to be exempted from military service and the Zakat as obligatory upon Muslim citizens. The period of British rule in India witnessed some remarkable change in the whole taxation system of India. Although, it was highly in favor of the British Government and its exchequer , it incorporated modern and scientific method of taxation tools and systems. In 1922, the country witnessed a paradigm shift in the overall Indian taxation system. Setting up of administrative system and taxation system was first done by the British.

Value Added Tax (VAT)

The main motive of VAT has been the rationalization of overall tax burden and reduction in general price level. Thus, it seeks to help common people, traders,

6 In Genesis (chapter 47, verse 24 - the New International Version)

industrialists as well as the Government. It is indeed a move towards more efficiency, equal competition and fairness in the taxation system. The main benefits of implementation of VAT were:-

- Minimized tax evasion as VAT was imposed on the basis of invoice/ bill at each stage, so tax evaded at first stage gets caught at the next stage;
- A set-off was given for input tax as well as tax paid on previous purchases;
- Abolished multiplicity of taxes, that is, taxes such as turnover tax, surcharge on Sales tax, additional surcharge, etc.;

As of January 1, 2008, VAT had been implemented by all States and Union Territories.

It was a multi-stage tax with the provision to allow 'Input tax credit (ITC)' on tax at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. This input tax credit in relation to any period means setting off the amount of input tax by a registered dealer against the amount of his output tax. It is given for all manufacturers and traders for purchase of inputs/supplies meant for sale, irrespective of when these will be utilized or sold. The VAT liability of the dealer/ manufacturer was calculated by deducting input tax credit from tax collected on sales during the payment period. If the tax credit exceeded the tax payable on sales in a month, the excess credit was carried over to the end of next financial year. If there was any excess unadjusted input tax credit at the end of second year, then the same was eligible for refund.

Haryana became the first State in the country to introduce Value Added Tax in 2003. Till 2007, VAT had been introduced by all States/UTs, including Tamil Nadu (implemented VAT from January 1, 2007) and the UT of Puducherry (implemented VAT from April 1, 2007).

Major Milestones in Indirect Tax Reforms[7]

1974 - Report of LK Jha Committee suggested VAT

1986 - Introduction of a restricted VAT called MODVAT

1991 - Report of the Chelliah Committee

2003- VAT

2016- GST

A Good and Simple Tax - GST

GST is a comprehensive value added tax on goods and services. It is collected on value added at each stage of sale and purchase in the supply chain without State boundaries. "The success of GST depends on proper administration. Much will depend on its simplicity and efficient implementation, which are even more difficult in a disparate federal setup".[8]

7 Progress on issues on VAT implementation, CII, 2005 and State VAT Laws

8 Sukumar Mukhopadhyay -Former Member, Central Board of Excise & Customs," Business Environment, Chartered Financial Analysts, April 2008, P.16

Origin and Historical Background of GST:-

Goods and Services Tax also known as the Value Added Tax (VAT) or Harmonized Sales Tax (HST) was first devised by a German economist during the 18th century. He envisioned a sales tax on goods that did not affect the cost of manufacture or distribution but was collected on the final price charged to the consumer. The tax was finally adopted by France in
1954. Maurice Lauré, Joint Director of the French Tax Authority, the Direction générale des impôts, was the first to introduce VAT on April 10, 1954. Initially directed at large businesses, it was extended over time to include all business sectors.

GST model around the World and in India:

There are several models of GST, each with its own merits and demerits. A look at some of the models in circulation around the world is as under:

- **Australian Model:** In Australia, GST is a federal tax collected by the Centre and distributed to the States. But India is a heterogeneous country and there is no chance that States may allow the Centre to collect all the taxes while they become just spending institutions.
- **Canadian Model:** The GST in Canada is dual between the Centre and the States and has three varieties:
    - Federal GST and provincial retail sales taxes (PST) administered separately followed by the largest majority;
    - Joint federal and provincial VATs administered federally (Harmonious Sales Tax-HST); and
    - Separate federal and provincial VAT administered provincially (QST) – only for Quebec as it is a breakaway province.
- **Kelkar-Shah Model:** This unified GST model is based on a grand bargain to merge central excise, service tax and state VAT into one common base. Two different rates of tax are to be levied by the Centre and the States. The collection may be by the Centre. This is like the HST model in Canada.[9]
- **Bagchi-Poddar Model:** This model, just like Kelker-Shah's, envisages a combination of central excise, service tax and VAT to make it a common base of GST to be levied both

by the Centre and the states separately. This means that the Central Excise Act 1944 may be abolished and the goods tax may be only on the sale of goods. It may merge in the service tax.[10]

Origin in India

The Indian indirect tax regime is characterized by multiple levies, such as excise duty, Customs duty, VAT, Central sales tax, service tax, and including local levies, such as octroi and entry tax. Historically, none of these taxes was creditable against one

9 shodhganga.inflibnet.ac.in/bitstream/10603/84560/18/18_chapter%208.pdf
10 ibid

another, barring a part of the Customs duty and excise; over the last few years, service tax has also been brought into the creditable basket. The excise duties, Customs duties and service tax belong to one basket of creditable taxes, VAT, Central sales tax and octroi belong to another basket of entirely non-creditable taxes.

An Integrated Regime – Birth of an idea

The goods and services tax (GST) is said to be the brainchild of ex-Finance Minister Mr.P.Chidambaram. It is be a multi-stage consumption tax to be imposed on wide range of goods and services. The process of introduction of VAT started in 2003 but was completed recently.

Significance of GST

- Introduction of GST would result in abolition of multiple types of taxes on goods and services.[11]
- Reduces effective rates of tax to one or two floor rates.
- Reduces compliance cost and increases voluntary compliance.
- Removes cascading effect of taxation and removes distortion in the economy.

Impact on purchase of goods under GST

In the current scenario, purchase of goods ordinarily is subject to VAT/ CST and in case the goods are purchased from a manufacturer, the purchase is also subject to excise duty. In the GST regime, interstate purchases would be subject to IGST and local purchases would be subject to CGST and SGST.

Constitutional Amendments on Taxation Power[12]

The constitutional amendments on taxation powers are given below :

Insertion of New Article 246A :- The Article 246 gives power to Union and State government to make the law relating to matters covered under List I (Union List), List II (State List) and List III (concurrent List). The Article 246A(1) gives right to parliament and the legislature of every state to make the law in respect of goods and service tax to be imposed by central or state Government. This amendment would subsume the taxes like Excise duty, Service tax, Central Sales tax at Central level and VAT, Entry tax, Entertainment tax etc. at State level. The Article No.246A(2) covers the provision of Interstate supply of goods or services or both. In such circumstances only parliament (i.e. Central Government) can make the Law. However the provision of article 246A, in case of Petroleum crude, high speed, petrol, natural gas and aviation turbine fuel shall take effect from the date recommended by GST council as constituted under Article 279A.

Amendment of Article 249 (1) (Power of Parliament to legislate with respect to a

11 C.A Dr.A.L.Saini, Goods and Services Tax- A Paradigm Shift, Journal of Goods and Service Taxes Cases May 5 -19.2010. P.95-30.

12 Abhishek A. Rastogi ACA,"TAXMANN'S GUIDE TO GOODS & SERVICE TAX" ,New face of indirect taxes in India,Taxmann Publications Pvt. .Ltd, New Delhi-2009. P.27-28.

matter in the State List in the national interest):- Parliament under article 249(1) can make the law in respect of any item specified in the state list in the national interest, if the Council of States has declared by resolution and supported by 2/3rd of member present and voting. Now this also includes goods and service tax under article 246A i.e. Parliament of India can make the GST law for the whole or any part of India subject to approval 2/3rd members of each state.

Amendment of Article 268 (1) (Duties levied by the union but collected by the States): – Article 268 (1) provides the provision of levy of stamp duty and excise duty on medicinal and toilet preparation by Union Government and collection by State (In case of State) or by Union (In case of union territory). Now, the duties of excise on medicinal and toilet preparation has been omitted and same has been amalgamated in GST.

Amendment of Article 269 and Insertion of New Article 269A (Inter State Sale and Purchase):-Article 269 (1) facilitates the levy and collection of tax on sale of goods or consignment of goods in the course of Interstate Trade or Commerce. Now, the provision of this clause is subject to new article 269A. As per Article 269A Goods and Service tax shall be levied and collected by Government of India and apportioned between States in the manner as provided in the law by parliament on the recommendation of GST council.

Amendment of Article 271 (Surcharge on taxes by Union):- Parliament has exclusive right to charge the surcharge on any tax and such surcharge will form the part of consolidated fund. But the GST is an exception to the above article. In other words parliament cannot charge any tax by way of surcharge on GST.

Insertion of Article 279A (Constitution of Goods and Service tax Council):- With insertion of Article 279A, President of India has power to constitute Goods and Service tax Council (GST Council) within 60 days from the date of commencement of this act.

Advantages of GST

Apart from full allowance of credit, there are several other advantages of introducing a GST in India:

Reduction in prices: Due to full and seamless credit, manufacturers or traders do not have to include taxes as a part of their cost of production, which is a very big reason to say that we can see a reduction in prices. However, if the Government seeks to introduce GST with a higher rate, this might be lost.

Increase in Government Revenues: This might seem to be a little vague. However, even at the time of introduction of VAT, the public revenues actually went up instead of falling because many people resorted to paying taxes rather than evading the same. However, the Government may wish to introduce GST at a Revenue Neutral Rate, in which case the revenues might not see a significant increase in the short run.

Less compliance and procedural cost: Instead of maintaining big records, returns and reporting under various different statutes, all assesses will find comfortable under

GST as the compliance cost will be reduced. It should be noted that the assessees are, nevertheless, required to keep record of CGST, SGST and IGST separately.

Move towards a Unified GST: Internationally, the GST is always preferred in a unified form (that is, one single GST for the whole nation, instead of the dual GST format). Although India is adopting dual GST looking into the federal structure, it is still a good move towards a Unified GST which is regarded as the best method of Indirect Taxes. The following are the salient features of the proposed pan-India Goods and Services Tax regime that was approved by the Lok Sabha by way of an amendment to the Constitution:

1. GST, or Goods and Services Tax, will subsume central indirect taxes like excise duty, countervailing duty and service tax, as also state levies like value added tax, octroi, entry tax and luxury tax.
2. The final consumer will bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.
3. As a measure of support for the states, petroleum products, alcohol for human consumption and tobacco have been kept out of the purview of the GST.
4. It will have two components - Central GST levied by the Centre and State GST levied by the States.
5. However, only the Centre may levy and collect GST on supplies in the course of inter-state trade or commerce. The tax collected would be divided between the Centre and the States in a manner to be provided by parliament, on the recommendations of the GST Council.
6. The GST Council is to consist of the union finance minister as chairman, the union minister of state of finance and the finance minister of each state.
7. The bill proposes an additional tax not exceeding 1% on inter-state trade in goods, to be levied and collected by the Centre to compensate the states for two years, or as recommended by the GST Council, for losses resulting from implementing the GST.

Challenges under GST

This is the single biggest tax reform undertaken by the Government in 70 years of independence signifying the concept of "One Nation, One Market, One Tax". However, every new legislation brings with it certain teething problems.

Some of the challenges being faced are:

i. IT Preparedness and Infrastructure:

GST is an IT driven law and one cannot be sure whether all the States and Union Territories in India are currently equipped with infrastructure and requisite manpower to embrace this law. In some states, even today only manual VAT returns are in vogue. They also need to be taken on board.

ii. Officers' Training:

In any new law, the old law as well as the new thought process of trust needs to be imbibed. The unlearning of the old law and learning GST provisions is imperative. All Central and State Government officers whether in VAT, service tax, excise or customs would have to learn the GST provisions and possible implications of the present gamut of taxes.

iii. New Registrants:

GST is expected to bring within its fold many new registrants, who have been hitherto kept outside the purview of tax mainly due to exemptions and also since the taxable event is wider in scope in GST.

iv. Transitional Issues :

The need for smooth transition is imperative for success of GST. Despite having transition rules in place there might be some demanding situations on this front. Practitioners and advisors would have their hands full in resolving the myriad issues which are sure to arise.

v. Pending Cases/Past Disputes:

There are many disputes pending in the context of present indirect tax laws (both centre and state), which are at various stages viz., adjudications or appellate level. The adjudicating /appellate authorities, courts and Tribunal are burdened with the pending cases. With GST now implemented, the Government should find ways and means to resolve these disputes.

vi. Tax Administration (Alignment/Merger):

With GST structure in place both the centre and state level officers are expected to work under one roof and in tandem by giving up their differences and non-alignment in the old regime.

vii. Impact on small enterprises:

The impact of GST on small enterprises is often cited as a concern. There may be three categories of small enterprises in the GST regime:

Those below the threshold of Rs.20 lakhs (Rs.10 lakhs in case of specified States) who need not register under the GST. Practically they can only be in business to consumer traders/ manufacturers/food service providers.

Those between the threshold and composition turnover of Rs.75 lakhs have the option to pay 2.5 per cent in the case of manufactures and 1 per cent in the case of traders. Given the possibilities of input tax credit, not all small enterprisers that do B2B business may seek the turnover tax option. Practically they can only be in business to consumer traders / manufactures / food service providers.

The third category of small enterprises above the turnover threshold would need to be within the GST framework.

In spite of all the above challenges and myriad problems discussed above, GST ushers a transparency to measure taxes levied on a product, bringing an end to the host of hidden and embedded taxes that had been levied so far. GST is expected to facilitate free flow of goods and services across the country and therefore, expected to add to India's GDP by 1 to 1.8 per cent. Further reduction in multiplicity of taxes will lead to confidence building of foreign investors thus giving a boost to foreign direct investments in the country.

Conclusion

Reforms do not end here but the much needed first step has been undertaken successfully. With more reforms to follow we do expect that development of Indian economy will reach new heights.

Tax policies play an important role on the economy through their impact on both efficiency and equity. A good tax system should keep in view issues of income distribution and, at the same time, endeavour to generate tax revenues to support government expenditure on public services and infrastructure development. The ongoing tax reform of moving to a goods and services tax would impact the national economy, international trade, firms and the consumers .There has been a good deal of criticism as well as appraisal of the proposed Goods and Services Tax regime. It is considered to be a major improvement over the pre-existing central excise duty at the national level and the sales tax system at the state level. The new tax will be a further significant breakthrough and the next logical step towards a comprehensive indirect tax reform in the country. GST is not simply VAT plus service tax, but a major improvement over the previous system of VAT and disjointed services tax – a justified step forward. A single rate would help maintain simplicity and transparency by treating all goods and services as equal without giving special treatment to some 'special' goods and/or services. This will reduce litigation on classification issues. It is also expected that implementation of GST in the Indian framework will lead to commercial benefits which were untouched by the VAT system and would essentially lead to economic development. Hence GST may usher in the possibility of a collective gain for industry, trade, agriculture and common consumers as well as for the Central Government and the State Government. Slowly, India will move to higher standards in taxation, corporate laws and managerial practices and be among the leaders in these fields.

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Goods and Services Tax as a boon for FDI Centric Economy-An Analysis

Dr.D.Umamaheswari [1]

Abstract

The shift from slow growth under socialist rule towards a much needed economic growth started in India after the "balance of payments" crisis in 1991. Nation's economic policies offered for promoting export and allowing foreign capital to enter the Indian market in the process of growth and interdependence of the major economies of the world. To survive and grow in this economic order rational and competitive tax policies are being adopted by every country. India has also fallen in line with the requirement and initiated modifications in indirect taxes through the Goods and Services Tax (GST). GST would apply to all services barring a few to be specified as, Exports and will not be affected by GST. The Study under this research article aims to analyze the impact of GST on FDI in India hence entitled, "Goods and Services Tax as a boon for FDI Centric Economy-An Analysis".

Key Words: Value added Tax (VAT), The Goods and Services Tax (GST) and Foreign Direct Investment (FDI)

Introduction

The pre -GST taxes used to 'cascade', with the tax levied on several inputs (goods or services) that have already been taxed, along with inputs to those inputs. This cascading of tax resulted in an inefficient tax collection and paved way for evasion of taxes. VAT rates and regulations differed from one state to another. The states often resorted to slashing these rates for attracting investors, which resulted in loss of revenue for both the Central as well as State government[2] . GST would apply to all goods other than crude petroleum, motor spirit, diesel, aviation turbine fuel and natural gas and alcohol for human consumption. The Goods and Services Tax system creates a single taxation system in the entire country for all goods and services. GST will not be a cost to registered retailers; therefore there will be no hidden taxes and the cost of doing business will be lower. This in turn will help the economic reform policies of the government by making the export more competitive. The Goods and Services Tax (GST) is considered as path breaking in the economic restructuring in general and in the taxation area in particular. GST unifies these taxes and creates a uniform market throughout the country, thereby avoids the payment of multiple taxes such as excise duty and service tax at Central level and VAT at the State level. Integration of various taxes into a GST system will bring about an effective cross-utilization of credits.

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2 Ehtisham Ahamad and Satya Poddar, "Goods and Service Tax Reforms and Intergovernmental Consideration in India", Asia Research Center, LSE,(2009) p.12

Makeover of Indirect Taxation

Goods and Services Tax (GST) provides the nation a single structure of indirect tax for the whole country, under a unified common market. The basic perceptive is to be understood as a single tax on the supply of goods and services, right from the manufacturer to the consumer in other words GST is a destination-based tax. GST will be levied on both goods and services at all the stages of value addition. The credits of input taxes paid at each stage are added in the subsequent stage of value addition, making GST as value addition tax at each stage. The final consumer has to bear only the GST which is charged by the last dealer in the supply chain. This gives the consumer the set-off benefits on the tax at all the previous stages. The credit of tax paid at the previous stage is available as a set off at the next stage of the transaction[3] .Under GST all goods and services are placed under four slab rates 5, 12, 18 and 28 percent, along with a cess on luxury and demerit goods such as tobacco, pan masala and aerated drinks. On bringing GST into practice, there is amalgamation of Central and State taxes into a single tax payment. With the introduction of GST it is estimated that it would enhance the position of India in both, domestic as well as international market. At the consumer level, GST has reduced the overall tax burden, which was estimated to be at 25-30%. Under this system, the consumer pays the final tax but an efficient input tax credit system ensures that there is no cascading of taxes [4] . Integration of various taxes into a GST system brings an effective cross-utilization of credits.

The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except on exempted goods and services. In case of inter-State transactions, the Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supplies of goods and services. Under the pre-GST laws only the Centre could impose a tax on services. GST empowers the states to collect service taxes. The taxes subsumed under GST are the Central Level Taxes viz. the Central Excise Duty, Additional Excise Duty, Service Tax, Countervailing Duty and special Additional Duty of Customs and the State Level Taxes viz. the State Value Added Tax or Sales Tax, Entertainment Tax, Octroi and Entry Tax, Purchase tax, Luxury Tax, Taxes on Lottery, Betting and Gambling [5]. An 'anti-profiteering' clause has been provided in the Centre GST (CGST) and State GST (SGST) laws, to ensure that business passes on the benefit of reduced tax incidence on goods or services to the consumers.

Impact of GST on the States:

The major impact of introducing GST in India is the transformation in the fiscal structure of the Indian federal setup. The fiscal right of the states and centre to deal with goods and services independently is taken away and both the Governments have

3 Agogo Mawuli, "Goods and Service Tax- An Appraisa" PNG Taxation Research and Review Symposium, Port Moresby(2014),p.29-30.

4 www.gstindia.com(Accessed on 12th September 2017)

5 Girish Garg, "Basic Concepts and Features of Good and Service Tax in India"p.11

to depend on each other for managing the tax in future. This is a very hard blow to the freedom of participating governments in the federal system. The states that had a total liberty to decide about VAT rate on goods, VAT exemptions etc, after GST the state government loses that right and has to participate in decision making and bargain process. States' independent and individual right is lost and they now act as a whole; which means compromise amongst them and depending on the mercy of others. The industry and business fraternity, tax experts and economists and consumer bodies and government are of the opinion that the replacement of Excise, VAT and Service Tax by GST has lead to a number of benefits to all the stakeholders. In aggregate, the states spend about 30% more than the Centre; it is further assumed that, this gap will further increase with GST[6] .

With the increase of international trade due to liberal economic policies of the government, GST has become a global standard. Thus, this tax system will be a form of dual GST which is concurrently levied by central and state government. This comprises the Central GST (CGST) levied by the Central government, State GST (SGST) which is levied by State Government simultaneously and the Integrated GST (IGST) is levied by Central Government on inter-State supply of goods and services. Revenue expenditure of the states has risen sharply in recent years with greater financial devolution and increased expenditure [7].

Major Benefits of GST

The distribution of GST helps the diversification of the sources of income to the Government. With the Goods and Services Tax, the tax burden will be divided equally between manufacturing and services sectors. The new economic makeover of the country through "Make in India" initiative induced making the goods and services produced in India competitive in the National as well as International market. As GST applies on imports too, it is hoped that it will spur domestic manufacturing by taking away disadvantageous taxation like taxing raw materials at less than finished products in the form of inverted duty. This can ultimately benefit the consumers, as prices will come down which in turn help companies as consumption will increase on the bases of price and demand theory of the economy [8].

The benefits of GST are that, it includes all indirect taxes at the Center and the State level with the two-tiered "One-Country-One-Tax regime". It widens the tax regime by covering goods and services making the taxation process transparent. The freed cascading effect of taxes, would improve the cost-competitiveness of goods and services

6 Dr. R. Vasanthagopal, "GST in India: A Big Leap in the Indirect Taxation System", International Journal of Trade, Economics and Finance, Vol. 2, No. 2, April 2011.pp.1-3

7 According to the Reserve Bank of India (RBI), even as the fiscal position at the Centre remains stable (Central budget deficit for 2017-18 pegged at 3.2% of gross domestic product), there has been a marked deterioration in the gross fiscal deficit of states.

8 Pooja.S.Kawle1, Prof.Yogesh.L.Aher, International Research Journal of Engineering and Technology (IRJET), "GST: An economic overview: Challenges and Impact ahead " Volume: 04 Issue: 04 | Apr -2017 www.irjet.net p-ISSN: 2395-0072(Accessed on 12th September 2017)

for the benefit of the ultimate consumers.[9] . GST which is levied at the place where goods and services are consumed will potentially give more revenues to consuming states such as UP, Kerala and West Bengal compared to producing or industrialized states such as Maharashtra, Gujarat or Tamil Nadu. A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. The GST is a destination-based tax, and as such is viewed as being to the advantage of the consuming States and to the detriment of the producing States. However the formula for compensating to states for such loss has been devised in GST[10] .

Demerits of GST:

The other side of the GST is a big "NO". As a justification for the non-acceptance of this tax reforms, the experts say Government's model for the Goods and Services Tax (GST) will not raise the economic growth; instead it will push up consumer prices inflation and may not result in increased tax revenue collections. The Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders. The primary objectives of GSTN is to provide a standard and uniform interface to the tax payers and shared infrastructure and services to Central and State/UT governments.[11] There are several loopholes in the present form of GST tax regime which may be detrimental in delivering the desired results. India has adopted dual GST instead of single national GST. It makes the entire structure of GST fairly complicated in India as the centre will have to coordinate with all the 29 states and 7 union territories for the implementation of such tax regime. This GST system is also estimated to invite various economic as well as political issues as India does not have a bipartite democratic setup of Government; instead it has multiple parties at the Central as well as at the State level. The State Governments have started experiencing the feel of losing their say in determining rates once GST is implemented. The sharing of revenues between the states and the centre can be a prominent factor of contention with no consensus arrived regarding revenue neutral rate.

In addition to it, issue blocking the successful implementation of GST is that, the present GST structure is likely to succeed only if the country has a strong IT network. India is a budding state as far as the infrastructure of the internet connectivity is concerned[12] . Moreover, the proposed regime seems to ignore the emerging sector of e-commerce. E-commerce does not leave signs of the transaction outside the internet and has anonymity associated with it. Further, the lack of clarity on the meaning of

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9 www.hindustantimes.com/business-news/gst-impact-on-economy-five-things-to-watch-out-for/(Accessed on 12th September 2017)

10 https://thewire.in/119853/gst-implementation-issues/www.gstseva.com(Accessed on 12th September 2017)

11 Wall Street firm Goldman Sachs, in a note 'India: Q and A on GST— Growth Impact Could Be Muted'. http://www.thehindu.com/business/Economy/modi-govts-model-for-gst-may-not-result-in-significant-growth-push/article7625827.ece(Accessed on 12th September 2017)

12 E-commerce has been insulated against taxation under custom duty moratorium on electronic transmissions by the WTO Bali Ministerial Conference held in 2014.

goods, product and service under the concept of E-commerce on a new techniques developed to track such transactions, until such technologies become readily accessible, generation of tax revenue from this sector would certainly continue to be vague and much below the expectation. There is still lack of clarity on which of the slab will apply on which of good.[13] . Considering the GST rates and related complexity, skilled staff with updated training knowledge is not easily available. The Confederation of All India Traders (CAIT), an umbrella body of traders focused on the fact that GST regime is entirely based on e-compliance but 60% of businesses in the country, particularly in Tier-II and Tier-III cities, still have not computerized their business formats [14].

The exempted sectors under GST

The petroleum products, electricity, real estate and liquor for human consumption are kept out of the purview of GST. It is a recognized fact that the petroleum products have been a major contributor to inflation in India. In future, due to the increased demands of these products, the government might intend to include petroleum products under GST. On the other hand electricity is essential for the growth and development of India.[15] If electricity is included under standard list of GST or luxury goods in future, it would certainly affect the development of India. .The GST being levied on sale of newspapers and advertisements therein would give the governments the access to substantial incremental revenues since this industry has historically been tax free in its entirety[16] . Services in India will precipitously be costlier which in turn will spiral up inflation in India as the past experiences of the Asian countries shows that with the introduction of GST these countries in the opening stage had witnessed retail inflation in its year of implementation, which is presently the stage that the nation is in.

GST favoring Foreign Direct Investment (FDI)

GST is a critical reform for the Indian economy as it simplified taxation norms by consolidating a range of taxes under one single umbrella. This brings in transparency and encourages investments in organized sectors, helping the economy gather growth momentum. Goods and Services Tax (GST) is a wide-ranging tax levy on manufacture, sale and consumption of goods and services at a national level.GST will lead to increased tax compliance and attract more foreign direct investments across sectors due to tax transparency and ease of doing business, says a survey. According to a survey of corporate India by Feedback Business Consulting Services, which covered 67 companies from various sectors, GST rollout will be positive for the economy. The report mentioned that states where the goods and services are consumed will benefit more as GST is consumption-based tax and not production-based. [17].

The new tax regime will force many companies to restructure their operations.

13 Sardana M, "Evolution of E-Commerce In India" Part 3. p.12

14 Monika Sehrawat, "Gst In India: A Key Tax Reform", International Journal of Research -Granthaalayah, Vol. 3, No. 12(2015):pp. 133-141.

15 https://thewire.in/119853/gst-implementation-issues/www.gstseva.com(Accessed on 12th September 2017)

16 Patrick M, "Goods and Service Tax: Push for Growth." Centre for Public Policy Research (CPPR).p.7

17 http://economictimes.indiatimes.com/articleshow/54310069.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst(Accessed on 12th September 2017)

Companies will now insist vendors and suppliers to furnish invoices as GST will make it impossible for firms to evade taxes. The price of a good or service is dependent on a combination of factors such as cost of inputs, technology used for production, tax rate, demand and supply of product, consumer preferences and seasonal variations, competition in the market, and distribution channels. Since costs associated with these factors keep fluctuating, it may be difficult to determine if a reduction in tax rates has reflected in a commensurate decrease in price of goods or services [18]. The implementation of GST should result in cost savings in the supply chain network and expedite a shift from unorganized to organized trade. Analysts have no doubt that inflation will remain low as GST rates on essential goods such as food grain, household consumer items and essential services have been either exempt or kept lower. According to a research note by Morgan Stanley, GST could lead companies to pass the costs of higher tax compliance on to the consumer at a later stage. Economists are not sure of the immediate impact of GST and some even say it may impede growth in the short term as big companies reorganize their businesses and as small firms lose revenue. The GST implementation initially may be disruptive as there will be a major change in the supply chain but it is a fact that the tax reform will be beneficial to the economy in the medium to long term. Most analysts believe that GST is unlikely to be a positive for economic growth in the short term; the reform will improve the ease of doing business, bolster investor sentiment and lure more foreign investment in coming years [19]. The rationale behind sharing un-utilised money in the GST Compensation Fund with the Centre and among states being different from Finance Commission formula is unclear[20]. Most analysts forecast the economy to grow close to 7.4% in 2017-18, the first year of GST rollout, which is slightly higher than 7.1% in 2016-17, but lower than 7.9% of 2015-16. According to domestic ratings agency, Credit Rating Information Services of India Ltd. (CRISIL) it will take six months for industrial stabilisation after GST is introduced but gains of the biggest indirect tax reform will take up to 3 years to materialize. Under GST regime, all imported goods will be charged integrated tax (IGST) which is equivalent to Central GST+ State GST. Thus the new tax law would bring equality with taxation on local products.[21] More than 100 countries have successfully adopted GST, which is considered the best form of indirect taxation but with our federal structure, we will perhaps take more time than other countries for this mega reform to stabilize.

GST is expected to have a massive impact across all sectors, the boost to Foreign Direct Investment (FDI) will also be significant. Overall, we will see a major shift from the unorganised sector to the organised one. With improved efficiency and productivity, India's position as a leading market for FDI investment would be further enhanced.

18 Pinki, Supriya Kamna, Richa Verma(2014), "Good and Service Tax – Panacea For Indirect Tax System In India", Tactful Management Research Journal,Vol2, Issue 10, p.6

19 Nitin Kumar, "Goods and Service Tax in India-A Way Forward", Global Journal of Multidisciplinary Studies, Vol 3, Issue6, May 2014.pp.8-10.

20 Section 10, GST (Compensation to States) Act, 2017

21 Institute of Chartered Accountants of India (ICAI), New Delhi , "Introducing GST and Its Impact on Indian Economy"www.socialworkfootprints.org. (Accessed on 12th September 2017)

By simplifying the tax structure, the government is effectively incentivizing foreign investors to increase their investment quantum in India. India in pre-GST period ranked 172/190 in ease of paying taxes, under the Ease of Doing Business index published by the World Bank .[22] The Nation is in the transition period hoping to significantly improve this ranking with the implementation of GST.

It is estimated that from 2018-19 onwards, India would cross the 8 percent GDP growth rate driven by the organic improvement in the economy coupled with the GST upshot. The global economy is also improving and commodity prices have firmed up. In the long run, GST could potentially add 1.5 to 2 percent to the GDP and it would not be surprise to see double digit growth in the economy for a sustained period of time[23] . Uniform tax rate across the entire common market, reduces distribution cost as there is no tax barrier among the States. GST encourages growth and making exports more competitive as lower taxes lead to better compliance and higher revenues.

Conclusion

GST guides towards one single market for India. As both State and Union have concurrent taxation power, tax evasion has a better chance of being detected. But for a complete refurbish of tax administration in India, a few complexities are bound to emerge. Dual taxation power may diagnose evasion better, but is leading towards conflict between State and Union Governments. This will go against the policy of ease in doing business. In this context, restructuring of supply chains and business in general should help to reduce prices further. It is too early to say for sure what the final outcome of the GST regime will be for small and medium businesses. A large number of SMEs and start-ups would come under the purview of the GST tax. However, the signs are positive and hopefully the benefits from the change in tax laws will offset the drawbacks to create a healthy environment for economic growth. GST is aimed at increasing the resource availability and will indirectly help to collect more tax as tax base will increase in states and centre leading to reduction in poverty and increase in development. Thus the, State governments are concerned about how the new GST model will unfold in future. The success of GST critically depends on the trust between the Centre and State governments, which is missing in the present political scenario. The success of GST will undoubtedly depend on whether or not incentives, including ease of compliance, are adequately loaded in favour of compliance as opposed to evasion. Thus, GST would prove to be a win-win situation for the entire country and inviting FDI, bringing benefits to all the stakeholders of industry, government and the consumer.

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EFFECTIVE IMPLEMENTATION OF GST WITH REFERENCE TO OFFENCES AND PENALTIES

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&

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Abstract

This paper deals with the penal provisions contained in the GST Act. It gives details of the offences mentioned in the GST Act and penalties contemplated in the Act, monetary or otherwise, for commission of such offences. It is recommended that the Government should tackle non-compliance with soft hands rather than with imprisonment, at least in the initial period of transition to the new tax regime.

Introduction

GST will bring in "One nation one tax "to unite indirect taxes under one umbrella and facilitate Indian businesses to be globally competitive. The effective implementation of any tax law requires strict action against tax offenders. The Indian GST is structured for efficient tax collection, reduction in corruption, easy inter-state movement of goods etc. To encourage compliance with India's new GST tax regime, the government has come up with a three-pronged approach: interest, monetary penalties, and prosecution. GST Act ensures that it lays more and more emphasis on its compliances and enforcement across all the areas including registration, returns, invoices, etc. To prevent tax evasion and corruption, GST has brought in strict provisions for offenders regarding penalties, prosecution and arrest. The terms Offences and Penalties are not defined in the GST Law. However, Offence in general means a breach of Law or Act or any illegal act and penalty is defined as the punishment for committing an offence. The provisions related to Offences and Penalties are covered in Chapter XIX , Sections 122 to 138 of the GST Act.

Offences Under GST

The Central GST Act explicitly lists 21 offences under Section 122(1) which are as follows:

1. Supplying goods and/or services without issuing an invoice or issuing an incorrect or false invoice
2. Issuing an invoice without supplying goods and/or services
3. Collecting tax but failing to remit it to the government within three months of the due date
4. Collecting tax in contravention of law but failing to remit it to the government

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within three months of the due date

5. Failing to deduct tax or deposit the tax with the government
6. Failing to collect tax or collecting too little tax from the supplier at the time of payment, or failing to pay the tax to the government — applies to eCommerce operators
7. Taking full or partial input tax credit without actual receipt of goods and/or service
8. Obtaining a refund of tax by fraud
9. Distributing an input tax credit other than in the manner prescribed
10. Falsifying or substituting financial records, producing fake accounts and/or documents, or furnishing a false return
11. Failing to obtain registration (if registration is required)
12. Furnishing false information during registration
13. Obstructing an officer from the discharge of duties
14. Transporting taxable goods without documents
15. Suppressing turnover leading to evasion of tax
16. Failing to maintain books of accounts and documents
17. Failing to furnish information to CGST/SGST officers or furnishing false information
18. Supplying and/or storing goods which one has reason to believe are liable for confiscation
19. Issuing an invoice or document by using the identification number of another person
20. Tampering with material evidence
21. Tampering with any goods that have been detained, seized, or attached

There is one more offense which can be penalized that of availing composition scheme, even if the person is not liable for doing so.

Meaning of Penalty

Penalty is a punishment for the failure to carry out [2]a statutory obligation. It is imposed in fiscal matters. The word penalty used in Article 20 (1) of the constitution, could not be construed as including a penalty leviable under the sales tax laws by the Department authorities, for violation of statutory provisions. A penalty imposed by the sales tax authorities is only a civil liability, though penal in character. The penalty provision is intended for the purpose of prevention of evasion of tax by making them unprofitable & punishing the offenders for breach for legal provisions willfully. Penalty is distinct from tax. The usual proceedings taken for the assessment of tax is not sufficient for the levy of penalty are distinct & tax does not include penalty, unless specifically mentioned

2 Referred from http://gstpanacea.com/wp-content/uploads/2016/11/Penalties-Proposed-under-GST-Regime. pdf on 26.08.2017

in the statute .

Monetary Penalties Under GST

The 21 offenses listed under Section 122(1) are subject to a penalty of 10,000 rupees or the amount of tax involved, whichever is greater. In addition to any action that may be taken under Sec. 122, failure of an electronic commerce operator to furnish all required information could lead to penalties of up to 25,000 rupees.

The Central Goods and Services Tax Act allows for a reduction in penalties when a person fails to pay or underpays the tax owed erroneously, rather than deliberately by fraud, willful misstatement, or the suppression of facts. In such cases, penalties could be reduced to 10 percent of the tax owed, subject to a minimum of 10,000 rupees. A similar abatement of penalties could be available when input tax credits are wrongly availed or utilized, or when the tax is erroneously refunded on the supply of goods or services [3]. Additionally, if there is an element of fraud or wilful misstatement or suppression of facts, then the penalty will be the tax owed, subject to a minimum of 10,000 rupees .[4]

A penalty is also prescribed for offenses where the person is not directly involved in any evasion but may be a party to evasion or fails to attend summons or produce necessary documents. In such cases, the penalty would be up to 25,000 rupees[5] . Certain people are required to furnish information return and if they fail to do so, a penalty of 100 rupees per day applies, subject to a maximum of 5,000 rupees .[6]

If a person fails to furnish statistics or willfully furnishes false statistics, the following penalties apply:

- First-time offense – 10,000 rupees
- Continuing offense – 10,000 rupees plus 100 rupees per day (from the second day), subject to maximum of 25,000 rupees .[7]

A penalty of up to 25,000 rupees applies to any offense of the GST law that lacks a specifically prescribed penalty [8].The CGST law also sets guidelines for the judicious levy of penalties. Some of the principles of natural justice are codified in the law itself so that no unjust penalties are imposed for trivial offenses. These general principles are enlisted below:

1. A substantial penalty shall not be levied in instances where the tax involved is less than 5,000 rupees (minor breach) and documentation errors are easily rectifiable.
2. There are safety nets so that the degree and severity of a breach can be determined before a penalty is imposed.
3. No penalty will be imposed without issuing a show cause notice or giving the

3 As stated under Sec. 122(2a) of the Central GST Act
4 As stated under Sec. 122(2b) of the Central GST Act
5 As stated under Sec. 122(3) of the Central GST Act
6 As stated under Sec. 123 of the Central GST Act
7 As stated under Sec. 124 of the Central GST Act
8 As stated under Sec. 125 of the Central GST Act

assessee a personal hearing.

4. Voluntary disclosure by a person to a tax authority (not merely in his own books and
5. records) about the circumstances of the breach may be considered as a mitigating
6. factor for levy of penalty.

These guidelines are for cases involving substantive penalties; cases involving fixed sum or percentage of penalty are excluded.

Late Fee

The CGST Act also proposes the levy of late fees to facilitate better GST compliance. If a person fails to furnish details of outward or inward supplies, monthly return or final return by the due date, he shall be levied a late fee of Rs.100 per day while the failure continues, subject to a maximum of Rs 5,000 rupees [9]. If person fails to furnish the annual return by the due date, he shall be levied a late fee of Rs.100 per day while the failure continues, subject to a maximum of quarter percent of the person's turnover in the state where he/she is registered [10]. If the deductor fails to furnish TDS certificate to deductee within 5 days of credit to govt., he shall be levied a late fee of Rs.100 per day, subject to a maximum of Rs.5,000 .[11]

Interest

The circumstances for levy of interest are as follows:

1. If a person liable to pay tax fails to pay the tax, then the interest on the tax due will be calculated from the first day on which the tax was due to be paid.
2. If a person makes an undue or excess claim of input tax credit or undue or excess reduction in output tax liability, then the interest shall be calculated on the undue excess claim or undue or excess reduction.
3. If a recipient of a service fails to pay to the supplier of the service the amount towards the value of the service, along with tax payable thereon, within 3 months from the date of issue of invoice by the supplier, then the interest on the amount due will be added to the recipient's liability.

Cancellation of Registration

The circumstances under which a person's registration will be cancelled are:

1. A regular dealer has not furnished returns for a continuous period of 6 months.
2. A composition dealer has not furnished returns for 3 quarters.
3. A person who has taken voluntary registration has not commenced business within 6 months from the date of registration.
4. Registration has been obtained by fraud, wilful misstatement or suppression of facts.

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9 As stated under Sec. 47 of the Central GST Act

10 As stated under Sec. 47 of the Central GST Act

11 As stated under Sec. 51 of the Central GST Act

Confiscation of Goods or Conveyance

Certain offenses will lead to both a penalty and the confiscation of goods and/or conveyances. The penalty will be 10,000 rupees or an amount equal to the tax evaded. These offenses are:

1. Failing to account for the goods on which a person is liable to pay tax
2. Supplying or receiving goods in breach of any provisions or rules, with the intent to evade payment of tax
3. Supplying any goods liable to tax without registering
4. Using a conveyance to deliver taxable goods in breach of any provisions or rules

Compounding of Offences and Prosecution

Compounding of offences is a short cut method to avoid litigation. In case of prosecution for an offence in a criminal court, the accused has to appear before the Magistrate at every hearing through an advocate. Compounding will save time and money. However compounding is not available for cases where the value involved exceeds Rs.1 crore.

Prosecution is the conducting of legal proceedings against someone in respect of a criminal charge. A person committing an offence with the deliberate intention of fraud, becomes liable to prosecution, i.e., face criminal charges. A few examples of these offences are-

1. Issue of an invoice without supplying any goods/services- thus taking input credit or refund by fraud
2. Obtaining refund of any CGST/SGST by fraud.
3. Submitting fake financial records/documents or files, and fake returns to evade tax.
4. Helping another person to commit fraud under GST.

Imprisonment and Fine

If a person commits or abets the following by:

- Obstructing or preventing any officer in the discharge of his duties,
- Tampering with or destroying any evidence or documents,
- failing to supply any information required of him under the law or supplying false information,

he shall be punished with 6 months imprisonment and/ or with fine.

If tax evaded or input tax credit wrongly availed or refund wrongly taken of an amount exceeding Rs. 50 Lakhs, but not exceeding Rs. 1 Crore, then the punishment shall be imprisonment which may extend to 1 year with fine.

If tax evaded or input tax credit wrongly availed or refund wrongly taken of an amount exceeding Rs. 100 Lakhs, but not exceeding Rs. 2.5 Crores, then the punishment shall be non-bailable imprisonment which may extend to 3 years with fine.

If tax evaded or input tax credit wrongly availed or refund wrongly taken of an amount exceeding exceeding Rs. 2.5 Crores, then the punishment shall be non-bailable imprisonment which may extend to 5 years with fine.

Conclusion and Suggestion

Compared to earlier tax laws, the GST tax regime contains a substantial increase in the maximum penalty levied. This indicates the seriousness of the government's intent to ensure GST compliance. However, the government also reserves the right to either fully or partially waive penalties. Moreover, GST law has not yet specified the penalty for breaching the anti-profiteering measure. The high penalties will ensure that taxes collected by the merchant will not be used for working capital or the financial benefit of companies. This should lead to more stable tax collection and administration. The prosecution provisions are harsher as compared to mere pecuniary penalties. They are intended to be a deterrent not only to the assessee but also to all other assessees. GST is also a technology based tax, by which compliance will become quicker and easier. Hence, businesses must leverage on the various facilities given and technology available to ensure compliance under GST. The government should tackle noncompliance with soft hands initially, rather than with imprisonment, since non-compliance could be erroneous rather than intentional. A period can be fixed for transition from the current system to GST, and a penalty or punishment on those who commit mistakes in this period shouldn't be imposed to lessen the immediate intense effect of GST.

Section – III

IMPACT OF GST ON MSMEs

IMPACT OF GST ON MICRO, SMALL & MEDIUM ENTERPRISES

Krishnaveni Shankar [1]

Abstract

Goods and Services Tax (GST) is a comprehensive tax levied on manufacture, sale and consumption of goods and services at a national level. GST offers various opportunities to the industry as well as several challenges. Experts say that GST is likely to improve tax collections and boost India's economic development by breaking tax barriers between States and integrating India through a uniform tax rate. It is expected to help build a transparent and corruption-free tax administration. Despite its various advantages, it will have a great impact on MSMEs. This paper is an attempt to explore the impact.

Introduction

GST is a tax on goods and services with a comprehensive and continuous chain of set-off benefits from the producer's point and service provider's point upto the retailer level. It is essentially a tax only on value addition at each stage and a supplier at each stage is permitted to set-off through a tax credit mechanism, The system allows the set-off of GST paid on the procurement of goods and services against the GST which is payable on the supply of goods or services. However, the end consumer bears this tax as the last person in the supply chain.

The implementation of GST will lead to the abolition of other taxes such as Octroi, Central sales tax, State-level sales tax, entry tax, stamp duty, telecom license fees, turnover tax, tax on consumption or sale of electricity, taxes on transportation of goods and services, thus avoiding multiple layers of taxation that currently exist in India, A dual structure has been implemented, the two components of which are: Central GST (CGST) to be imposed by the Centre and State GST (SGST) by the States.

MSME AND INDIAN ECONOMY

MSME (Micro, Small & Medium Enterprises) are mostly privately owned companies in India defined as per the size of their investments. MSME enterprises play a very important role in the nation's economy. Their contribution is major when it comes to output, employment, and export. The majority of unskilled labours are employed with them significantly raising manufacturing sector output and exports. Though the primary responsibility of promotion and development of MSMEs is of the State Governments, the Centre passed an Act in 2006 to empower this sector. It also formed a Ministry (Ministry of MSMEs) specifically to meet their requirements and promote their growth. The Micro, Small and Medium Enterprises Development (MSMED) Act, notified in 2006, defined the three tiers of micro, small and medium enterprises and set investment limits.

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MSME – CLASSIFICATION

Manufacturing Sector

Manufacturing sector refers to enterprises engaged in manufacture or production, processing or preservation of goods. The definition of Micro, Small and Medium Enterprises under the manufacturing sector is based on the investment in plant and machinery [original cost excluding land and building] and the items specified by the Ministry of Small Scale Industries.

Services Sector

Services sector refers to enterprises engaged in providing or rendering of services. These include small road and water transport operators (owning a fleet of vehicles not exceeding ten vehicles), small businesses (whose original cost price of the equipment used for the purpose of business does not exceed Rs.20 lakhs) and professional and self employed persons (whose borrowing limits do not exceed Rs.10 lakhs and not more than Rs.20 lakhs is used for working capital requirements). In case of professionally qualified medical practitioners setting up of practice in semi-urban and rural areas, the borrowing limits should not exceed Rs.15 lakhs with a ceiling of Rs.30 lakhs for working capital requirements). The definition of Micro, Small and Medium Enterprises under the services sector is based on the enterprise's investment in equipments.

Investment in Plant and Machinery (Manufacturing)	Investment in Equipment (Service)	Type of unit
Does not exceed Rs.25 lakhs	Does not exceed Rs.10 lakhs	Micro business
Between Rs.25 lakh and Rs.5 crores	Between Rs.2 crores and Rs.5 crores	Small business
Between Rs.5 crores and Rs.10 crores	Between Rs.2 crores and Rs.5 crores	Medium sized business

IMPACT OF GST IN BUSINESS TRANSACTIONS

GST will typically impact any business at two ends of the spectrum where transactions are involved i.e. for input transactions and for output transactions.

Input transactions

An input transaction is a transaction carried out for the supply of input goods / services like raw material procurement, imports etc. Input transactions will be directly affected due to the changes in taxation levels of raw materials/industrial inputs, affecting the product or service pricing.

Output transactions

An output transaction is one that is done for outbound supplies or service delivery. For example, a sale is an output transaction. GST will directly impact the sales by altering the taxation of the product or service being sold. Depending on the new tax slab of the goods or service, the profitability of the enterprise will be directly impacted.

Another significant impact area is due to the concept of "place of supply" and "time of supply", calling for more stringent supplier compliances.

Which MSMEs are eligible for GST?

MSMEs are a major driver in the Indian economy, contributing to almost 7% of the manufacturing GDP and 31% of the services GDP. With a consistent growth rate of about 10%, they employ about 120 million people and contribute to around 46% of the overall exports from India. Under the GST regime, this significant sector too is set to change. First and foremost, all businesses, including MSMEs will need to register for GST under the rules as per the following threshold limits related to aggregate turnover:

Region	Liability to register	Liability for payment of tax
North east India	Rs. 9 lakhs	Rs.10 lakhs
Rest of India	Rs.19 lakhs	Rs.20 lakhs

Why should MSMEs enrol for GST?

An MSME registered under GST will be recognized as a legal provider of goods and/or services. Tax accounting will be streamlined. MSME will be able to maintain proper accounting of taxes paid on input goods or services, and be able to utilise the inputs credit facility to enable better cash flows. GST will provide an opportunity for MSMEs to digitize their transaction management, making it efficient for the future. If such an MSME scales up, it will be prepared in advance to manage large-scale transactions through software. GST enrolment thus provides a window of opportunity to modernise the business and set up standards for doing business easily in the future.

Moreover, digital transactions tend to leave a digital footprint. These footprints can be used to assess the sector with greater accuracy and create customized financial solutions for these MSMEs, which are currently under-served from a credit perspective.

IMPACT OF GST ON MSME

Overall, the MSME sector seems to be skittish about the impact of GST. Here is a look at some of the pros that GST brings to MSMEs.

Ease of starting a business

The old tax regime requires new entrepreneurs to obtain VAT registration for every State separately, with each State having its own rules. Though GST too requires businesses to register in each State, the rules for GST are more uniform and outlined clearly on the portal. This will make it easier to set up an MSME.

Ability to compete with Multinationals and Multi-State Enterprises

GST is a destination-based taxation system and not source-based. Locally manufactured goods by MSMEs will pay the same amount of tax as imported goods from multinationals. Moreover, corporate sector generally 'stock transfer'; transfer goods to escape the taxes on inter-state transfers. MSMEs are not able to 'stock transfer' goods due to lack of infrastructure. They physically transfer goods and pay inter-state taxes, leading to higher expenses. Under GST, the stock transfers would be taxed. This will help put MSMEs on par with large multinational corporations, allowing them to compete on an equal tax footing.

Transparent transactions

MSMEs often do not have the resources (processes and people) to dedicate to tax transaction management. GST will enable an online and transparent view of tax obligations and on-goings, minimizing the need to liaison with tax authorities' offline. Though it will take some initial investment, MSMEs that streamline their transactions now will be setting up future-ready systems and processes.

Reduced Tax burdens due to rise in threshold

Under the old regime, business owners with an annual turnover of Rs.5 lakhs (Rs.10 lakhs in the North East), mandatorily need to register for VAT and make VAT payments. Under GST, businesses above Rs.20 lakhs turnover (Rs.10 lakhs for North East) qualify for GST registration, which brings huge relief to MSMEs. Thus, businesses that fall in the Rs.5 lakhs – Rs.10 lakhs revenue bracket need not register and will experience better cash flows because they are exempt from GST.

Better Cash flow due to input credit facility

Cash flows may increase because of facility of input tax credit, wherein businesses will be able to avail credit on input expenses such as supplies. For example, for a business that procures steel as the raw material to manufacture utensils, the businessman will need to pay tax on the raw materials procured i.e. iron ore. He can adjust the tax paid on inputs from the taxes collected on outputs. This means that only the actual "value addition will be taxed.

Better logistics

GST will help eliminate time-consuming border tax protocols, allowing for free flow of goods across borders. This will result in savings in logistical costs. Credit Rating Information Services of India (CRISIL) estimates that the logistical cost for companies manufacturing bulk goods will be reduced by around 20%.

Investment to go tech-savvy

MSMEs are typically not used to managing complex tax compliances, but GST will need MSMEs to go digital. MSMEs may need to hire or consult with GST experts to bring about a technology makeover resulting in additional expenses.

Reduced tax exemptions

MSMEs are eligible to avail a central excise threshold exemption of Rs.1.5 crore gross turnover. Under the GST regime, this exemption will reduce to Rs.20 lakhs. As a result, MSMEs with turnover between Rs.20 lakhs and Rs.1.5 crore will not be eligible for this tax exemption. This is an additional cost that will pinch MSMEs that were previously used to being tax exempt.

Higher tax rates may impact profitability

Despite assurances by the Finance Minister that overall tax slabs will not increase, the GST slabs indicate otherwise. The services tax rate has distinctly increased from 15% to 18%. Higher tax outflows mean lesser profitability.

Strict tax-compliance norms means more costs

GST will bring in an era of stringent compliance. For example, purchase invoices raised will have to be reconciled with the supplier of the goods. These invoices have to be uploaded by the entity by the 10th of every month and will need to be reconciled by the 15th of every month. MSMEs are not used to carrying out such detailed and timely tax transactions and will need to hire personnel to help with tax management and compliance.

Supplier-side compliance will affect the GST compliance rating

The ability of an MSME to claim refunds is a direct result of its GST compliance rating. Going ahead, MSMEs will be accountable for their suppliers' non-compliance and they may take a hit on their Compliance Rating due to non-compliance at any leg of the operating cycle, right from procurement to service. Maintaining compliance records, periodic audits will need to be instated to ensure compliance of all stakeholders. This responsibility of supplier-side compliance is an added cost to the company.

TIME LAG IN INPUT CREDIT PROCESS

Input credit will only be available after a supplier declares the particulars of the supply and after these details are validated by the buyer electronically. Thus, a supplier is heavily dependent on the buyer's response, leading to a probable time lag in availing input credit. Moreover, the timeline for claiming input tax credit is very limited - before the due date of filing returns for September of the next financial year, or, the due date of filing annual returns, whichever is later.

THE BURDEN OF LOWER THRESHOLD

The GST bill had proposed a reduction in threshold limit to Rs.9 lakhs to increase the tax net (Rs.4 lakhs for North Eastern States). However, GST council has increased the threshold limit from Rs.10 lakhs to Rs.20 lakhs and from Rs.4 1akhs to Rs.10 lakhs for North Eastern States subject to tax levy. In the current central excise law threshold is Rs.1.5 crore. This reduction will significantly impact the MSMEs' working capital. For example, a manufacturer who trades today at Rs.25 lakhs without any tax levy will be expected to pay GST post implementation. As the threshold is low, most MSMEs are now exempted and will have to pay a chunk of their capital towards tax in future

NO TAX DIFFERENTIATION FOR LUXURY ITEMS AND SERVICES

The tax neutrality will not differentiate luxury goods and normal goods. Currently the State and Central governments levy higher taxes on luxury goods and services. Under GST implementation, all goods and services will have to pay the same tax which will lead to rich becoming richer and poor becoming poorer. It is not an ideal situation for MSMEs competing against large businesses.

SELECTIVE TAX LEVYING

There is the burden of higher tax rate for Service Provider from the present rate of 15% to a higher GST rate of 18%. The scenario in the service sector will further be impacted as the concept of centralised Registration has been done away with and each unit in different states will have to take separate registration. Thus even if services are supplied by company's one Unit in State A to another Unit in State B , then also taxes will be payable.

Excess Working Capital Requirement

Taxation of stock transfer will primarily impact the working capital requirements. The quantum of impact will vary depending on stock turnaround time at warehouse, credit cycle to customer, quantum of stock transfer, etc. Higher amount of capital requirement will increase interest cost which ultimately will increase the price of finished goods.

Realignment of Purchase and Supply Chain

Under GST, credit will be not be available to a compliant company if the vendor from whom MSME is purchasing goods does not show the same in his return. Thus sourcing strategies will change on account of GST credit mechanism. Also there will be re-consideration of Supply Chain on account of taxation of Stock Transfers

Dual Control

In one of the GST Council Meetings, it was decided that assessees having turnover of less than Rs.1.5 Crores will be assessed by Sate Government and existing Service Tax assessees, irrespective of turnover will be assessed by Central Government as there is lack of expertise with the State Government in relation to Service Tax matters. As a result, small traders dealing in both goods and services will have dual administrative control both by Centre and State.

Positive Impact: GST boosts competitiveness of MSMEs

Improved MSME market expansion

In the current system, big corporations procure goods based on MSME's locality in order to reduce overheads. Thus MSMEs limit their customers within the State as they will bear the ultimate burden of tax on interstate sales, reducing their customer base. With implementation of GST, this will be nullified as tax credit will transfer irrespective of location of buyer and seller. This allows MSME segment to expand their reach across borders.

Lower logistical overheads

As GST is tax neutral it will eliminate time consuming border tax procedures and toll check posts and encourage supply of goods across borders. Accordingly the logistical cost for companies manufacturing bulk goods will be reduced. Such costs can be crucial for the survival of MSMEs.

Aids MSMEs dealing in sales and services

GST will not distinguish between •sales and services. This is good news for the MSMEs that deal with sales and services model of business, since the taxation for them is simplified and will be calculated on total.

Unified market

GST will allow flexibility in transfer of goods across states and reduce the cost of doing business, as the reform will cut down multiple taxes imposed by State and Central Governments.

Purchase of Capital Goods

In the current system, only 50% of the input tax credit against purchase of Capital Goods is available in the year of purchase and the balance amount in subsequent years. Under GST regime, entire amount of input tax credit can be availed in the year of purchase itself. This will support "Make in India" campaign.

CONCLUSION

With the tax reforms already on the anvil, MSMEs need to review their costing, input vendor details, IT capability, accounting practices and be eager to join the mainstream. The overall impact could be practically reviewed after the passage of the GST Act by the Centre and the States, seeing the re-classification of exemptions, threshold limits and assessment procedures which would also be under test. Any adverse impacts could be raised at appropriate times before the Governments. With continued support and concentration by the Governments to increase the capacities of MSMEs, increase GDP and to achieve the Make in India objectives, MSMEs must extend their full cooperation to the reforms.

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IMPACT OF GST ON MEDIUM, SMALL AND MICRO INDUSTRIES

Niraimathi. N [1]

Abstract

For the development of a country, the government should actively promote and enhance business enterprises. Amongst business enterprises, the Micro, Small and Medium Enterprises (MSME) deserve individual attention. Though MSMEs are small investment enterprises, their contribution to the Indian economy is very significant. In this paper an attempt has been made to analyse the impact of GST on MSMEs.

INTRODUCTION

Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 notified on October 2, 2006, deals with the definition of MSMEs. The MSMED Act, 2006 defines the Micro, Small and Medium Enterprises based on

1. the investment in plant and machinery for those engaged in manufacturing or production, processing or preservation of goods and

2. the investment in equipment for enterprises engaged in providing or rendering of services.

Share of MSMEs in India

The Micro, Small and Medium Enterprises occupy a strategic place in terms of output (about 45% of manufacturing output), exports (about 40% of the total exports) and employment (about 69 million persons in over 29 million units throughout the country) based on the Planning Commission, 2012. [2]

It is observed worldwide that as income increases, the share of the informal sector decreases and that of the formal MSME sector increases.

Worldwide Trends in SME Sector

- Japan – SMEs employ 70% of the wage earners and contribute 55% of the value added.
- Thailand – SMEs employ 60.7% of the population while contributing 38% to the GDP.
- China – SMEs contribute to over 68% of the exports – in the last 20 years created more SMEs than the total number of SMEs in Europe and the US combined.[3]

The Twelfth Plan has listed the following as the objectives for the MSME sector

- Promoting competitiveness and productivity in the MSME space.
- Making the MSME sector innovative, improving technology and depth.

1 **4th year B.com B.L (Hons), School of Excellence in Law, TNDALU, Chennai.**

2 http://planningcommission.gov.in/plans/planrel/12thplan/welcome.html

3 http://www.nikhilam.in/micro-small-and-medium-enterprises-msme-the-importance-in-indian-economy/

- Enabling environment for promotion and development of MSMEs.
- Strong presence in exports.
- Improved managerial processes in MSMEs.

Challenges of MSMEs

A sizeable percentage of those owning MSMEs are of the opinion that GST is not all good for the sector and their fears may not be totally vacuous. The tax neutrality that the MSMEs enjoy may be one of the prominent benefits. However, reduction in duty threshold is one of the key concerns that has led them to be wary of the GST reform. Under the earlier excise tax, no duty was paid by a manufacturer having a turnover of less than Rs.1.50 crores. [4]

- Almost all of the unregistered MSMEs would primarily comprise micro enterprises, particularly restricted to rural India, operating with obsolete technology, limited access to institutional finance etc. And there is a need to transform the enormous unregistered MSME into registered MSME.
- Need to improve the cutthroat attitude of the overall MSME sector.
- Access to technology.
- IPR related issues.
- Design as a market driver.
- Wasteful usage of resources/manpower.
- Energy inefficiency and associated high cost.
- Low ICT usage.
- Low market penetration.
- Quality assurance/certification.
- Standardization of products and proper marketing channels to penetrate new markets.
- The definition for MSMEs must be updated – considering inflation and availability of better technologies since the last change in 2006. [5]

IMPACT OF GST ON MEDIUM, SMALL AND MICRO INDUSTRIES

Medium, Small and Micro Enterprises (MSMEs) have been considered as the primary growth driver of the Indian economy for decades. It is further evident from the fact that today we have around 3 million SMEs in India contributing almost 50% of the industrial output and 42% of India's total export. They are a major driver in the Indian economy contributing to almost 7% of the manufacturing GDP and 31 % of the services GDP. With small and medium enterprises, GST is going to widen the taxpayer

4 http://www.deskera.in/gst-impact-on-sme/
5 http://www.clearias.com/micro-small-and-medium-enterprises-msme/

base. Earlier, any manufacturer with a turnover of Rs.1.5 crore or less was not required to comply with the rules of excise duty. However, with the merging of all State and Central level taxes into the ambit of GST, any manufacturer with a turnover of Rs.20 lakhs (others) /Rs.10 Lakhs (Special category states) or more will have to comply with GST and its procedures. GST will typically impact any business at two ends of the spectrum where transactions are involved i.e. for input transactions as well as output transactions.

The increasing formalisation of the Indian economy, especially through digitisation, is an inexorable advance that will upend the business model, based on the twin arbitrage of labour and cash transactions, of micro, small and medium enterprises (MSMEs).[6]

India's paradigm shift to the Goods and Services Tax (GST) regime in July will increase their compliance costs and snare a majority of them into the indirect tax net for the first time.

Sharp practices

So far, unorganized MSMEs have grown faster than organized peers because of lower cost structures stemming from tax avoidance, and not having to pay social security benefits to employees (such as provident fund and gratuity), and excise duty (if turnover is less than Rs.1.5 crore).

Some MSMEs also understate employee base or set up multiple ventures to avoid breaching tax thresholds. Such sharp practices helped them to price products and services competitively over the past few decades and also maintain operating margins at organised player levels.

The vicissitudes resulting from the impact of GST are many. To wit, for manufacturers, the reduction in the threshold for GST exemption to Rs.20 lakhs from Rs.1.5 crore means tens of thousands of unorganised MSMEs registration will soon be cast into the tax net.[7]

And digital transaction trails created by dual authentication of invoices under GST will strengthen tax compliance. Additionally, a lower tax burden under GST will reduce the cost of raw materials and logistics. For example, a study by CRISIL shows that freight costs could decline 1.5-2 per cent once GST kicks in.[8]

Different for services

For the services sector, though, the tax burden will increase, organized players with the ability to hold their price-lines, or pass on any increase in cost to customers, will be able to maintain or improve profit margins.[9]

We believe a simplified tax structure and a unified market will improve

6 https://www.greatlakes.edu.in/herald/pdfs/march-2017/article-5.pdf

7 https://thewire.in/59265/to-make-make-in-india-a-success-leave-mses-out-of-gst/

8 http://www.thehindubusinessline.com/opinion/how-will-gst-impact-msmes/article9702208.ece

9 http://www.moneylife.in/article/gst-consumer-companies-ready-wholesalers-worried-about-denting-margins/50344.0html

operational efficiencies, especially of MSMEs with a wider reach. Then again, there was demonetization. Last fiscal, MSMEs were expected to record on-year top line growth of 14 to 16 percent. However, the impact of demonetisation has been severe in the second half and they would have closed the year with an increase of just 6 to 8 per cent. But as the effects of demonetisation fade, growth will pick up in the current fiscal. Businesses in India are booming yearly, every sector is growing by the day, and the government is implementing reforms and programs to create a successful environment for these businesses. The Goods and Service Tax Act (commonly known as GST) will be the biggest indirect tax reform in our country since independence. However, complying with this tax reform may be a bit complex at first for small and medium businesses. But in the long run, it will benefit both consumers and the businessmen.

POSITIVE IMPACTS [10]

Like every reform GST too has its advantages and disadvantages.

ADVANTAGES

1. Flexibility in commencing new business:

At present the Sales Tax Department has many turnover slabs which require VAT registration. Many businesses operate in multiple States and this complicates their tax burden. This is because different States follow different tax rules. Complying with these rules and also payment of procedural fees burdens small businesses. It affects their cash flow and prevents growth. With GST there will be uniform procedures, uniform payment of fees, and a smooth and uniform tax structure in all States, thus easing out the process to start a business in multiple States.

2. MSME's ability to expand their business:

Currently small enterprises limit themselves to intra-state trade only because they will have to bear taxes in case of inter-state trade, and this will increase costs for customers ultimately reducing their customer base. With GST this will be eliminated as tax credit can be transferred irrespective of location of buyer and seller. As a result SME's will be able to expand their business across borders.

3. Lesser tax burden:

GST will eliminate the cascading effect of various State and Central taxes. State taxes that will be subsumed within the GST are VAT, entertainment tax, entry tax, and luxury tax, tax on betting and gambling. Various central taxes that will be subsumed are Central Excise Duty, Additional Excise Duty, Service tax, Additional Custom Duty, Special Additional Duty and Central Sales tax. Businesses will be able to take input tax credit too with GST. This reduces tax burden on businesses, making goods cheaper and increasing profit margins for SMEs.

4. Faster Logistics and delivery:

10 https://flexiloans.com/blog/impact-gst-small-medium-enterprises/

GST will eliminate time-consuming border tax procedures and toll check posts and encourage supply of goods across borders. According to a CRISIL Analysis, the logistical cost for companies manufacturing bulk goods would be reduced by around 20%. Such costs can be crucial for the survival of SMEs. No entry tax will also be charged for goods manufactured anywhere in India, making logistics and delivery faster and smoother for small and medium businesses.[11]

5. Avoiding confusion between a "good" and a "service":

At present there is great confusion between a service and a good. Each attracts a different tax. Goods attract VAT and services attract service tax. For e.g. A restaurant can be partly a good and partly a service. This distinction will be eliminated with GST. It will ensure that there is no ambiguity between goods and services. It will simplify various legal proceedings related to the packaged products and there will no longer be a distinction between the material and the service component. Ultimately this will greatly reduce tax evasion.

6. Single/Unified market:

GST will allow flexibility in transfer of goods across states and reduce the cost of doing business, as the reform will cut down multiple taxes imposed by state and central government.

7. Online compliance procedures:

Under GST all compliance procedures such as registration, payments, refunds and returns will be carried out through online portals. The burden on SME's (due to current taxation system) to interact with department officers carrying out compliances will be eliminated. In this way GST will save time and effort of SME's.

8. Encourage manufacturing sector:

With the implementation of GST, burden of tax is expected to reduce both for the manufacturer and the end user. Manufacturer will get the benefit of input tax credits and the end user will have to pay only the tax charged by the last dealer or the retailer in the supply chain. This will increase competitiveness and the demand for the 'Made in India' products would also increase immensely.

9. Higher exemptions to new businesses:

At present businesses with a turnover of Rs.5 lakhs have to register and pay VAT. But with GST this limit has been increased to Rs.10 lakhs. Also any business with a turnover between Rs.10-50 lakhs will be taxed at lower rates.

10. Usage of GST to manage working capital:

11 http://www.business-standard.com/article/economy-policy/gst-impact-trucks-to-have-smooth-movement-across-state-borders-117070400005_1.html

GST impacts working capital and working capital is very important for any business. However businesses can use GST to manage their working capital. They can harness GST to their benefit.

DISADVANTAGES

While the MSMEs will enjoy the tax neutrality, reduction in duty threshold is one of their main concerns.

1. The burden of lower threshold:

The GST bill had proposed a reduction in threshold to be Rs.9 lakhs to increase the tax net, Rs.4 1akhs for North Eastern States. (However, GST council has increased the threshold limit from Rs.10 lakhs to Rs.20 lakhs and from Rs.4 1akhs to Rs.10 lakhs for North Eastern States) Under the reform, any service provider or retailer will subject to tax levy. In the current central excise law threshold is Rs.1.5 crore. This reduction will significantly impact the MSMEs' working capital. For example, a manufacturer who trades today at Rs.25 lakhs without any tax levy will be expected to pay GST post implementation. As the threshold is low, most MSMEs are now exempted and will have to pay a chunk of their capital towards tax in future.[12]

2. Selective tax levying:

GST will not be applicable to Alcoholic liquor for human consumption and Petroleum based businesses, which creates further gap and does not support the 'unified market' ideology of GST.[13]

3. The burden of higher tax rate for Service Provider:

Presently Service Tax rate is 15%. GST rate will be around 18%. The scenario in the service sector will further be impacted as the concept of Centralised Registration has been done away with and each unit in different states will have to take separate registration. Thus even if services are supplied by company's one Unit in State A to another Unit in State B , then also taxes will be payable. [14]

4. Excess Working Capital Requirement -

Taxation of stock transfer will primarily impact the working capital requirements. The quantum of impact will vary depending on stock turnaround time at warehouse, credit cycle to customer, quantum of stock transfer, etc. Higher amount of Capital Requirement will increase interest cost which ultimately will increase the price of Finished Goods.[15]

5. Realignment of Purchase and Supply Chain -

12 http://www.financialexpress.com/economy/gst-threshold-set-at-rs-10-lakh/70868/
13 www.thehindubusinessline.com/economy/policy/...alcohol...gst/article9737600.ece
14 http://www.editn.in/pages/view/gst2
15 https://www.linkedin.com/pulse/impact-gst-msmes-ca-sharad-sharma

Under GST credit will not be available to a compliant company if the vendor from whom MSME is purchasing goods does not show the same in his return. Thus, sourcing strategies will change on account of GST credit mechanism. Also there will be re-consideration of Supply chain on account of taxation of Stock Transfers.[16]

Impact on Manufacturing Sector

The GST will enhance competitiveness of enterprises in the manufacturing sector by mainly mitigating the cascading effect of various taxes. The companies offer GST ready Enterprise Resource Planning software to global SME markets, with small and medium enterprises contributing over 70% of the company's business across the world. India is a global manufacturing hub and SMEs form around 90% of the industrial units in the country, according to IBEF. The 'Make in India' campaign promoted by the Indian government will get a boost with the rollout of the GST. Currently, excise duty on pre-packaged products for retail consumption is levied not on the transaction value at the ex-factory but on a fixed percentage of the maximum retail price (MRP) on the package. This leads to a higher MRP, which indicates a higher cost burden for the consumers. Under the GST regime, tax is paid by the manufacturers while purchasing raw materials for the products. The amount can be credited for subsequent resellers till the product reaches the final consumer. This will ease the tax burden significantly.

Challenges for SMEs

The Final Verdict

Unarguably, GST rollout will open up a can of worms and the impact on SMEs across various industries will vary greatly. It is quite natural for a pervasive, country-wide tax reform, as GST is, to have a mixed opinion. Furthermore, the revolutionary tax regime will have acceptance that will vary from State to State.

CONCLUSION

It is quite apparent that the strategies of sourcing, warehousing and other decision-making that are currently based on minimizing taxes would give way to ones that lay emphasis on quality and convenience. As a consequence, we can foresee shortened delivery time spans as well as reduced overall spend on operational expenditures.

While real time issues will surface only on further implementation, certain aspects that would need more thought include handling of refunds, input-tax credit, smooth implementation, and facilities to educate users. However, this reform may cause some hiccups in the initial months, especially for SMEs that, so far, have worked on Excel-based platforms or maybe not even that. Other factors like cash flow-related issues, delays, and uncertainties can prove to be a challenge for MSMEs, which they would need to overcome with better planning and execution. Certain aspects that would need

16 http://indianexpress.com/article/business/reverse-charge-mechanism-under-gst-what-to-watch-for-while-dealing-with-unregistered-traders-4744942/

more thought include handling of refunds, input-tax credit, smooth implementation, and help facilities to educate users should be taken into consideration. Going by the aforementioned factors, it is evident that the impact of GST on the Indian SME sector could go either way. It is thus a matter of extreme importance to consider the different challenges faced by SMEs so they can reap maximal benefits from this radical tax regime.

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Section – IV
GST AND THE CONSUMER

GST on Disability Aids and Appliances

Dr.Aiswarya Rao [1]

Abstract

While estimates of Persons with Disabilities (PwDs) in India vary, the sad truth is that prevalence of disability is most pronounced among disadvantaged socio economic groups and in backward regions. In this paper an attempt has been made to analyse the impact of GST on disability aids and appliances and consequently on persons with disabilities. The paper makes a strong case for complete roll-back on the GST on disability aids and appliances to enable full participation of PwDs in all spheres of life thereby contributing to national development.

Introduction

The latest 2011 census shows that 2.2 % of the population - 26.8 million persons have some disability. This number is bound to increase considering the more inclusive definition given in the recently passed Rights of Persons with Disabilities Act 2016. Almost all of the Persons with Disabilities (PwDs) are dependent on one or more aid/ appliance for activities of daily living and other activities like accessing education, employment, sports and recreation. The nature between poverty and disability is well known as well as the nature of its cyclical viciousness.

According to a UN forecast, by 2050 there will be 323 million people over age 60 in India. As aging is closely associated with increasing disability prevalence, India will face important structural and financial challenges related to the huge absolute numbers of people with disabilities requiring adequate social and health care. Expected increases in the number of people with disabilities also pose challenges for sustainable development, because disability in developing countries like India is closely related to the lack of education, extreme poverty, and social exclusion.

Disability Data and Enumeration Discrepancies

International evidence on the prevalence of disability in developing countries is scarce, and often generates contradictory figures - India is no exception. Disability is usually defined as a physical or a mental health condition that limits a person's ability to performnormal life activities. However, the prevalence figures largely depend on data sources and methodological approaches (definitions).

Disability data is essential to provide services, monitor the implementation, and equalise opportunities. How crucial it is can be gauged by looking at the census data.

This census data, however, has been widely criticised for being under-reported. Widespread criticism followed the use of direct question, 'Is the person mentally/ physically disabled', in the census survey. In India, especially rural areas, disability is a big taboo and the use of such direct questions has possibly been the reason for under reporting.

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Globally, the Washington Group of questions is used for authentic measurement of disability in surveys. The Telangana Disability Study Group of International Centre for Evidence in Disability, London, who used Washington Group questions, found the overall prevalence of disability in Telangana state of India to be 12.2%. This estimate is much higher than predicted in the Indian Census 2011, and justifies concerns of the disability sector. India does not feature in the list of countries/territories which have included Washington Group questions in their last census as per the website of UN Statistics Division and Secretariat for the Convention on the Rights of Persons with Disabilities.

So while conservative estimates peg 70 million Indians living with disability, the limited definition of disability in the 2011 census yielded only 27 million people in India with disabilities - i.e. 2.21% of the total population! Large disparities are hidden behind the large number for India; with disability prevalence most pronounced in disadvantaged regions and disadvantaged socioeconomic groups.

World Bank estimates peg the PwD population at about 7-8% of the population (from data triangulation).

Earning Handicap and Conversion Handicap: disproportionate poverty and unemployment

Although having a disability is often associated with severe socio economic disadvantages and poverty, only a small fraction of the people with disabilities in India receive government assistance.

While the number of people with disabilities in India is substantial it is likely to grow - disability does not "go away" as countries get richer. Social attitudes and stigma play an important role in limiting the opportunities of disabled people for full participation in social and economic life, often even within their own families. Conceptual confusion has contributed to insufficient attention being paid to disability and its correlation with poverty, to paraphrase Amartya Sen.

About 63.9% of disabled people in the employable age are either non-workers or marginal workers. Only 36% employed (compare with 77.8% for non-disabled population).

So while disabled people might find it harder to find well-paying jobs, (in what Amartya Sen calls an "earning handicap") they may also require higher levels of income (he refers to this as "conversion handicap" - the assistance that disabled people may need to achieve everyday tasks, such as mobility or allowing children to attend school. Poverty statistics tend to look at poverty as if able-bodied and disabled people can do the same things with the same amount of money. The earnings handicap is far exceeded by the conversion handicap, not just for the individual involved but for families where there is a disabled person.

The Economic and Social Challenges of PwD and their Families People with disabilities in India are subject to deprivation in many dimensions of their lives.

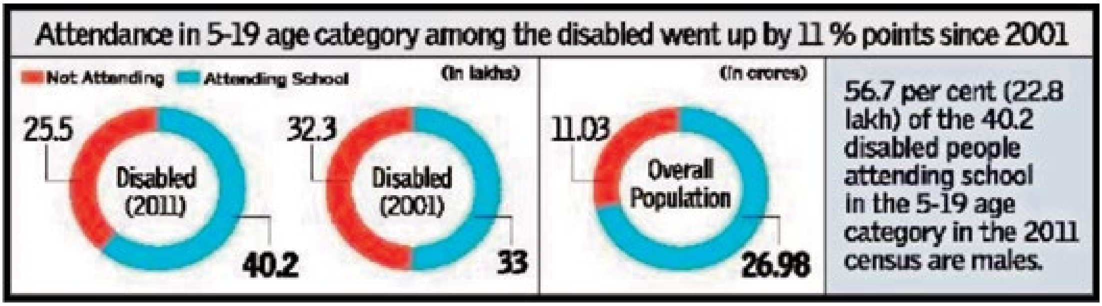
- They are Poorer and have "conversion handicap"
- Households with PWD one quarter less likely to report 3 meals a day year round
- They have much lower employment rates and the gap to the general population has grown
- They often have low awareness of rights and entitlements
- An overwhelming 45% of India's disabled population is illiterate, according to Census 2011, compared to 26% of all Indians. Of persons with disability who are educated, 59% complete Class X, compared to 67% of the general population.
- In a country where over-all literacy is 74% (male – 82% and female – 65.5%)
- the literacy levels of PwD is 55% (male-62% and female – 45%)
- There are more disabled SC/ST among persons with disability in all age groups. (2.21% of the total population has a disability, while 2.45% of all persons with disability belong to the SC/ST)

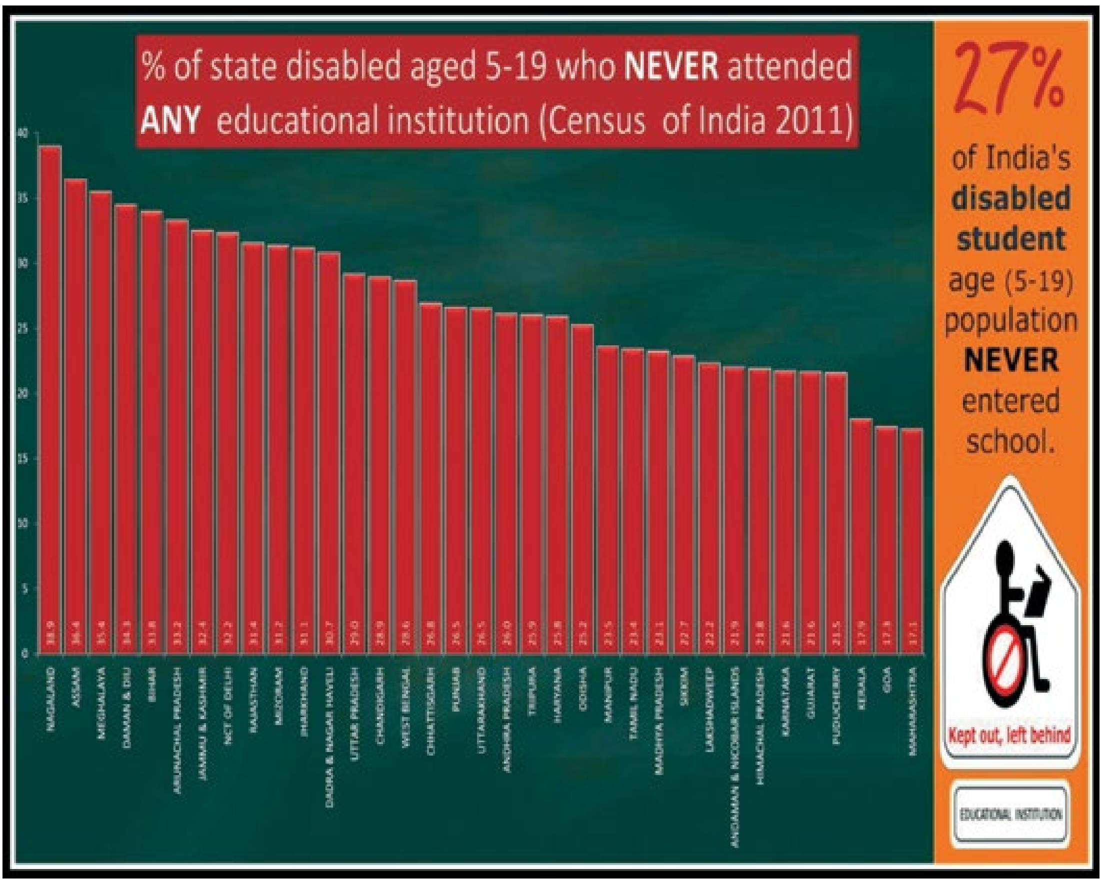
Proportion of Disability Types Among all Persons with Disability in India

Type of Disability	Percentage of Total
Sight	20%
Speech	7.5%
Hearing	20%
Movement (Locomotor)	21%
Mental Illness	2.5%
Intellectual	6%
Multiple	10%
Any other	15%

We shall look at data that is available in the public domain and in the departments of the Government and also data that is lacking, yet necessary for policy, planning, and implementation of schemes and for fulfilment of SDG with regard to PwD. We firmly believe that disability inclusion is crucial for human development.

Education and Disability in India





27% of India's disabled students in the age group 5-19 years have never stepped inside any educational institution. There are many reasons for not accessing education. Out of the 1.3 million schools (HRD Ministry Data) in India only 1.32% of teachers have relevant special skills training to work with children with disability. Schools are not disabled friendly and barrier free either structurally or functionally. Toilets are either non-existent and if present are hardly suitable for use by children with disability. Braille signage, books for the visually impaired are unavailable.

GST Council Resolution Dated 18th May, 26th June 2017

LIST 32	OLD CODE	HSN CODE	ITEM SHORT DESC	18 MAY RATE	11 JUNE RATE	26 JUNE RATE	PRE GST RATE	EXCISE
		LIST 32	http://bit.ly/gst-32	5	5	5		Nil
E3		48239011	BRAILLE PAPER	12	5	5		Nil
E1 ?		49011010	BRAILLE BOOKS FOR THE BLIND, PRINTED BOOKS	5		5		Not specifically mentioned
E6	84692010	84729093	ELECTRIC : BRAILLE TYPEWRITERS	18	5	5		Nil
E6	84693010	84729094	NON-ELECTRIC: BRAILLE TYPEWRITERS	18	5	5		Nil
		8703	CAR FOR PHYSICALLY HANDICAPPED	18		18		6%
B2		87131010	CARRIAGES FOR DISABLED	5		5		Nil
B1 ?		90211000	Appliances... to compensate for a defect or disability. http://bit.ly/gst-9021	12	5	5		Nil
B1 ?		90214010	FREQUENCY MODULATED HEARING AID SYSTEM USED FOR HEARING BY HANDICAPPED PERSONS IN GROUP SITUATION	Nil / 5 / 12	5	5		Nil
B1 ?		90214090	Hearing Aid - Other		5	5		Nil
E6 / A9	Not 9101!	91029990	Braille Watch	12	5	5		Nil

The GST Council resolved on 18th May 2017 to impose a GST of of 5-18% on wheelchairs and Braille typewriters, handwriting equipment like Braille frames, slates, writing guides, script writing guides, styli and Braille Erasers and on a host of other disability aids and appliances.

Following a large public outcry the GST Council on 26th June 2017 decided to lower the GST to 5% on the following disability aids and appliances:

1. Braille writers and Braille writing instruments;
2. Handwriting equipment like Braille Frames, Slates, Writing Guides, Script Writing Guides, Styli, Braille Erasers
3. Canes, Electronic aids like the Sonic Guide;
4. Optical, Environmental Sensors;

5. Arithmetic aids like the Taylor Frame (arithmetic and algebra types), Cubarythm, Speaking or Braille calculator;
6. Geometrical aids like Combined Graph and Mathematical Demonstration Board, Braille Protractors, Scales, Compasses and Spar Wheels;
7. Electronic measuring equipment such as Calipers, Micrometers, Comparators, Gauges, Gauge Block Levels, Rules, Rulers and Yardsticks
8. Drafting, Drawing Aids, Tactile Displays;
9. Specially adapted Clocks and Watches;
10. Orthopaedic appliances falling under heading No.90.21 of the First Schedule;
11. Wheel Chairs falling under heading No.87.13 of the First Schedule;
12. Artificial electronic larynx and spares thereof;
13. Artificial electronic ear (Cochlear implant);
14. Talking books (in the form of cassettes, discs or other sound reproductions) and large-print books, braille embossers, talking calculators, talking thermometers;
15. Equipment for the mechanical or the computerized production of braille and recorded material such as braille computer terminals and displays, electronic braille, transfer and pressing machines and stereo typing machines;
16. Braille Paper;
17. All tangible appliances including articles, instruments, apparatus, specially designed for use by the blind;
18. Aids for improving mobility of the blind such as electronic orientation and obstacle detecting appliance and white canes;
19. Technical aids for education, rehabilitation, vocational training and employment of the blind such as Braille typewriters, braille watches, teaching and learning aids, games and other instruments and vocational aids specifically adapted for use of the blind;
20. Assistive listening devices, audiometers;
21. External catheters, special jelly cushions to prevent bed sores, stair lift, urine collection bags;
22. Instruments and implants for severely physically handicapped patients and joints replacement and spinal instruments and implants including bone cement.

Press Release of Ministry of Finance – on GST for Disability Aids/Appliances

The press release of the MOF dated 04-07-17 states that the 5% "concessional rate" of GST would result in the reduction of the cost of domestically manufactured aids/appliances as compared to the pre-GST regime.

The Press Release goes on to state that most of the inputs and raw materials for manufacture of these assistive devices/equipments attract 18% GST. The concessional

5% GST rate on these devices/equipments would enable their domestic manufacturers to avail Input Tax Credit of GST paid on their inputs and raw materials. Further, the GST law provides for refund of accumulated Input Tax Credit, in cases, where the GST rate of output supply is lower than the GST rate on inputs used for their manufacture. Therefore, 5% GST rate on these devices/equipments would enable their domestic manufacturers to claim refund of any accumulated Input Tax Credit. That being so, the 5% concessional GST rate on these devices/equipment would result in reduction of the cost of domestically manufactured goods, as compared to the pre-GST regime.

As against that, if these devices/equipments are exempted from GST, then while imports of such devices/equipments would be zero rated, domestically manufactured such devices/equipments will continue to bear the burden of input taxes, increasing their cost and resulting in negative protection for the domestic value addition.

In fact, the 5% concessional GST rate on such devices/equipments will result in a win-win situation for both the users of such devices, the disabled persons, as well as the domestic manufacturers of such goods. It is for this reason that the Council has kept these items in 5% rate slab.

The GST Field Reality concerning Disability Aids/Appliances

The Ministry of Finance in their Press Release may have envisaged reduced prices in theory but in practice we find the reverse. Please see Table below: `

	Disability Aid/Appliance	Pre- GST Rates (Rs)	GST Rates (Rs)
1	Basic Wheelchair	3800	4200
2	Axillary Crutches	350	395
3	Calipers (KFO)	3300	3700
4	Walkers	750	848
5	Sticks/Quadripods/ Tripods	100	113

The GST implementation has also adversely affected the cost of the following component of Cochlear implants enables children to 'Listen and Speak' and be mainstreamed into society to become contributing citizens:

Accessory	Avg. Cost (INR)	Tax % pre GST	Tax % post GST
Batteries and Covers	**9000**	**15%**	**28%**
Speech and Sound Processor	3,00,000 to 6,00,000 (depending on model)	NIL	**12%**
Aqua Accessories (waterproof usage)	**20000**	**15%**	**28%**

(The above tables contain the prices collated from a variety of outlets in Tamilnadu and elsewhere in India It is uniformly observed that the prices have gone up)

Why 5% GST with ITC has not reduced prices:

The following are some of the reasons for the increase in the post GST prices of disability aids/appliances:

a) The cost of raw materials for the manufacture of disability aids/appliances has increased from 5% to 18% therefore the price for the finished goods has gone up. Roll back on the GST alone is not going to bring prices of aids/appliances down as the cost on raw materials has increased to 18%

b) ITC can be availed only if the entire chain registers themselves for the same which takes time and enormous paper work for small workshops/manufacturers

c) Many disability aids/appliances are imported – IGST example – Braille Printers, Cochlear Implants etc

Some Resolutions to the Disability-GST Imbroglio:

The following solutions are recommended:

1. **Make the entire value chain exempt with no input tax.** Make new ordinance or legislation for that.
2. Reduction in GST on raw materials (meant for disability aids) and make the process of claiming ITC very simple
3. **Special refund scheme for Input Tax which is simple**
4. Direct Benefit Transfer into account of disabled user – simple solution

Our Compelling Reasons for a complete roll-back on GST on the entire value chain of disability aids/appliance are:

This is a peculiar and special sector where being as economical as possible means more number of users of products. An ILO Study – The price of Exclusion (2013) Sebastian Buckup concludes that there is an Annual Loss of 3-7% of Worldwide GDP – (1.37 to 1.94 trillion USD) due to the exclusion of Persons with Disabilities from the workforce.

Moreover in India the ground realities are:

1. In India nearly 73.9 per cent of disabled people in the employable age are either non-workers or marginal workers (Census 2011)
2. It is alarming that 27% of disabled children (age 5- 19) in India have never entered any educational institution (Census 2011).
3. Only 2.4% of the female disabled population are graduates (Census 2011)

Unless Persons with Disability have access to education, and free mobility, they cannot participate in the workforce. Ultimately ITC and "concessional" GST of 5% must not be viewed as a subsidy, but rather as an investment into the inclusive growth and development of the Nation. Including Persons with Disability into the workforce ultimately will lead to higher growth in GDP which will offset any loss in revenue due to the exemption of this sector from GST (at all levels).

CONCLUSION

NIL GST (#exemption) should not be seen as 'subsidy' or 'concession' but as an essential investment into development.

The discussion above has been restricted to disability aids and appliances alone and we have not discussed GST on drugs that are essential for a wide variety of persons with disabilities that are used on a daily basis as well as GST on services required for maintaining quality of life for persons with disability. That is beyond the scope of this paper, but similar data needs to be generated and similar arguments for the roll-back of GST that is causing financial handicaps hold good as well.

Therefore, in conclusion the complete roll-back on the GST on disability aids and appliances with Input Tax Credit will enable Persons with Disability to afford and access education, employment, and full participation in all spheres of life, thereby contributing to the growth of the Nation and to the Development agenda of the Government

IMPACT OF GST ON INSURANCE CUSTOMERS

Sudha Ramanujam [1]

Abstract

GST is a Goods and Services Tax which proposes to eliminate the cascading effect or double taxation effect on the cost of goods and services down the value chain. It is one universal value added tax for the whole nation, which has replaced the existing tax structure in India, as levied by the Central and State Governments. It is applicable to the supply of goods and services, from the manufacturer to the end consumer. In this paper an attempt has been made to highlight the impact of the GST on insurance customers.

GST in Insurance Industry

Post-liberalization, the insurance industry witnessed significant growth spurred by the joining of private insurers, product innovation, and induction of multiple distribution channels. This was further encouraged by the increase in the foreign direct investment (FDI) limit, from 26% to 49%. Since then, insurance companies, along with the Insurance Regulatory and Development Authority of India (IRDAI), have been making concerted efforts to develop the insurance sector in India.

As a result, we have seen a significant number of private players operating in the market today, with lot of product innovation catering to specific consumer needs.

In spite of all the progress in the sector, India continues to be a massively under-penetrated market. We are the world's second most populous nation, and yet we account for less than 1.5% of the world's total insurance premiums and about 2% of the world's life insurance premiums.

Given the scenario, how will the goods and services tax (GST) impact the growth momentum of this industry?

Of the four GST slabs—5%, 12%, 18%, 28%—insurance falls under the 18% slab, as against the previous service tax of 15%. The increase in indirect taxation is contrary to the positive measures that have been taken over the last few years to develop this sector.

In many countries, life insurance is outside the purview of GST. Even in the West, countries like Canada, and European Union, do not tax life insurance.

Under the GST regime in India, taxability on the gross premium for pure risk policies is contrary to the principle of taxing the "value addition". GST is a tax on value addition and net premium after deduction of claim is the net value addition. It is very difficult to segregate the "savings" component and find a "value" that could be treated as the proper base for tax, particularly for every premium transaction during the life-cycle of an insurance policy.

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Insurance companies in India have strived hard to create financial awareness and increase insurance penetration in the country. As the country strides into a new economic phase, we hope that the industry gets the attention and support that it rightfully deserves. The coming years are critical as the policy and regulatory environment and consumer response will govern the growth and stability of this industry.

With the introduction of GST, insurance policies have become dearer by 3%. It is felt that the immediate impact of GST would be higher on term Insurance and Endowment plans in case of life insurance and general insurance. In case of insurance sold online (e-commerce), there is 1% reduction in tax collected at source.

How GST will impact the premium for different types of insurance policies?

GST Council declared 18 per cent tax rate to be applicable on the insurance sector. The hike in the tax rate is about 3 per cent (existing 15 per cent to the new 18 per cent) and it would directly be passed on to the customers, thereby creating a direct impact on the premiums of various insurance policies. The premium paid towards life insurance policies has two major components. The first one is the premium component for getting risk coverage, that is, the cost of providing the death benefit and another is the investment part, that is, cost of getting the maturity benefit which is the invested amount plus returns on investment, if any. The tax applicable under life insurance policies is levied only on the component of the premium offering risk coverage. For non-life policies, GST is levied on the entire premium amount, which is 18 per cent on the premium amount. GST will be applicable on interest (late fee) charged on delayed receipt of premium and the rate will be according to the type of premium collected.

A) Life insurance policies:

- Offers death benefit only as it is a pure risk plan.
- Nominee will receive the sum assured upon untimely demise of the policyholder during the term of the policy.
- Since term plan's entire premium amount will now be charged at 18 per cent GST tax rate, getting a term plan will become costlier by 3 per cent.

2. Endowment insurance plan

- Considered as one of the traditional insurance saving plans.
- Offer death or maturity cover, whichever occurs earlier.
- Death cover is equal to the sum assured plus the accrued bonus, in case of unfortunate death of the policyholder during the policy term.
- Maturity cover also includes sum assured plus the accrued bonus provided the policyholder survives till the end of the policy term.
- Under pre-GST regime, the plans attracted service tax of 3.75 per cent on the first year premium;

- Post GST implementation, it has risen to 4.5 per cent in the policy inception year.
- From the second year onwards, endowment plans, which were hitherto charged at 1.875 per cent has been increased to 2.25 per cent with effect from July 1, 2017.

3. Unit linked insurance plan (ULIP)

- Provides combined benefit of insurance cover plus investment.
- Basically market linked plans offer the flexibility to invest with the various fund options available to generate high returns on investment.
- Premium component comprises cost for offering risk coverage and investment returns.
- Currently, ULIPs attract a service tax of 3.5 per cent in the first year and from second year onwards @ 1.75 per cent.
- Post implementation of the GST, the tax rate now stands at 4.5 per cent in the first year and 2.25 per cent from the second year onwards.

B) Non-life insurance policies:

1. Health insurance

- Provides the cover for the insured member and his family against medical expenses arising due to hospitalisation.
- Tax rate for a health plan premium in pre-GST regime is 15 per cent, which now stands increased by 3 per cent, making it 18 per cent on the entire base premium amount.

2. Motor insurance

- Motor insurance policy is of two types: 'Comprehensive Motor Insurance' and 'Third Party Motor Insurance'.
- Buying a comprehensive motor insurance policy provides cover for third-party liability and the damage caused to your vehicle.
- With a third-party motor insurance, one can get cover against third-party liability only arising due to property damage and/or bodily injury caused to a third-party involving your vehicle.
- Tax rate prior to the GST is 15 per cent and it is now 18 per cent applied on the entire premium amount.

3. Travel Insurance

- Ideal for those travelling abroad anytime
- Customer will now have to pay 18% GST instead of 15% service tax earlier in effect.

Following Service tax exemptions to be continued in GST, as decided by the GST Council:

i) Services of life insurance business provided under the following schemes

a. Janashree Bima Yojana (JBY)

b. Aam Adami Yojana (AABY)

c. Life micro-insurance product, as approved by the IRDAI, having maximum amount of cover of 50,000.

d. Varishta Pension Bima Yojana

e. Pradan Mantri Jeevan Jyoti Bima Yojana

f. Pradhan Mantri Jan Dhan Yojana

g. Pradan Mantri Vaya Vandan Yojana

h. Any other insurance scheme of State Government as may be notified by Government of India on recommendation of GSTC.

Insurance Product	Before (%)	After (%)	Applicability
Term Insurance Premium	15	18	On the entire premium amount
ULIP	15	18	On the entire premium amount
Health Insurance Premium	15	18	On the entire premium amount
Add-on Riders Premium	15	18	On the entire premium amount
Single Premium	15	18	On 10% of the total premium. It means that the previous 1.5% of the total premium would be hiked to 1.8% of the total premium
Endowment Plan Premium (First year)	15	18	On 3.75% of the total premium
Car Insurance	15	18	On the entire premium amount

Conclusion:

- After enactment of GST, buying life and also non-life insurance policy will become a little expensive.
- Nevertheless, one cannot ignore the importance of insuring their life, health, vehicle, etc. with the help of life and non-life insurance plans.
- Unlike other industry, there is no question of sharing of tax (revenue) in insurance industry and indeed, the hike in tax would simply be passed on to the customers.
- The Council of Insurers (Life & Non-Life) is pitching for exemption of insurance industry from GST and hence, it is suggested that the Government may have a re-think over this issue, more particularly for Life insurance and Health insurance, so that the objective of nationalization of insurance industry, viz. penetration of insurance into nooks and corners of the country, is met with.
- The watchword of the Government being "financial inclusion", it is just and proper to consider exempting the insurance industry from the purview of GST regime or in the alternative; the insurers may re-consider reduction in pricing of their products which requires approval of the Regulator.

CHEERS AND TEARS OF GST
(FROM STAKEHOLDER'S PROSPECTIVE)

KIRUTHIKA D

&

JOTHI LAKSHMI D[1]

ABSTRACT

The Goods and Services Tax (GST) which is hailed to be one of the biggest reforms in the history of India finance is an indirect tax levied on the supply of goods and services that replaced various indirect taxes and brought them under one umbrella. As every coin has two faces similarly, GST also has its own advantages and disadvantages. Almost every country in the world except Unites States of America has migrated to GST and out of the experience of over 160 countries experts claim GST to be the biggest reforms which would benefit the stakeholders and thereby take the economy to an upward swing. But, on the other hand critics highlight the shortcomings and the burden which GST imposes on the consumers. India is yet to see its share of development around implementation of GST therefore, at this juncture, it is appropriate for us to evaluate the merits and demerits of GST. It is the duty of the stakeholders to analyze the ups and downs of GST regime and accommodate themselves to the system with suitable changes. This research paper would focus on the cheers and tears of GST from stakeholder's prospective and weigh the balance between the two. The authors of this research paper would further suggest the required amendment in GST law in order to wipe out the tears.

INTRODUCTION

The Goods and Services Tax (GST) implemented by the Indian Government with effect from 01st July, 2017 is claimed to be one of the biggest reforms in the history of India finance. Almost every country in the world except Unites States of America has migrated to GST. Out of 193 UN Member States, only 41 Member States did not implement GST. The GST levied on the intra-State supply of goods or services by the Centre is Central GST (CGST) and that by the States is State GST (SGST). On inter-state supply of goods and services, Integrated GST (IGST) is collected by Centre[2] . As every coin has two faces similarly, GST also has its own advantages and disadvantages.

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1 **LL.M.-II Year (Business Law) & II Year, B.A.,B.L., Dr. Ambedkar Government Law College, Chennai.**

2 What is CGST, SGST & IGST?, available at https://cleartax.in/s/what-is-sgst-cgst-igst, accessed on 29.08.2017

CHEERS OF GST

- **REDUCE MULTITUDE OF TAXES**

GST reduces the bundle of 17 indirect taxes such as VAT, CST, Service tax, CAD, SAD, Excise, etc and brought them under one umbrella. GST will be a single window for all indirect taxes as it will subsume majority of the indirect taxes.

- **ONE LAW ONE COUNTRY**

There were multiple central laws and state laws for taxations during previous system. If you are trading your goods at all India level, you must know and follow all the different laws of India. It is due to this reason that many people avoid trading goods in different states. Now under GST regime, India would become one market and you can trade anywhere in India hassle-free.

- **REMOVAL OF CASCADING EFFECT OF TAXES**

The GST removes cascading effect on tax. For example, State is charging VAT on the Excise Duty paid to the Central Government, hence double taxation. Unlike the previous tax regime, Goods and Services Tax will not have cascading effect of taxes. Thus, businesses will not have to pay multiple taxes, this will enhance the working capital.

- **INCREASED INPUT CREDIT**

In a full non-GST system, there is a cascading burden of "tax on tax", as there are no set-offs for taxes paid on inputs or on previous purchases. The GST system provides for business entities to take 'input tax credit' for taxes paid along the supply chain to prevent the cascading effect of paying taxes on top of taxes already paid. Under it, there will be tax only on value addition at each stage, with the producer/seller at every stage able to set off his taxes against the central/state GST paid on his purchases [3]. The end-consumer will bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

- **PRICE REDUCTION**

GST helps to eliminate "tax on tax" or the cascading impact of tax, thus bringing down the overall cost of goods. Further, credit of input tax against output tax reduces the cost of doing business enabling fairer price for consumers. Reduction of manufacturing costs due to lower burden of taxes on the manufacturing sector reduces the prices of consumer goods.

- **CURTAIL TAX EVASION AND AN EFFICIENT TAX COLLECTION SYSTEM**

The previous system gave an incentive to evade taxes. For example, excise duty was a cost for traders, thereby making it attractive for them to purchase without invoice. With GST, this incentive will vanish. Therefore, tax evasion will fall.

3 Surajit Dasgupta, How GST Will Benefit Consumers, Businesses: Your 10-Point Cheat-Sheet, available at http://www.ndtv.com/india-news/why-gst-could-be-a-game-changer-for-indian-economy-1717543, accessed on 27.08.2017

Under the GST structure, every company gets a deduction on the taxes already paid by its suppliers. That results in every buyer ensuring that his supplier has paid his part to claim his deductions. Thus, it encourages suppliers of goods and services to become GST-complaint. So GST helps in checking evasion of taxes.

Companies which are under unorganized sector will come under tax regime. More business entities will come under the tax system thus widening the tax base. This may lead to better and more tax revenue collections.

- **SIMPLIFIED AND UNIFIED COMPLIANCE PROCEDURE**

Under the previous regime, businesses were required to file different return for different taxes which were applicable on different business activities. If a business is engaged in manufacturing as well as trading of goods, then such business was required to file separate return for excise and VAT. Now under GST, single GST return form will be used for all business activities be it manufacturing, trading or providing services. GST is simplified and cost saving system as procedural cost reduces due to uniform accounting for all types of taxes. Only three accounts; CGST, SGST, IGST have to be maintained [4]. Instead of having to deal with many different taxation laws and spending a lot of time in legal advice and compliance, businesses will now need to pay GST only. This is a big relief and it creates simplicity and predictability in business.

- **DIGITIZED SYSTEM**

Though manual challans have long gone, however there still exist some part of manual compliance wherein business man had to go to the tax department and submit documents. New GST regime aims for 100% digital compliance and minimum bureaucracy. The entire GST process – starting from registration to filing returns and payment of GST tax – is online. Startups do not have to run around to tax offices to get various registrations under excise, VAT, service tax .[5]

- **UNIFIED TAX REGIME**

In the previous tax regime, tax rates varied from state to state. So companies often choose warehouses for their inventory based on tax considerations. Under GST, the country will move to 'One Nation, One Tax' regime, giving companies freedom to set up their own warehouses to optimize cost and improve customer service.

- **EASE TAX BURDEN**

GST shifts the tax incidence near to the consumer and benefits the industry through better cash flows and better working capital management.

4 GST to be launched on July 1: Here's all you need to know about the new tax reform, available at http://www.timesnownews.com/business-economy/article/what-is-gst-will-gst-reduce-prices-of-goods-all-you-need-to-know-about-the-good-and-service-tax/56785, accessed on 24.08.2017

5 Goods and Services Tax (GST) Bill, explained, available at http://indianexpress.com/article/explained/gst-bill-parliament-what-is-goods-services-tax-economy-explained-2950335/, accessed on 31.08.2017

- **MORE EXPORT INCENTIVE**

GST is good for export oriented businesses [6]. Because it is not applied for goods/services which are exported out of India. An exporter presently gets the refund/drawback on mostly the central taxes. Now they shall be able to get the refund/drawback of State taxes as well. This will boost export. The reduced tax burden on companies will reduce production cost making exporters more competitive.

- **TRANSPARENCY AND REDUCTION IN CORRUPTION**

GST will lead a more transparent and corruption-free tax administration. Presently, a tax is levied on when a finished product moves out from a factory, which is paid by the manufacturer, and it is again levied at the retail outlet when sold. It can bring more transparency and better compliance. Number of departments will reduce which in turn may lead to less corruption

- **LESSER SLAB RATE ON MASS CONSUMPTION**

In addition to the four rate structure of 5%, 12%, 18% and 28%, there is the exempt category (0%) on articles of mass consumption like unpacked food grains, fresh vegetables, unbranded atta or maida, milk, egg, curds, salt etc [7].

- **UNIFIED MARKET ACROSS STATES**

GST will help in removing tax barriers between States and create a single market. GST will be levied only at the final destination of consumption based on VAT principle and not at various points (from manufacturing to retail outlets). This will help in removing economic distortions and bring about development of a common national market.

- **SEAMLESS MOVEMENT OF GOODS**

Previously goods carriers were required to pay entry tax every time goods were transported into a different state. This was a manual process and because of this reason many times these carriers and trucks had to wait at state borders for clearance purpose. However under the new regime this process have been automated and entry tax has been abolished. Essentially goods will move faster. Interstate movement will become cheaper and less time consuming, as these taxes will be eliminated.

- **REGULATING THE UNORGANIZED SECTOR**

Certain industries in India like construction and textile are largely unregulated and unorganized. GST has provisions for online compliances and payments, and availing of input credit only when the supplier has accepted the amount, thereby bringing accountability and regulation to these industries [8].

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6 Supra note 4

7 Abhishek A. Rastogi and Rashmi Deshpande, The complete guide to understanding India's biggest tax reform the GST, available at https://scroll.in/article/726191/the-complete-guide-to-understanding-indias-biggest-tax-reform-the-gst, accessed on 31.08.2017

8 GST Benefits – Advantages of Goods and Services Tax Bill in India, available at https://cleartax.in/s/benefits-gst, accessed on 28.08.2017

- **HIGHER THRESHOLD FOR REGISTRATION**

As per the previous VAT structure, any business with a turnover of more than Rs.5 lakh (in most states) is liable to pay VAT (different rates in different states). Similarly, for service tax, service providers with turnover less than Rs.10 lakhs are exempted[9]. Under GST this threshold has been increased to Rs.20 lakhs thus exempting many small traders and service providers.

- **COMPOSITION SCHEME FOR SMALL BUSINESSES**

GST also has an optional scheme of lower taxes for small businesses with turnover between Rs.20 to 50 lakhs. It is called the composition scheme. It has now been proposed to be increased to Rs.75 lakhs. This will bring respite from tax burdens to many small businesses .[10]

- **EASE OF DOING BUSINESS**

As of now, India ranks at 130th out of 190 countries in the list of ease of doing business by the World Bank. GST facilitates ease of doing business through the following facilities[11] :

Simple taxation: Currently, a startup spends a lot of time and energy to manage the various taxes at various points. Adhering to different regulations in different States makes the process very complex. GST will simplify the process by integrating all taxes, making the process of paying tax simpler

Ease of registration: Any new business needs to have a VAT registration from sales tax department. A business operating in many States has to face a lot of issues regarding the different procedures and fees in each state. GST will bring about a uniformity in process and centralized registration that will make starting business and expanding in different States much simpler.

Higher Exemption: As per the current indirect tax structure, any business with a turnover of more than Rs five lakh has to get VAT registration and pay VAT. GST will make this limit higher, to upto Rs 10 lakh and, further to it, businesses with turnover between Rs 10 and 50 lakh will be taxed at a lower rates. This will bring rejoice to newly established start up and small businesses.

Businesses in both sales and services: Businesses like restaurants, which fall under both sales and service taxation, have to calculate the VAT and service tax on both items separately. This makes the calculations process very complex. GST will not distinguish between sales and services, and thus the tax calculation will be done on total.

Saving in logistics cost and time : Many transport vehicles get delayed during movement across States due to small border tax and check post issues. Interstate movement will become cheaper and less time consuming, as these taxes will be eliminated. The whole Indian market opens up for manufacturers as interstate supply becomes tax-neutral.

9 Ibid

10 Supra note 8

11 Supra note 3

This will also bring down costs associated with maintaining high stocks, as there will be undisrupted movement of goods. As per a CRISIL analysis, GST can reduce logistics costs of companies producing non-bulk goods (comprising all goods besides the primary bulk commodities transported by railways – coal, iron ore, cement, steel, food grains, fertilizers) by as much as 20 percent.

TEARS OF GST:

- **HIGHER SLAB RATE**

The GST Council has come out with a four rate structure: 5%, 12%, 18% and 28% for the country. Comparing with other countries in the world, the above slab rate is high. For example, France, the Western European country was the first country to implement GST in 1954 and the GST rate is 19.6 per cent. Canada introduced GST in 1991 at a rate of 5 per cent. Japan introduced consumption tax in 1989 at a rate of 3 per cent. In 1997 this was increased to 5 per cent and the Asian country went into recession. In 2012, it doubled the tax to 10 per cent, After 26 years of debate, Malaysia implemented GST in 2015 at 6 per cent. Australia introduced GST in 2000. The rate was fixed at 10 per cent. New Zealand introduced GST in 1986 at a rate of 10 per cent. The rates were changed twice – 12.5 per cent in 1989 and 15 per cent in 2010. Singapore introduced GST in 1994 at a rate of 7 per cent. Austria introduced GST at a rate of 20 per cent, Sweden at 25 per cent and Pakistan at 18 per cent [12]. The full page advertisement issued by the Government authorities claimed that 81% of items fall below/in 18% slab. Previously VAT ranged from 5 to 15% across different States for different products but now the GST slab rates are higher than the previous taxation system.

- **CGST, SGST AND IGST ARE NOTHING BUT NEW NAMES FOR OLD COLLECTING TAXES**

Many countries in the world have a single unified GST system. In India, a dual GST is proposed whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of every transaction of supply of goods and services. GST is being referred as a single taxation system but in reality it is a dual tax in which State and Centre both collects separate tax on a single transaction of sale and service. CGST, SGST and IGST are nothing but new names for old collecting taxes.

- **EXEMPTION OF PETROLEUM PRODUCTS**

Moreover, crude petroleum and its products which contribute to over one-third of all tax revenues in India are out of the GST structure. Industries that require petroleum products for manufacturing cannot input for tax credits which will increase the final price.

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12 Abhinav Ranjan, GST: How India's dual GST model stacks up against other countries, available at http://www.indiatvnews.com/business/india-how-india-s-dual-gst-model-stacks-up-against-other-countries-388680, accessed on 30.08.2017

- **LACK OF IT INFRASTRUCTURE**

Inadequacy of IT infrastructure could pose serious problems in the initial years. As GST is a tax on transactions, which for most business organisations is voluminous, the processes and changes required for GST compliance need to be automated and encapsulated in the IT system. It is learnt that many big businesses have either failed or struggled to achieve IT transformation for having not planned or started early. It would be a mistake to assume that IT software with GST capability from other countries may be adopted wholesale in India, due to peculiarities embedded in the proposed Indian dual GST model.

- **HARDSHIP TO SME**

Additionally, the India GST regime places the small and medium enterprises (SMEs) on the same footing as large-scale industries by keeping the exemption threshold very competitive without any tax differentiation. This poses daunting task ahead for SMEs to be ready to invest, read and change in the same way as any large-scale player, without appreciating the limited resources available with them. GST causes hardships to small businesses, especially with regard to invoice based matching; small businesses will have the burden of giving multiple returns, as many as 37 over a period of one year; they will find it difficult to survive since large businesses that source from them would demand that they be GST compliant so that they are able to adjust tax credits against their tax liabilities. At present the main Indirect tax system of central Government is central excise. All the goods and commodities are not covered by the central excise and further there is an exemption limit of Rs. 1.50 Crores in the central excise and further traders are not liable to pay central excise [13]. The central excise is payable up to the stage of Manufacturing but now GST is payable up to the stage of sale. Majority of dealers are not covered with the central excise but are only paying VAT in the State. Now all the VAT dealers will be required to pay Central Goods and Service Tax.

- **HIGHER BURDEN ON THE CUSTOMERS**

The burden on the consumer is heavy under the new regime. Some commodities of daily use have been imposed 18% and 28% tax rate which will be a clear strain on the budget of middle class and the down-trodden people. The manufacturer, wholesaler and retailer in the supply chain can avail themselves of input tax credit, no such relief is available to the consumer who has to pay GST on the final price of the commodity. The hike in prices of raw material and components resulting from the cost of GST compliance will increase the product price and affect the consumer only. Yet another grievance of consumers is that the tax rate for services has been raised from 15 to 18%. Lastly, it is also apprehended that the choice of products will be restricted for the consumers since many micro, small and medium enterprises (MSMEs) and mini traders are likely to be driven out of business due to their inability to comply with GST norms.

13 Gst with examples, available at http://www.gstindia.com/gst-with-examples/, accessed on 27.08.2017

- **MULTIPLE STATE REGISTRATION**

Businesses are required to register for GST in each state they operate in. As per GST model law, every person has to take separate registration under each state, i.e. if you have the branch in 14 states, then you have to register with each state separately. Further, the worst part is that you need to comply with each registration separately.

- **PROFESSIONAL ASSISTANCE**

New startups or small businesses who lack knowledge of GST may require hiring professionals for managing their taxes. Small businesses, taxpayers do not have much knowledge about online registration and filing returns. They will have to depend on professional assistance as the government has digitized the taxation system. To initiate a payment, filing returns, submissions etc. If you are running any business, there will be chaos and confusion for the next 1 year until the accountants and businessmen understand the rules better[14] .

- **LUXURY ITEMS TO GET COSTLY**

Drinking tea/coffee at branded cafes, staying in hotels with tariff above Rs.7500, electronic devices like TV, washing machine, bikes with engine capacity more than 350 cc, Movie tickets above 100. etc. are costlier with GST. Services are expensive. e.g. Telecom, banking, airline etc.

- **HEFTY COMPLIANCE**

There are three returns per month prescribed under GST regime, i.e. 36 returns per year. Further, the technicalities involved under each return will only bring ambiguity and non-compliance which would ultimately shoot up the compliance cost. This would really impact the small dealer lot [15].

SUGGESTION & CONCLUSION

All around the world, GST has the same concept. In some countries, VAT is the substitute for GST, but conceptually it is a destination based tax on consumption of goods and services. Countries like Australia, New Zealand, Canada, Korea, South Africa and Singapore collect tax at a single standard rate. Of 30 African countries that adopted VAT structure between 1991 and 2010, 23 have a single rate system. The European Union also favours one standard rate. But India adopted a dual GST. Similar to Indian context, it is only Canada that has the concept of dual GST. The Government of Canada has been pragmatic and worked towards reducing the GST rate a couple of times post implementation. It is imperative that a reasonable rate structure is adopted to ensure the success of GST.

One constructive learning that did come handy in the GST preparation in Malaysia was the release of sector specific guidance paper(s) on tax treatment concerning each business sector. It aided in addressing the "to be tax practice" associated with a particular business segment. Indian legislative bodies could look into similar publications to

14 Vivek Pachisia, GST: Lessons from countries that have implemented the Goods and Services Tax, available at http://www.financialexpress.com/economy/gst-lessons-from-countries-that-have-implemented-the-goods-and-services-tax/331289/, accessed on 31.08.2017

15 Supra note 7

effectuate the implementation of GST in a smooth way.

A policy change of such a huge nature is sure to be faced with teething troubles. Almost certainly, change is without a doubt never simple. There is no doubt that GST is aimed at increasing the taxpayer base by bringing SMEs and the unorganized sector under its purview. This will make the Indian market more competitive than before and create a level playing field between large & small enterprises. Further, Indian businesses will be able to better compete with foreign countries. In the meantime, the administration is putting their earnest attempts to smoothen the road to GST. It is advisable to take a close look at the economies that have executed GST before us and vanquished the teething problems that were encountered. If the right lessons are learnt, GST, no doubt can be the biggest reform which would benefit the stakeholders and thereby take the economy to an upward swing.

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Undue Profit Taken Care of: Anti-Profiteering in GST

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&

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Abstract

This paper analysis of the impact of anti-profiteering in India and compares the provision with those in Australia and Malaysia. The paper argues that the anti-profiteering clause should be used both in the interest of the consumer and the businesses so that the latter also grow while protecting the interests of the former. The anti-profiteering profession should be considered as an exception to the general rule rather than the rule itself to ensure the ease of doing business and for it to act as a mechanism to avoid accumulation of profits in a few wealthy hands.

Introduction

The reformation in the Indian economic structure through the enforcement of Goods and Service Tax ('GST') is clearly the relic of 1991 historic reforms. With the unfolding of economy, India became one of the 'market-friendly economies' and since then had started attracting better investment onshore and offshore. Increased stabilization and substantial reduction in fiscal deficit enabled the policy makers to reorient their existing laws to augment seamless flow of goods and services in the nation. The reorientation was to reduce the plethora of complex taxing statutes with respect to indirect taxes and GST was materialized to simplify and to rectify the defects of already existing legislation. Unifying multiple laws, GST through central and state enactments pledged to monitor supply both inter and intra-state. Further, the GST contemplates integration of economy into single market with rationalized tax base, tax impact and incidence for the cost of goods produced and services rendered coupled with improved transparency and simplified compliance costs.

The introduction of GST changed the entire tax ecosystem with respect to supply chain thereby posing new challenges of critical nature for the businesses to divulge into. Further the increased activism of enforcement agencies ensures that the companies have a high level of compliance. The efforts of businesses to ensure such high compliances would result in additional production burden with the price of the end product remaining the same as original rate with no change. Supplementing, no specific penalties were provided by the Act or GST Council for not heeding to the provision. In the light of convoluted anti-profiteering mechanisms and hawking criminal law enforcement machineries, it becomes important for the businesses to have clarity over the clause.

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Hence the researchers of this paper would analyze the impact of anti profiteering in India and compare the provision with Australia and Malaysia thereby providing recommendations to clarify the issue in hand.

Anti-Profiteering- A Jurisprudential View

In the leading-edge, for businesses to survive, the only asset that they can rely upon is the customers. The customers are the king at whose mercy the businesses survive and fit into the ecosystem. In the century where changes are the basic thrust for the tax system of the nation [2] amendments and reorientation have became mandatory to survive in the growing global economy. With changes, new provisions introduced through law require deep understanding of the proposed changes. A unique provision that is proposed with the revolutionary GST is the anti-profiteering clause. The clause forces the businesses to shift the advantage that are received by them due to implementation of GST to be shifted to the consumers. With this newfangled system and contemporary shifting, bringing out balance in the interest of the parties and sidelining them on an arbitral line [3] is necessary.

Jurisprudentially, anti-profiteering are in consonance with the idea of distributive justice [4] wherein the fortunate with more profits had to pass on the same to less fortunate, namely, the customers, to ensure that the tax policies are within the proposed factual matrix. Justice as propounded by Rawls craves for a society where endurance and passion couple to protect the ends .[5] The liberal-egalitarian view looks into the notion of rationality whereby there would be canonical market justice that is rendered. Tapping into the moral relevance for such foundational commitments [6] and ensuring proper compliance are also required for the purposes of ensuring the actual implementation of any given mechanism. The Indian Dharmas and Vedas of ancient history requires proper justice be rendered by the predominant player to the one dependent on them.[7] Fundamentally, the concept of anti-profiteering can be traced back to the well known and established contract law principle, i.e., doctrine of unjust enrichment. The doctrine proposes that when a situation arises where a given entity can possibly be benefitted twice, the same is to be avoided [8] in order to ensure distributive justice. The clause in

2 Joseph Isenbergh, 'Musings on Form and Substance in Taxation (reviewing Boris I. Bittker, Federal Taxation of Income, Estates and Gifts)' (1982) UCLR 862<http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=5043&context=journal_articles> accessed 15 August 2017

3 Richard A. Posner, The Problems of Jurisprudence (First Harvard University Press 1993)

4 John Rawls, Justice as Fairness- A Restatement (Belknap Press 2001) 41

5 Richard Arneson, 'Rawls, Responsibility, and Distributive Justice' in Marc Fleurbaey, Maurice Salles and John A Weymark (eds), Justice, Political Liberalism, and Utilitarianism: Themes from Harsanyi and Rawls (Cambridge University Press 2008) 90

6 Blake, Michael and Mathias Risse, 'Two Models of Equality and Responsibility' (2008) Canadian Journal of Philosophy 38(2) 168 <https://dash.harvard.edu/handle/1/3710803> accessed 15 August 2017

7 D. Himachalam, Consumer Protection in India (The Associated Publishers, Delhi, 2006)

8 Niva Elkin-Koren, Eli M. Salzberger, 'Towards an Economic Theory of Unjust Enrichment Law' International Review of Law and Economics (2000) 563 <http://weblaw.haifa.ac.il/he/Faculty/ElkinKoren/Publications/ economic%20analysis%20of%20unjust%20enrichment.pdf> accessed 16 August 2017

addition also abides by deontological ethical views [9] where it is prescribed that as a sense of moral duty no unjustified profit be held in the hands of those who are morally not the owner of the same. Ancillary to achieving the very essence of the provision lies with the comprehensive cooperation[10] that is required to be rendered by the corporate in India. Hence, the insertion and implementation of anti-profiteering clause and an authority to monitor the same has a justified jurisprudential backing.

Anti-Profiteering- GST View

The conception of anti-profiteering is not new to India. The price control mechanism in the new legislation can be traced back to the West Bengal Anti-Profiteering Act, 1958. The 1958 Act was enacted with the main intention of preventing profit making in specified articles used for daily purposes.[11] In the Act, profiteering was defined to include sale of article at a rate higher.[12] Taking cues from the fifty decade old legislation and from experiences worldwide [13] the new GST regime proposed for a price control authority in the Act to ensure that no consumers suffer from inflated rates due to implementation and fixing of slabs under the new Act. Under GST, to ensure that 'unreasonably high prices'[14] are not charged by the businesses, Section 171 of the GST Act proposed an enabling provision naming it as anti-profiteering clause. This enabling provision along with the powers granted under Section 164 [15] of the GST Act brought about proper rules [16] and authority [17] for the purposes of effective implementation of price control mechanisms. The authority and the clause therein were to gain consumer confidence through creation of consumer welfare fund[18] that would in the long run facilitate the intended reduction in prices to reach the end user.

The main motive of including anti-profiteering clause in GST is directly connected to the ideology incorporated in the Preamble of the Constitution of India wherein achieving socialism[19] is one of the ultimate aims of the people of India. The spirit of insertion of

9 Emily Sherwin, 'Reparations and Unjust E nrichment' Cornell Law Faculty Publications Paper 6 (2004) <http://scholarship.law.cornell.edu/lsrp_papers/6> accessed 16 August 2017

10 Praveen Chakravarthy, 'The GST Anti-Profiteering 'Weapon'' Livemint (Mumbai 25 May 2017) <http://www.livemint.com/Opinion/qubBuuqLrxlj9O7RHftfEN/The-GST-antiprofiteering-weapon.html> accessed 15 August 2017

11 The West Bengal Anti-Profiteering Act 1958, Preamble

12 ibid, s 2 (d)

13 Countries like Canada, New Zealand, Australia and Malaysia have effectively implemented anti-profit clause while introducing their new indirect taxes. For further clarity, detailed study of their impact are made under the head 'Anti-Profiteering- Other Jurisdictional View' of this paper.

14 Wan Heng Choon (PwC), 'GST and Anti-Profiteering- Tackling the Price Issue' The Edge (Malaysia 22 September 2014)

15 Power of the Government to make Rules

16 Anti-Profiteering Rules 2017

17 National Anti-Profiteering Authority

18 'GST Anti-Profiteering Authority to aid Consumer Confidence' Economic Times (Delhi 25 July 2017) <http://economictimes.indiatimes.com/articleshow/59758396.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 16 August 2017

concept of socialism was introduced in the Constitutional 42nd Amendment in 1976, it carried ideals of democracy to be reached to grass-root levels. Before the 42nd Amendment, similar socialist views were found in the Constitution itself, in the form of Directive Principles of State Policy.

socialism was to reduce the socio-economic inequalities to the larger extent possible. With legacies of socialism [20] incorporated in the new section of GST, it could validity be deducted that the legislation was in all forms being consumer oriented. With clear aims to prevent entities from retaining excessive profits along with the input tax credit, the National Anti-profiteering Authority ('NAA') was set up and the entire price rise would eventually be checked by the authority to retain the balance in the cost of the product supplied.[21] The rules in addition have clear provisions of selection of members to the NAA and all other committees that would supplement the working of NAA for proper compliance and investigation of complaints that would be placed before the authority.[22]

Further under the rules if the NAA identifies that an entity registered under the Act has obtained undue profit, various measures can be taken against the same including an order to reduce the prices or to return an equivalent sum along with an interest of eighteen percent from the date on which the sum is collected. In cases, where it is found suitable, the authority is also embedded with powers to impose penalty and have also been vested with inherent right to cancel the registration of the entity. [23] The rules have also prescribed a procedure to be followed to let a complaint be filed with the authority. Initially the complaint would be registered with the State Level Screening Committee, which would verify the correctness of the complaint before the same is passed on to the Standing Committee which in turn would look into the evidence in a time frame of sixty days and would submit the report to the Director General. [24] The report that reached the hands of the Director General of Safeguards would further be investigated in a schedule of ninety days and a final order would be passed for or against the entity.[25] All the information submitted by the parties to the authority would be maintained confidential and be monitored by the Central Tax Authority if required.

Anti-Profiteering- Other Jurisdictional View

GST anti-profiteering authority as a theory and practice has been practiced internationally and has produced varied results. This section of the paper would focus on such international experiences to enhance the understanding of the need for an effective authority in India. Australia was the first country to enact such provisions [26] on similar lines when it effectively substituted its indirect taxes with a common GST[27] in July 2000. Under the significant Act, there was an authority constituted and entrusted

20 Shubhang Setlur, 'Behind GST's Anti-Profiteering Provisions, a Legacy of Indian Socialism' The Wire (Bangalore, 4 July 2017) <https://thewire.in/153989/gsts-anti-profiteering-provisions-lndian-socialism/> accessed 16 August 2017

21 Anti-Profiteering Rules 2017, Rule 8- Duties of the Authority

22 ibid, Rule 3, Rule 4- Constitution of Authority, Standing Committee and Steering Committee

23 ibid, Rule 8 (3) read with Rule 14 (3)

24 ibid, Rule 9

25 ibid, Rule 10

26 Dr Sanjiv Agarwal, Anti-Profiteering in GST Law to Prevent Undue Profit to Industry (Economic Times, 28 June 2017) <http://auto.economictimes.indiatimes.com/news/industry/opinion-anti-profiteering-in-gst-law-to-prevent-undue-profit-to-industry/59332459> accessed 17 August 2017

27 Australia, A New Tax System (Goods and Services Tax) Act 1999

with the task of initiating and investigating claims against businesses for undue increase in prices of the products. [28] Additionally it becomes pertinent to note that even before such authority came into existence due to the GST rollout, the Australian Competition and Consumer Commission ('ACCC') was charged with a due responsibility to monitor the stability of prices for one year before the actual commencement of GST[29] to ensure that the task of price control is kept in track by the new authority without much of a hassle.

One of the important assignments undertaken by such authority is to raise consumer awareness about the alternatives and available substitutes and recourses to avoid and escape from such price exploration.[30] Further, the profiteering mechanism of Australia was flexible taking into account the facts and circumstances of each business customer relationship. The authorities under the Australian regime had recourses to varied options to compensate the customers as and when required. There were instances of successful implementation of idea of free services or donation of undue profit in cases where the authorities are not able to trace the original customers who indeed have to be compensated. [31] With the climate of competitive marketing and good corporate citizenship among the vast majority of businesses [32] the authority and the step towards undue profiteering was rather a success in Australia.

One of the closest and recent examples that can be cited here is Malaysia which implemented GST in the year 2015 and also brought in anti-profiteering [33] provision to raise consumer confidence and monitor business behavior in the changing tax environment. The introduction of such provisions was in trace of a law that existed in the past [34] to ensure that the companies have not made unreasonably high profits under any given circumstances. The provisions were to be in force for a certain period; however, the Government has extended the validity of the regulations and of the authority to monitor the rates of the end product in order to see that maximum number of consumers move towards the GST era. Due to varied extensions, for whatever reasons, there were widespread issues of litigation and administrative difficulties in implementation. Hence it becomes pertinent to take note of international experiences in regard to anti-profiteering before an actual conclusion is made.

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28 ACCC Publishing Unit Australia, GST Final Report ACCC Oversight of Pricing Responses to the Introduction of the New Tax System 10-12

29 ibid

30 Vatsal Khullar, 'GST Rates and Anti-Profiteering' (The PRS Blog, 24 May 2017) <http://www.prsindia.org/theprsblog/?p=3758> accessed 17 August 2017

31 Bruce Hamilton and Bonny Teo, 'Taking a Look at the Anti-Profiteering Regulations' (Deloitte Blog, 11 July 2015) <https://www2.deloitte.com/my/en/pages/tax/articles/antiprofiteering-regulations.html> accessed 18 August 2017

32 Prakit Jain, 'GST: Anti-Profiteering Measures Necessary?' (Livemint, 1 January 2017) <http://www.livemint.com/Opinion/hXzUdJlsSzwBynLEJ4sETJ/GST-antiprofiteering-measures-necessary.html> accessed 18 August 2017

33 Price Control and Anti-Profiteering Regulations 2014, Malaysia was brought in force in tune with the GST laws of that nation.

34 Price Control Anti-Profiteering Act 2011, Malaysia

Anti-Profiteering- Issues to be addressed

The Goods and Services Tax Act introduced in India, is an Act with a definitive import. However, it has certain lacunae to be considered for it to work at its best. With the insertion of anti-profiteering clause, rules were introduced to ensure that the tax benefits were passed on to the consumers. Unfortunately, the rules seemed to have been drafted in haste and are so vaguely worded with no clarity with respect to determination of what constitutes 'commensurate'. The rules have also failed to prescribe onus on any party and left to the presumption that the one who initiates the complaint would initially have to prove that there is misuse of the new tax regime. To be specific, Rule 7 of the Anti-Profiteering Rules, 2017 have not proposed any methodology or procedure to arrive at a conclusion of profiteering due to GST. The ample discretion given without any formula to decide the extent of profiteering would lead to more appeals that would further burden the pendency of suits. Moreover, the state legislation that was passed six decades ago in West Bengal for the purposes of anti-profiteering has not created an impact in designing the consumer welfare for the state. Hence, it does not deserve to be suggested as a proper role model after sixty years of its existence.

With un-necessitated ample powers, the NAA would find itself relevant only during the transition phase and would find itself out of scene since there already exists Competition Commission of India to monitor price control and encourage healthy competition through a distinct law enacted for that purpose. The NAA would also be seriously criticised on the grounds that there is constant and unwanted interference in private companies' business matters and would also require large resources to do data analysis that the authority might not be able to do in the due course of time. Additionally, there were varied aspects that were left open which requires a lot of fine tuning. With respect to penalties and determination of the same, there are no yardsticks laid down. The rules clearly do not provide for the mechanism to compute the benefit not do they explain the method of administration of the entire authority. Moreover, the method of computation of profit and its relation whether to the product or to the entity either at the manufacture level or at the supply level remains an unanswered question. Given an economy where competition and open market plays a predominant role in price control, it is of utmost importance to bring in a level playing field for the tax payers, businesses and tax collectors. As a word of final caution, the clause should also be used against the GST authorities who might use it for purposes of undue tax collection that would increase the revenue of the treasury and GDP growth.

Conclusion

Implementation of GST was mainly to bring a uniform taxing system that would eventually bring down the prices of the goods. When prices fluctuate due to unruly competition, then there might be many cartels between companies and might result in cascading of taxes that GST ultimately was thought to bring to an end. Hence, there is a strict monitor required and this clause being a deterrent clause has to be used not only in the interest of the consumer but also for the businesses to survive without bringing in a negative growth. Further, the clause is enabling in nature and it requires reduction in tax incidence to reach consumers while doing so that would result in fair and reasonable situations for the businesses to be credible in the environment. The anti-profiteering provision should be considered as an exception to the general rule rather than the rule in itself to ensure ease of doing business and for it to act as a mechanism to avoid accumulation of profits in few wealthy hands. As parting thought, the anti-profiteering provisions if mentored properly would provide socio-economic justice to achieve the state of lassie-faire.

GST AND ITS IMPACT ON CONSUMERS

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Abstract

India's new regime of Goods & Service Tax (GST) is a comprehensive tax system levied on manufacturing, sale and consumption of the goods and services at a national level. It aims to do away with multiple - tax regime (i.e.) subsumes all indirect taxes and brings them under 'a uniform single tax market'. It is based on the Destination Principle, which means 'applied at the place where actual consumption happens'. Generally, a business always wants its all goods to be produced, warehoused and sold. For this to happen, other than machines and employees, it needs a consumer, who is the last person in the supply chain. Under GST, there will be no cascading effect of taxes (i.e.) no tax on tax paid on inputs. In this way, it helps the consumer in bringing down the prices of goods. It enables the consumer to know the actual value for the goods purchased and the tax paid for such goods, thereby brings transparency. Nearly 50% of the basic goods come under 0% slab rate. So for such goods, the consumer need not want to pay tax. These are all some positive impacts of GST on the consumer. But, it too has some negative impacts. While all others in the supply chain can avail input tax credit, for the consumer there is no such relief and the GST is to be paid on the final price of the goods. Since the GST rates are in 5%, 12%, 18% and 28% slab rates with additional cess for demerit and luxury goods, the consumer have the chance to pay higher tax for some goods. The tax rate for services has also risen from 15 to 18%, thereby making it costlier. In the light of the above it is time to probe into the impact of the GST on Indian Consumers. This paper is an attempt in that direction.

Key words: Goods & Service Tax, Indirect Tax, Consumer, Transparency, Input tax credit, Slab rate.

Introduction

India's new regime of Goods and Services Tax (GST) would be a very significant step in the field of existing indirect tax structure. It confers power to the parliament and state legislatures in making laws for levying tax. It is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set-of benefits. It simplifies life for consumers by making taxes more transparent and eliminating double taxation.

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GST

GST is a comprehensively structured uniform rate of tax system levied on manufacturing, sale and consumption of the goods and services at a national level. It aims to do away with multiple - tax regime (i.e.) subsumes all indirect taxes and brings them under 'a uniform single tax market'.

It is based on the Destination Principle, which means 'applied at the place where actual consumption happens'. At each stage of sale or purchase in the supply chain, this tax is collected on value-added goods and services, through a tax credit mechanism.

Need for GST Model in India

Following are the supporting reasons to adopt GST:

1. Present system allows for multiplicity of taxes, but GST is likely to rationalize it.
2. Many areas of Services are untaxed, but GST will cover all services.
3. Avoid distortions caused by present complex tax structure and will help in development of a common national market.

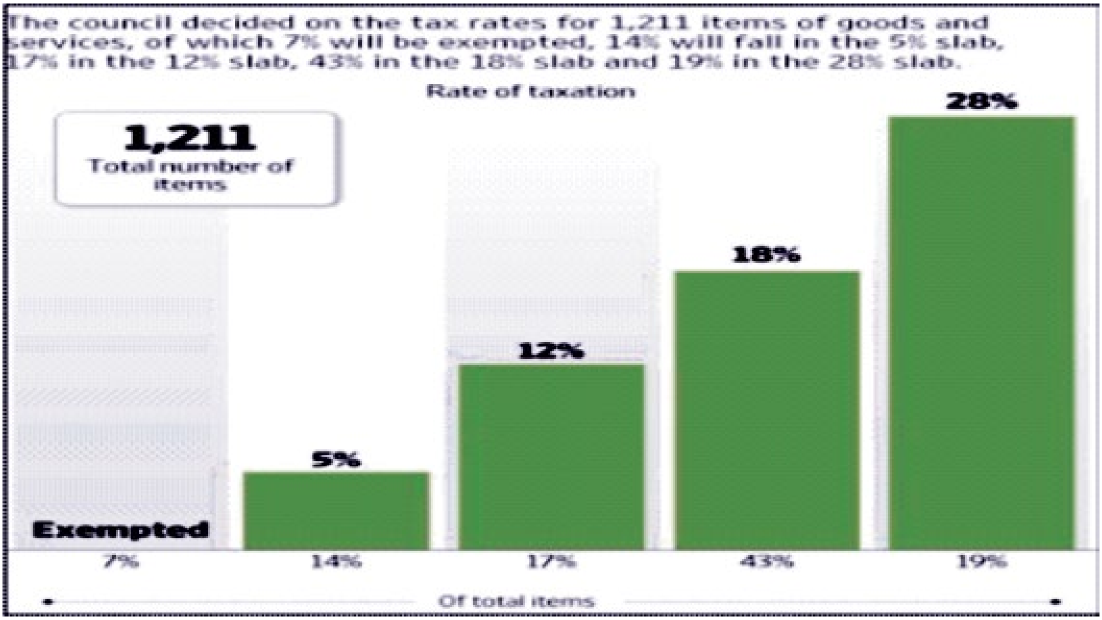
GST Rates

The rates of individual commodities were in the 4 approved slab rates i.e. 5%, 12%, 18% and 28% with additional cess for demerit and luxury goods. In addition to these 4 slab rates, there is an exempt category of 0% slab rate on articles of mass consumption. They are as follows in the below table:

S.No.	Different Slab Rates	Goods	Services
1	No Tax	No taxes will be levied on goods like milk, fruits, vegetables, bread, salt, curd, natural honey, bangles, handloom, besan, flour, eggs, stamps, printed books, judicial papers, and newspapers.	All hotels and lodges who carry a tariff below Rs. 1,000 are exempted from taxes.
2	Tax Slab of 5%	• Goods include skimmed milk powder, fish fillet, frozen vegetables, coffee, coal, fertilizers, tea, spices, pizza bread, kerosene, medicines, agarbatti, insulin, cashew nuts, lifeboats etc.	• Small restaurants along with transport services like railways and airways.

3	Tax Slab of 12%	• Goods include frozen meat products, butter, cheese, ghee, pickles, ayurvedic medicines, sausage, fruit juices, tooth powder, umbrella, instant food mix, cell phones, sewing machine etc.	• All Non-AC hotels, business class air tickets will attract a tax of 12%.
4	Tax Slab of 18%	• Most of the goods are part of this tax slab. • Some of them are flavored refined sugar, cornflakes, pasta, pastries and cakes, preserved vegetables, tractors, ice cream, sauces, soups and mineral water.	• All those AC hotels which serve liquor, IT and Telecom services, financial services and branded garments.
5	Tax Slab of 28%	• Over 200 goods will be at a rate of 28%. • Goods include deodorants, chewing gum, hair shampoo, sunscreen, pan masala, dishwasher, weighing machine, vacuum cleaner, automobiles, hair clippers, motorcycles etc.	• Services include, five-star hotels, racing, movie tickets and betting on casinos and racing.

Various GST slab rates



GST tax rates for goods and services

[Source: http://www.livemint.com/Politics/oQoh4do5NxoCn8t4YUS5SP/GST-Council-finalises-tax-rates-on-goods-services.html]

Working of GST

Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST, a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

Mechanism of GST

[Source: http://www.resultuniraj.co.in/gst-detailed-explanation/]

Structure of the Proposed GST

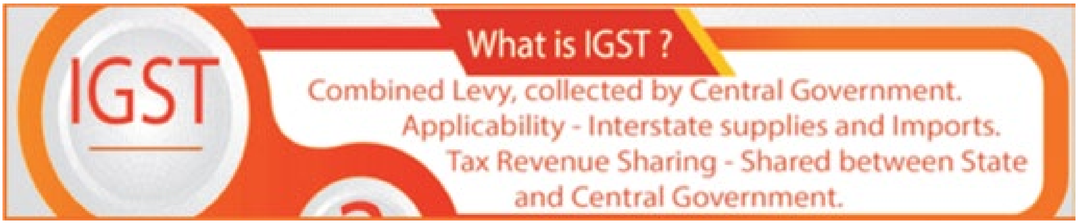
1. Dual GST: Keeping in mind the federal structure of India, there will be 2 major components of GST - Central GST (CGST) & State GST (SGST). Both centre and states will simultaneously levy GST across the value chain. Centre will levy as well as collect CGST. States would levy and collect SGST on all transactions within a state.

Types of taxes under GST

[Source:http://blogs.tallysolutions.com/how-gst-different-from-current-tax-structure/]

Input tax credit of CGST will be available for paying the CGST liability on the output at each stage. Similarly the credit of SGST paid on inputs would be allowed for paying the SGST on output.

2. Inter-State transaction (i.e.) Integrated Goods and Services Tax (IGST) mechanism: Designed to ensure seamless flow of input tax credit from one state to another. The centre will levy and collect the IGST on all inter-state supply of goods and services.



IGST

[Source: http://blogs.tallysolutions.com/how-gst-different-from-current-tax-structure/]

3. Central taxes to be subsumed:

i) Central Excise Duty,

ii) Additional Excise Duty,

iii) The Excise Duty levied under the medicinal and toiletries preparation,

iv) Service Tax,

v) Additional custom duty commonly known as countervailing duty (CD),

vi) Special additional duty of custom (SAD).

4. State taxes to be subsumed:

i) VAT / Sales Tax,

ii) Central Sales Tax (levied by the centre and collected by the respective state),

iii) Entertainment Tax,

iv) Octroi and Entry Tax,

v) Purchase tax,

vi) Luxury tax,

vii) Taxes on lottery, betting and gambling.

Indirect taxes subsumed under GST at Central and State level

[Source: https://byjus.com/free-ias-prep/goods-services-tax-gst-one-nation-one-tax-2-for-upsc-current-affairs

5. Destination-based consumption tax: Implies that all SGST collected will ordinarily add to the state where the consumer of the goods or services sold resides.

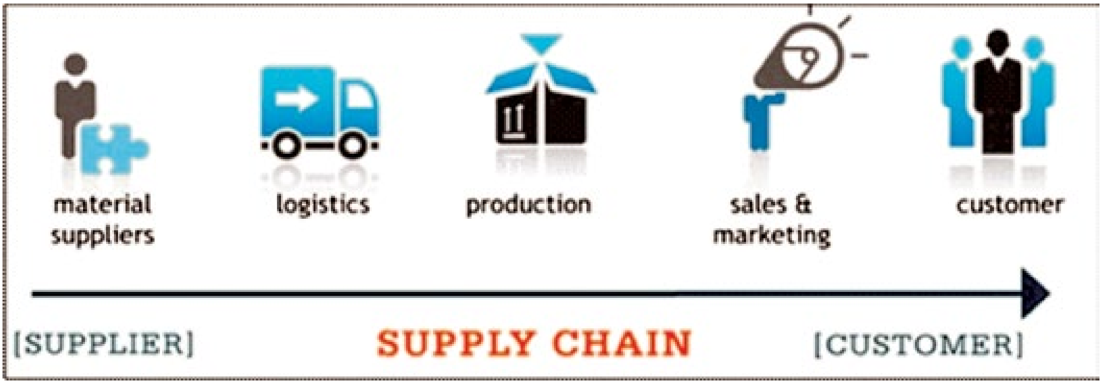
6. All goods and services, except alcoholic liquor for human consumption, will be brought under the purview of GST. Petroleum and petroleum products have been constitutionally included as goods under GST. However, such products shall not be subject to the levy of GST without the consensus of GST council.

Goods exempted under GST

[Source: https://byjus.com/free-ias-prep/goods-services-tax-gst-one-nation-one-tax-2-for-upsc-current-affairs]

Consumer - A Big Player in Business

Generally, a business always wants its all goods to be produced, warehoused and sold. For this to happen, other than machines and employees, it needs a consumer, who is the last person in the supply chain. Without consumers to purchase the goods; there would be no economic system, no demand for the goods and ultimately producers would lack a key motivation to produce the goods, which is to sell on to consumers.



Consumer at the Supply Chain

[Source: http://startupmechanics.in/supply_chain.html]

Positive impacts of GST on the consumer

1. Under GST, there will be no cascading effect of taxes (i.e.) no tax on tax paid on inputs. In this way, it helps the consumer in bringing down the prices of goods.
2. It subsumes all the other smaller indirect taxes on consumption. So, consumer will buy more goods and thereby, it lead to an increase in the demand (or) consumption of goods.
3. Since, there is a single tax on the supply of goods & services, right from the manufacturer to the end consumer; it enables the consumer in knowing about the actual value for the goods purchased and the tax paid for such goods; thereby brings transparency.
4. Nearly 50% of the basic goods come under 0% slab rate. So for such goods, the consumer need not want to pay tax.
5. Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down and benefit consumers.

Negative impacts of GST on the consumer

1. While all others in the supply chain can avail input tax credit; for the consumer, there is no such relief and the GST is to be paid on the final price of the goods.
2. Since the GST rates are in 5%, 12%, 18% and 28% slab rates with additional cess for demerit and luxury goods, the consumer have the chance to pay higher tax for some goods.
3. Some commodities of daily use have been imposed under 18% and 28% tax rate. Thus, it makes burden on the middle class and down-trodden people to buy such commodities.
4. The tax rate for services has risen from 15 to 18%, thereby making it costlier. And also, 90% of the services are placed in 18% slab rate, which is of marginal increase.

Conclusion

Overall, the GST regime is targeted to lessen the compliance burden, reconstruct the taxing liability and make it more consumer-friendly which subsequently support the country's economy and GDP positively. To conclude, GST will reshape India's indirect tax structure into 'One Nation, One Tax' concept.

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Part - B

APPENDIX

Press Information Bureau
Government of India
Ministry of Finance

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Frequently Asked Questions (FAQs) on Goods and Services Tax (GST)

Following are the answers to the various frequently asked questions relating to GST:
Question 1.What is GST? How does it work?

Answer: GST is one indirect tax for the whole nation, which will make India one unified common market.

GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

Question 2. What are the benefits of GST?

Answer:The benefits of GST can be summarized as under:

- **For business and industry**
  - Easy compliance: A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.
  - Uniformity of tax rates and structures: GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.
  - Removal of cascading: A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.
  - Improved competitiveness: Reduction in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.
  - Gain to manufacturers and exporters: The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

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- **For Central and State Governments**
  - Simple and easy to administer: Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.
  - Better controls on leakage: GST will result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of GST that would incentivize tax compliance by traders.
  - Higher revenue efficiency: GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.

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- **For the consumer**
  - Single and transparent tax proportionate to the value of goods and services: Due to multiple indirect taxes being levied by the Centre and State, with incomplete or no input tax credits available at progressive stages of value addition, the cost of most goods and services in the country today are laden with many hidden taxes. Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.
  - Relief in overall tax burden: Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.

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Question 3. Which taxes at the Centre and State level are being subsumed into GST?

Answer:
At the **Central** level, the following taxes are being subsumed:

a. Central Excise Duty,
b. Additional Excise Duty,
c. Service Tax,
d. Additional Customs Duty commonly known as Countervailing Duty, and
e. Special Additional Duty of Customs.

At the **State** level, the following taxes are being subsumed:

a. Subsuming of State Value Added Tax/Sales Tax,
b. Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States),
c. Octroi and Entry tax,
d. Purchase Tax,
e. Luxury tax, and
f. Taxes on lottery, betting and gambling.

Question 4. What are the major chronological events that have led to the introduction of GST?

Answer: GST is being introduced in the country after a 13 year long journey since it was first discussed in the report of the Kelkar Task Force on indirect taxes. A brief chronology outlining the major milestones on the proposal for introduction of GST in India is as follows:

a. In 2003, the Kelkar Task Force on indirect tax had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle.
b. A proposal to introduce a National level Goods and Services Tax (GST) by April 1, 2010 was first mooted in the Budget Speech for the financial year 2006-07.
c. Since the proposal involved reform/ restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road Map for the implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).
d. Based on inputs from Govt of India and States, the EC released its First Discussion Paper on Goods and Services Tax in India in November, 2009.
e. In order to take the GST related work further, a Joint Working Group consisting of officers from Central as well as State Government was constituted in September, 2009.
f. In order to amend the Constitution to enable introduction of GST, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. As per the prescribed procedure, the Bill was referred to the Standing Committee on Finance of the Parliament for examination and report.
g. Meanwhile, in pursuance of the decision taken in a meeting between the Union Finance Minister and the Empowered Committee of State Finance Ministers on 8th November, 2012, a 'Committee on GST Design', consisting of the officials of the Government of India, State Governments and the Empowered Committee was constituted.
h. This Committee did a detailed discussion on GST design including the Constitution (115th) Amendment Bill and submitted its report in January, 2013. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill in their meeting at Bhubaneswar in January 2013.
i. The Empowered Committee in the Bhubaneswar meeting also decided to constitute three committees of officers to discuss and report on various aspects of GST as follows:-
    (a) Committee on Place of Supply Rules and Revenue Neutral Rates;
    (b) Committee on dual control, threshold and exemptions;
    (c) Committee on IGST and GST on imports.
j. The Parliamentary Standing Committee submitted its Report in August, 2013 to the Lok Sabha. The recommendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined in the Ministry in consultation with the Legislative Department. Most of the recommendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the draft Amendment Bill was suitably revised.
k. The final draft Constitutional Amendment Bill incorporating the above stated changes were sent to the Empowered Committee for consideration in September 2013.
l. The EC once again made certain recommendations on the Bill after its meeting in Shillong in November 2013. Certain recommendations of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee in March, 2014.
m. The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST introduced in the Lok Sabha in March 2011 lapsed with the dissolution of the 15th Lok Sabha.
n. In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government.
o. Based on a broad consensus reached with the Empowered Committee on the contours of the Bill, the Cabinet on 17.12.2014 approved the proposal for introduction of a Bill in the Parliament for amending the Constitution of

India to facilitate the introduction of Goods and Services Tax (GST) in the country. The Bill was introduced in the Lok Sabha on 19.12.2014, and was passed by the Lok Sabha on 06.05.2015. It was then referred to the Select Committee of Rajya Sabha, which submitted its report on 22.07.2015.

Question 5.How would GST be administered in India?

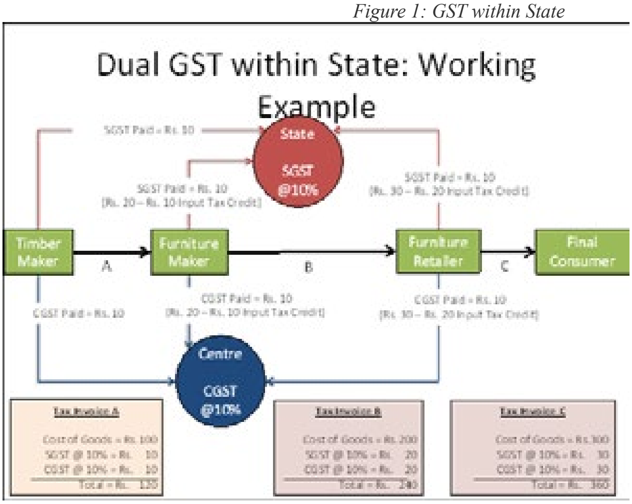
Answer: Keeping in mind the federal structure of India, there will be two components of GST – Central GST (CGST) and State GST (SGST). Both Centre and States will simultaneously levy GST across the value chain. Tax will be levied on every supply of goods and services. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State. The input tax credit of CGST would be available for discharging the CGST liability on the output at each stage. Similarly, the credit of SGST paid on inputs would be allowed for paying the SGST on output. No cross utilization of credit would be permitted.

Question 6.How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?

Answer :The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except on exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Further, both would be levied on the same price or value unlike State VAT which is levied on the value of the goods inclusive of Central Excise.

A diagrammatic representation of the working of the Dual GST model within a State is shown in Figure 1 below.

Figure 1: GST within State



Question 7.Will cross utilization of credits between goods and services be allowed under GST regime?

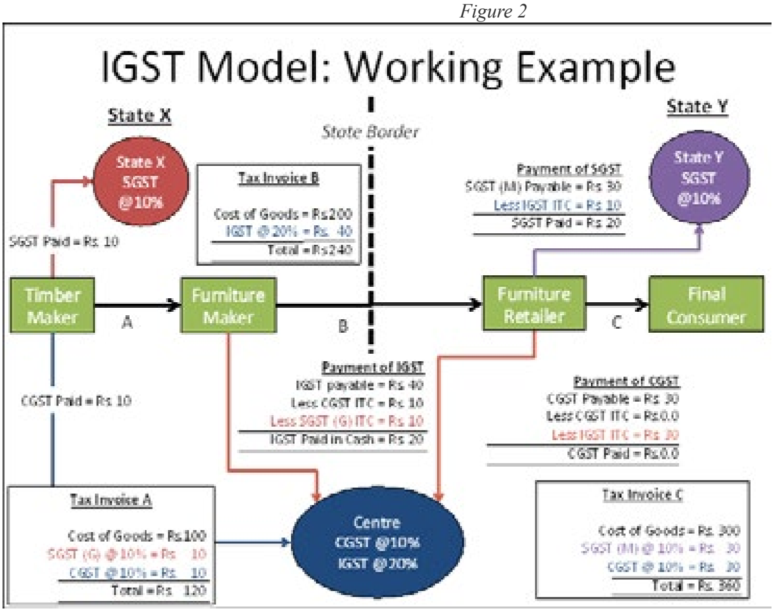
Answer :Cross utilization of credit of CGST between goods and services would be allowed. Similarly, the facility of cross utilization of credit will be available in case of SGST. However, the cross utilization of CGST and SGST would not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained in answer to the next question.

Question 8.How will be Inter-State Transactions of Goods and Services be taxed under GST in terms of IGST method?

Answer:In case of inter-State transactions, the Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supplies of goods and services under Article 269A (1) of the Constitution. The IGST would roughly be equal to CGST plus SGST. The IGST mechanism has been designed to ensure seamless flow of input tax credit from one State to another. The inter-State seller would pay IGST on the sale of his goods to the Central Government after adjusting credit of IGST, CGST and SGST on his purchases (in that order). 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 (both CGST and SGST) in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST.Since GST is a destination-based tax, all SGST on the final product will ordinarily accrue to the consuming State.

A diagrammatic representation of the working of the IGST model for inter-State transactions is shown in Figure 2 below.

Figure 2



Question 9.How will IT be used for the implementation of GST?

Answer: For the implementation of GST in the country, the Central and State Governments have jointly registered Goods and Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central and State Governments, tax payers and other stakeholders. The key objectives of GSTN are to provide a standard and uniform interface to the taxpayers, and shared infrastructure and services to Central and State/UT governments.

GSTN is working on developing a state-of-the-art comprehensive IT infrastructure including the common GST portal providing frontend services of registration, returns and payments to all taxpayers, as well as the backend IT modules for certain States that include processing of returns, registrations, audits, assessments, appeals, etc. All States, accounting authorities, RBI and banks, are also preparing their IT infrastructure for the administration of GST.

There would no manual filing of returns. All taxes can also be paid online. All mis-matched returns would be auto-generated, and there would be no need for manual interventions. Most returns would be self-assessed.

Question 10.How will imports be taxed under GST?

Answer :The Additional Duty of Excise or CVD and the Special Additional Duty or SAD presently being levied on imports will be subsumed under GST. As per explanation to clause (1) of article 269A of the Constitution, IGST will be levied on all imports into the territory of India. Unlike in the present regime, the States where imported goods are consumed will now gain their share from this IGST paid on imported goods.

Question 11.What are the major features of the Constitution (122nd Amendment) Bill, 2014?

Answer :The salient features of the Bill are as follows:

g. Conferring simultaneous power upon Parliament and the State Legislatures to make laws governing goods and services tax;

h. Subsuming of various Central indirect taxes and levies such as Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, and Special Additional Duty of Customs;
i. Subsuming of State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, and Taxes on lottery, betting and gambling;
j. Dispensing with the concept of 'declared goods of special importance' under the Constitution;
k. Levy of Integrated Goods and Services Tax on inter-State transactions of goods and services;
l. GST to be levied on all goods and services, except alcoholic liquor for human consumption. Petroleum and petroleum products shall be subject to the levy of GST on a later date notified on the recommendation of the Goods and Services Tax Council;
m. Compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years;
n. Creation of Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, taxes, cesses and surcharges to be subsumed, exemption list and threshold limits, Model GST laws, etc. The Council shall function under the Chairmanship of the Union Finance Minister and will have all the State Governments as Members.

Question 12.What are the major features of the proposed registration procedures under GST?

Answer:The major features of the proposed registration procedures under GST are as follows:

i. **Existing dealers**: Existing VAT/Central excise/Service Tax payers will not have to apply afresh for registration under GST.
ii. **New dealers**: Single application to be filed online for registration under GST.
iii. The registration number will be PAN based and will serve the purpose for Centre and State.
iv. Unified application to both tax authorities.
v. Each dealer to be given unique ID GSTIN.
vi. Deemed approval within three days.
vii. Post registration verification in risk based cases only.

Question 13.What are the major features of the proposed returns filing procedures under GST?

Answer: The major features of the proposed returns filing procedures under GST are as follows:

a. **Common return** would serve the purpose of both Centre and State Government.
b. There are eight forms provided for in the GST business processes for filing for returns. Most of the average tax payers would be using only four forms for filing their returns. These are return for supplies, return for purchases, monthly returns and annual return.
c. **Small taxpayers**: Small taxpayers who have opted composition scheme shall have to file return on quarterly basis.
d. Filing of returns shall be completely online. All taxes can also be paid online.

Question 14.What are the major features of the proposed payment procedures under GST?

Answer: The major features of the proposed payments procedures under GST are as follows:

i. Electronic payment process- no generation of paper at any stage
ii. Single point interface for challan generation- GSTN
iii. Ease of payment – payment can be made through online banking, Credit Card/Debit Card, NEFT/RTGS and through cheque/cash at the bank
iv. Common challan form with auto-population features
v. Use of single challan and single payment instrument
vi. Common set of authorized banks
vii. Common Accounting Codes

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DSM/AR

Frequently Asked Questions (FAQs) on Goods and Services Tax (GST)

Q. What is GST?

A. GST stands for Goods and Services Tax. GST will be a single destination based consumption tax that will replace existing taxes, including CENVAT, Octroi, Sales Tax, and Excise Duty, etc. Unlike the old tax structure, where the state of origin received tax revenue, in the new GST model the state in which goods and services are consumed is the state that will receive the revenue.

Q. What will trigger GST?

A. The 'supply' of goods and/or services to any person or entity in India.

Q. What does 'supply' mean?

A. The sale, transfer, barter, exchange, license, rental, lease or disposal of goods and services.

Q. What are the types of GST?

A. CGST: Central Goods and Services Tax, paid on all transactions, collected by the Center

SGST: State Goods and Services Tax, paid on all transactions within a State, collected by the States

IGST: Integrated Goods and Services Tax, paid on all inter-state transactions, or import of goods into India, collected by the Center

Q. When will GST come into effect?

A. The expected GST introduction date is July 1, 2017.

Q. How will I pay GST?

A. GST will be managed through the GST Network, GSTN – http://gstn.org/. All taxes will be paid online and there will be no manual filing of returns. Post generation of challan online, you can pay GST by one of the following modes – Axis Debit/credit card, Axis Internet Banking or cash/cheque at any Axis Bank branch.

Q. What are the taxes proposed to be subsumed under GST?

A. The central taxes proposed to be subsumed under CGST include:

- Central Excise duty
- Additional Excise duties
- Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Service Tax levied under Chapter V of the Finance Act, 1994
- Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- Special Additional Duty of Customs (SAD)
- Central Sales Tax
- Surcharges
- Central cesses.

The state taxes proposed to be subsumed under GST are:

- VAT/Sales tax
- Entertainment tax (unless it is levied by the local bodies)
- Luxury tax
- Taxes on lotteries, betting and gambling
- State cess and surcharges in so far as they relate to supply of goods and services
- Entry tax
- Octroi.

Q. Is GST charged on exported goods and services?

A. No, GST is a consumption based tax. Because the place of consumption is outside India there is no GST on exported goods and services.

Q. Will there be a Central and State GST levied on all transactions in India?

A. Yes, every transaction of supply in India will either be subject to:

CGST and SGST

OR

CGST and IGST

Unless the good or service is exempt.

Q. What goods and services are exempt?

A. The list of exempt goods and services includes (but is not limited to) petroleum products, entertainment and amusement, alcohol/liquor for human consumption, stamp duty, customs duty, and electricity.

Q. When does 'supply' occur?

A. For *goods* it's the earliest of the following

- Date of removal of goods
- Date goods are made available to the recipient
- Date the invoice is issued
- Date payment is received
- Date recipient reflects the goods on his/her books of accounts

For *services* it's the earliest of the following:

- Date the invoice is issued
- Date payment is received
- Date services are completed (where invoice is not issued within a prescribed time)
- Date recipient reflects the goods on his/her books of accounts

Q. How can payment be done?

A. Payment can be done by the following methods:
(i) Through debit of Credit Ledger of the taxpayer maintained on the Common Portal- ONLY Tax can be paid. Interest, Penalty and Fees cannot be paid by debit in the credit ledger.

Tax payers shall be allowed to take credit of taxes paid on inputs (input tax credit) and utilize the same for payment of output tax. However, no input tax credit on account of CGST shall be utilized towards payment of SGST and vice versa. The credit of IGST would be permitted to be utilized for payment of IGST, CGST and SGST in that order.

(ii) In cash by debit in the Cash Ledger of the taxpayer maintained on the Common Portal. Money can be deposited in the Cash Ledger by different modes, namely, E-Payment (Internet Banking, Credit Card, Debit Card); Real Time Gross Settlement (RTGS)/ National Electronic Fund Transfer (NEFT); Over the Counter Payment in branches of Banks Authorized to accept deposit of GST

Q. Which are the mode of payments through which dealer can pay their tax?

A Three modes of payment through which dealers can pay their tax are as follows----
a) Payment by taxpayers through Internet Banking (Retail Internet Banking and Corporate internet Banking) through authorized banks.
b) Payment by taxpayers through credit card/debit card;

c) Over the Counter payment (OTC) through authorized banks; (available for payments up to Rs. 10,000/- per challan only.)
d) Payment through NEFT/RTGS .

Q. What is E challan?

A. E Challan is the challan generated through GSTN portal. The dealer has to enter his challan details in the portal and take the print out of the challan for payment of GST.

Q. What are the methods of online generation Draft challan for the payment of taxes?

A. The methods of online generation of draft challans are as follows---
a) By Registered tax payer or his authorized person by logging on to GSTN Common Portal where basic details (such as name, address, email, mobile no. and GSTIN) of the tax payer will be auto populated in the challan;
b) By authorized representatives of tax payers by logging on to the GSTN Common Portal where after the list of registered taxpayers represented by him will be displayed. He can select any tax payer on whose behalf he proposes to pay GST and challan details for such tax payer will be auto populated;
c) By grant of temporary Registration number by any one Tax authority on GSTN Common Portal which can be used by both the tax authorities for facilitating tax payments on behalf of an unregistered person. Such a situation can arise during enforcement action by a tax authority and this temporary registration can be later converted into a regular registration number (GSTIN) if the tax payer has a regular GST liability to discharge after the enforcement action
d) By creation of a challan without requirement of USER ID and Password, for enabling payment of GST by a registered or an unregistered person on behalf of a taxpayer as per the directions of the tax authority using the GSTIN (like the present provision under Service tax).

Q. Can the dealer generate challan in multiple sittings?

A. Yes , The tax payers can partially fill in the challan form and temporarily “save” the challan for completion at a later stage. A saved challan can be “edited” before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The remitter will have option of printing the challan for his record.

Q. Will there be any Unique no given to the challan?

A. The challan so generated will have a 14-digit (yymm followed by 10-digit) Unique Common Portal Identification Number (CPIN), assigned only when the challan is finally generated, this will help the portal and other authorities in identifying the challan. The CPIN would be a running serial number to be initialized every calendar month. After the challan is generated, it will be frozen and will not be allowed to be modified.

Q. Is there any validity for Common Portal Identification Number (CPIN) number?

A. The CPIN/challan so generated would be valid for a period of seven days. In case of payment through NEFT/RTGS, CPINs would remain live with RBI for a period of 30 days. GSTN would purge all unused CPINs on the day immediately after the date on which the validity period is over (i.e. 7 days if CC/DC and OTC payment is selected and 30 days if NEFT/RTGS is selected for payment)

Q. Will there be any service charges for Credit Card/Debit Card payment?

A Yes there will be service charges for Credit Card/Debit Card payment .The exact charge is calculated separately by the gateway service provider. The gateway provider should collect this amount separately over and above the challan amount. The challan amount is fully credited to respective Government accounts maintained with the authorised bank (acquiring bank for CC/DC payments), while the gateway charges is retained back by the gateway provider.

Q. Is the pre registration of credit card necessary in the GSTN portal for the GST payment?

A. The taxpayer would be required to pre-register his credit card, from which the tax payment is intended, with the GSTN system. GSTN may also attempt to put in a system with banks in getting the credit card verified by taking a confirmation from the credit card service provider. The payments using credit cards can therefore be allowed without any monetary limit to facilitate ease of doing business.

Q. After the successful completion of payment will there be any new number given to the dealer?

A. After the successful completion of a transaction, the concerned bank will create a unique Challan Identification Number (CIN) against the CPIN. This will be a unique 17-digit number containing 14-digit CPIN generated by GSTN for a particular challan and unique 3-digit Bank code (MICR based which will be communicated by RBI to GSTN).

Q. What is the process for over the counter payment of GST through authorized banks?

A. Every tax payer who wants to avail the facility of OTC payment (only for paying tax upto Rs. 10,000/- per challan), will access GSTN for generation of a challan through which payment is to be made. Upon creation of the draft challan, the taxpayer will fill in the details of the taxes that are to be paid. From the available payment options, the taxpayer would select option of cheque, DD or cash based payment. The name of the authorized bank and its location (city/town/village) where the instrument/cash is to be presented is required to be filled in necessarily. No outstation cheques are to be accepted except those which are payable at par at all branches of bank having presence at that location.The challan so generated will have a Unique Common Portal Identification Number (CPIN),assigned only when the challan is finally generated, that will help the portal and other authorities in identifying the challan. GSTN will inform the challan details including validity period to the CBS (Core Banking System) of the selected bank on a real time basis.

Q. What will be the payment date in case of GST payment through Cheque/DD?

A. In case of cheques/DD, the date of realization of amount will be the payment date.

Q. Will B2B transactions be subject to GST?

A. Yes, all procurement will be subject to GST but businesses will get a credit for B2B transactions. Please note that GST will have to be paid before a credit is received.

Q. What is an Input Tax Credit?

A. The taxes you pay on input goods/services can be used as an Input Tax Credit (ITC) against output tax liabilities.

Q. How can Input Tax Credits be applied?

A. Input tax credits can be used as follows:

- CGST input tax credits can only be used to pay CGST and IGST
- SGST input tax credits can only be used to pay SGST and IGST
- IGST input tax credits can be used to pay CGST, SGST, and IGST

This means you will need to maintain separate records of ITC utilization or refund of credit for State and Center taxes.

Q. Will stock transfers subject to GST?

A. Yes, stock transfers between two states within the same organization will trigger GST.

Q. How will returns and replacement products be handled?

A. Returns will trigger a tax credit, however, replacement products will be subject to GST, so cash flow may be impacted by returns.

Q. Are promotional items and/or free samples subject to GST?

A. Yes, the stock transfer of promotion materials and/or free samples will be subject to GST, and supply of those promotion materials/free samples to the retailers who stock your product, or end customers, will also be subject to GST.

Q. How and when should the returns be filed?

A. A common e-return for CGST, SGST and IGST is proposed in the draft law. Returns, that allow the auto-population of data from the vendors and automated matching of invoices, shall be filed online by a normal/casual taxpayer in a sequential manner within different cut-off dates. The various due dates proposed for the filing of returns are as follows:

S.No.	Return/Ledger	Description of Applicable Form	Due Date
1	GSTR1	Outward supplies made by taxpayer (other than compounding taxpayer and ISD)	10^{th} of the next month
2	GSTR2	Inward supplies received by a taxpayer (other than a compounding taxpayer and ISD)	15^{th} of the next month
3	GSTR3	Monthly return (other than compounding taxpayer and ISD)	20^{th} of the next month
4	GSTR4	Quarterly return for compounding Taxpayer	18^{th} of the month next to quarter
5	GSTR5	Periodic return by Non-Resident Foreign Taxpayer	Last day of registration
6	GSTR6	Return for Input Service Distributor (ISD)	13^{th} of the next month
7	GSTR7	Return for Tax Deducted at Source	10^{th} of the next month
8	GSTR8	Annual return	31^{st} December of next financial year

It may be noted that most of the returns are auto generated by the GSTN system and the dealer is expected to validate the data and also fill in the missing data. It is also to be noted that the payment of the tax due, is a must for filing valid returns under the GST regime.

Q. When is payment of taxes to be made by the Supplier?

A. Payment of taxes by the normal taxpayer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the taxpayer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. As mentioned earlier, payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th of

April. Composition tax payers will need to pay tax on quarterly basis. Timing of payment will be from 0000 Hrs to 2000 Hrs.

Q. Whether time limit for payment of tax can be extended or paid in monthly installments?

A. No, this is not permitted in case of self-assessed liability. In other cases, competent authority has been empowered to extend the time period or allow payment in installments.

Q. What happens if the taxable person files the return but does not make payment of tax?

A. In such cases, the return is not considered as a valid return. Model GST Law (MGL) provides that the return furnished by a taxable person shall not be treated as valid return unless the full tax due as per the said return has been paid. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

As per section 28 of MGL, a taxable person who has not furnished a valid return shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

Q. What is the sequence of payment of tax where that taxpayer has liabilities for previous months also?

A. Section 35(8) prescribes an order of payment where the taxpayer has tax liability beyond the current return period. In such a situation, the order of payment to be followed is: First self-assessed tax and interest for the previous period; thereafter self-assessed tax and interest for the current period; and thereafter any other amounts payable including any confirmed demands under section 51. This sequence has to be mandatorily followed.

Q. How to apply for refund of IGST, CGST or SGST? What is the procedure for applying refund of GST interest?

A.Refund of GST or interest on GST has to be applied online.

Q. Can we file supporting documents for claiming refund of CGST, SGST or IGST? Is supporting documents filing for claiming interest on GST allowed online?

A.Yes, supporting documents for claiming GST refund or Interest on GST also need to be filed along with application for refund of CGST, SGST, IGST or GST interest.

Q. When is the last time limit to claim GST refund claim? Explain the time limit for refund of GST paid in India?

A.The time limit for refund of GST paid is within two years.

Q. Can we claim GST interest refund after two years of payment?

A.No. GST interest paid has to be claimed within 2 years of its payment.

Q. Is refund of accumulated ITC allowed in case of exports?

A.Yes, refund of accumulated ITC allowed in case of exports or where the credit accumulation is on account of inverted duty structure.

Q. How long will take to get refund of GST?

A.If application for refund of CGST, IGST or SGST is in order with supporting documents, amount of refund of GST is granted within 90 days from the date of application for refund.

Q. Is interest on claimed amount of GST amount paid, if refund delayed after 30 days of applying?

A.Yes, if all documents for GST refund are in order, interest is paid, if GST authority not settled refund claim.

Q. How long will take to sanction claim for interest on GST?

A.If application for refund of GST interest is in order with supporting documents, amount of refund of GST interest is granted within 90 days from the date of application for refund. If not settled within 90 days of its application, interest is eligible from GST tax authority for such delay.

Q. When can an exporter get refund of GST claim? How long will take to get refund of GST after applying online with supporting documents?

A.If application for GST refund is in order with supporting documents, immediate sanction of 80% of claim of GST refund is sanctioned provisionally by GST tax authority to exporters.

Q. How does GST tax authority send refund of GST or interest? Is it by cash, cheque or bank account?
A.GST refund is credited with the beneficiary's bank account, once sanctioned by GST authorities.

Q. Who are GST Suvidha Provider or GSP?

A. GSTN has developed a robust platform for taxpayers to access the GST Systems, however, that would not be the only way for interacting with the GST system as the taxpayer via his choice of third party applications, which will provide all user interfaces and convenience via desktop, mobile, other interfaces, will be able to interact with the GST system. The third party applications will connect with GST system via secure GST system APIs. All such applications are expected to be developed by third party service providers who have been given a generic name, GST Suvidha Provider or GSP.

List of government approved GSPs

S.No	Company Name
1	Alankit limited
2	Bodhtree Consulting limited
3	Botree Software International Pvt. Ltd.
4	Central Depository Services (India) Limited
5	Computer Age management services Private Limited
6	Cygnet Infotech Private Ltd
7	Deloitte Touche Tohmatsu India LLP
8	Ernst & Young LLP
9	Excellon Software Pvt. Ltd.
10	GOFRUGAL TECHNOLOGIES PRIVATE LIMITED
11	Hazel Mercantile Limited
12	IRIS BUSINESS SERVICES LIMITED
13	Karvy Data Management Services Limited
14	Mastek Limited
15	Masters India Private Limited
16	MothersonSumi infotech & Designs Ltd.
17	NSDL e-Governance Infrastructure Limited
18	RAMCO SYSTEMS LIMITED
19	Reliance Corporate IT Park Limited
20	Seshaasai Business Forms Private Limited
21	Shalibhadra Finance Limited
22	SISL Infotech Pvt. Ltd.
23	Skill Lotto Solutions Pvt. Ltd.
24	Spice Digital Limited
25	Sugal & Damani Utility Services Private Limited
26	Tally solutions Private

	Limited
27	TATA consultancy services Limited
28	Taxmann Publication Pvt. Ltd.
29	Tera Software Limited
30	Trust Systems & Software (I) Pvt. Ltd.
31	Vayana Private Limited
32	Velocis Systems Pvt. Ltd.
33	Vertex Customer Management India Private Limited
34	WeP Solutions Limited

FAQ on Registration for GST

Q. What is GSTIN?

A. Goods and Services Tax Identification Number (GSTIN) is a 15 digits state-wise PAN-based number to be used to identify businesses registered under GST.

Q. How does GST apply to business?

A.GST regulations are applicable if your annual turnover is Rs. 20 lakh or above. In case of North Eastern states (Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, and Tripura) and hilly regions i.e. Himachal Pradesh, Uttarakhand, Jammu & Kashmir and Sikkim, the threshold limit is Rs. 10 lakh.

The registration is mandatory on crossing the annual turnover limit of Rs.19,00,000 (for special category states it is Rs. 9,00,000).

Key pointers:

- If your turnover includes supply of only those goods/services which are exempt under GST, then registration is not required

- While calculating the turnover both taxable and non-taxable goods and services are to be included
- One registration shall be required for each state. The taxpayer can choose to get separate registrations for its different business verticals in the State.

Q. What are the cases where GST registration is mandatory irrespective of turnover?

- Those making **inter-state supply of goods/services**
- Any person who supplies goods/services in a taxable territory and has no fixed place of business – referred to as **casual taxable persons**. Registration issued to such a person is valid for a period of 90 days.
- Any person who supplies goods/services and has no fixed place of business in India – referred to as **non-resident taxable persons**. Registration issued to such a person is valid for a period of 90 days.
- Person required to pay tax under **reverse charge mechanism**. Reverse charge mechanism means where the person receiving the goods/services has to pay tax instead of the supplier.
- **Agents** or any other person who makes supply on behalf of other registered taxable persons
- **Distributors or input service distributors.** This person has the same PAN as the office of the supplier. This person is an officer of the supplier, he receives supplies and issues tax invoice to distribute credit of CGST/SGST/IGST.
- **E-Commerce Operator**
- Persons **who supplies** (except branded services) via an **e-commerce operator**
- **Aggregator** supplying services under his brand name
- Person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person.

Case. I run a tours and travel agency in Assam. My annual turnover is Rs. 8 lakh. Do I need to register under GST?

A. Businesses in the Northeastern and hill states with annual turnover below Rs.10 lakh have been kept out of the GST net. Since your turnover is not exceeding the limit of Rs. 10 lakh, GST registration is not mandatory for you. In following cases registration is mandatory even if turnover limit has not been crossed:

- For claiming input of the tax paid on purchase from supplier
- If your supplier is registered under GST and wants to claim the credit of his purchase, he can do so only if you are able to issue a GST invoice, thus GST registration becomes mandatory in the case

Case. I run a departmental store in an Indian state and my business is already registered under State VAT(State Value Added Tax). Do I need to apply for fresh registration under GST?

A. If you are an existing taxpayer you will be transitioned to GST which simply means that now you will be considered as registered under GST. Initially, a provisional registration ID will be allotted which will be replaced by Final Registration ID on fulfillment of government conditions.

Q. Who is an existing taxpayer?

A. An existing taxpayer is an entity currently registered under any State or Central laws, like Value Added Tax Act, Central Excise Act and Service Tax Act. Existing taxpayers include taxpayers already registered under :-

1. Central Excise
2. Service Tax
3. State Sales Tax or VAT (except exclusive liquor dealers if registered under VAT)
4. Entry Tax
5. Luxury Tax
6. Entertainment Tax (except levied by the local bodies)

Q. Do i need PAN to apply for GST registration?

A. PAN is mandatory to apply for GST registration.

Q. For login to the GST Common Portal, can I use the username and password which I use to login as State Registrant?

A. No, you cannot use the username or password that you use to login to the State VAT Portal.

For the first time login to the GST Common Portal, you need to provide the username and password that you received from the State VAT or Centre Tax Department. For subsequent login, you need to create a username and password during enrolment at the GST Common Portal. You can then use the username and password that you created to login at the GST Common Portal.

Q. Which information and documents are required to enrol with GST?

A. Before enrolling with the GST Common Portal, you must ensure to have the following information:

- Provisional ID received from State/ Central Authorities
- Password received from the State/ Central Authorities
- Valid E-mail Address
- Valid Mobile Number
- Bank Account Number
- Bank IFSC

Documents

Sr. No.	Documents	File Size Format	Maximum Allowable Size
1.	Proof of Constitution of Business • In case of Partnership firm: Partnership Deed • In case of Others: Registration Certificate of the Business Entity	PDF / JPEG	1 MB
2.	Photograph of Promoters/ Partners/ Karta of HUF	JPEG	100 KB
3.	Proof of Appointment of Authorized Signatory	PDF / JPEG	1 MB
4.	Photograph of Authorized Signatory	JPEG	100 KB
5.	Opening page of Bank Passbook/ Statement containing Bank Account Number of < Account Number>, Address of Branch, Address of Account holder and few transaction details	PDF / JPEG	1 MB

Q. Earlier I had opted for composition scheme under VAT. Is the concept of composition scheme still there under GST?

A.Yes, the entities with an annual turnover of Rs 50 lakh and less can avoid collecting GST by opting for the Composition Levy.

Q. Is there any time Limit for GST Registration?

A. Yes, GST is applicable from 1st July, 2017 and the registration limit is until 31st Jan 2017.

Q. Who is a non-resident taxable person under GST?

A. When you occasionally make supply of goods/services as a principal or agent or any other capacity, in a taxable territory, where GST applies but you don't have a fixed place of business in India. As per GST you will be treated as a non-resident taxable person. Key pointers:

- Registration shall be valid for 90 days.
- It can be further extended by 90 days.
- An advance deposit of tax liability for the period of registration must be made. Additional tax must be deposited if extension of registration is sought.
- This tax deposited shall be used like 'input credit'.

Q. Who is a 'casual taxable person?

A. If you occasionally make supply of goods/services as a principal or agent or any other capacity, in a taxable territory, where GST applies but where you don't have a fixed place of business. As per GST you will be treated as a casual taxable person.

Q. What is the concept of Composition Levy?

A. To help small businesses avoid the hassles of collecting GST, claiming input credit etc the Model GST law has proposed a simpler levy. This levy is called **Composition Levy**.

- Those with turnover of **Rs 50 lakhs or less** can opt for this levy. (Note that this is optional).
- Instead of collecting GST you will pay a certain % of levy. This **levy or tax will be not less than 1% of the turnover of the financial year**. The government will announce the levy % in due course.
- This levy cannot be availed by those who make inter-state supply of goods/services. It can only be availed by those who make **intra-state supply of goods/services**
- This **levy is linked to your PAN**. So if you have opted it for a business with a particular PAN, composition levy shall apply to all your businesses with the same PAN
- **No input credit** shall be allowed to be claimed by you
- **GST or any other tax shall not be collected by you** from the recipient of your supplies.

Q. How will business returns be filed under GST Law?

A. Under the GST law, a normal taxpayer will be required to furnish three returns monthly and one annual return. Similarly, there are separate returns for a taxpayer registered under the composition scheme and a taxpayer registered as an Input Service Distributor.

Q. Who are exempted from GST Registration?

A. The following shall not be required to obtain registration, and will be allotted a UIN (Unique Identification Number) instead. They can receive refund of taxes on notified supplies of goods/services received by them:

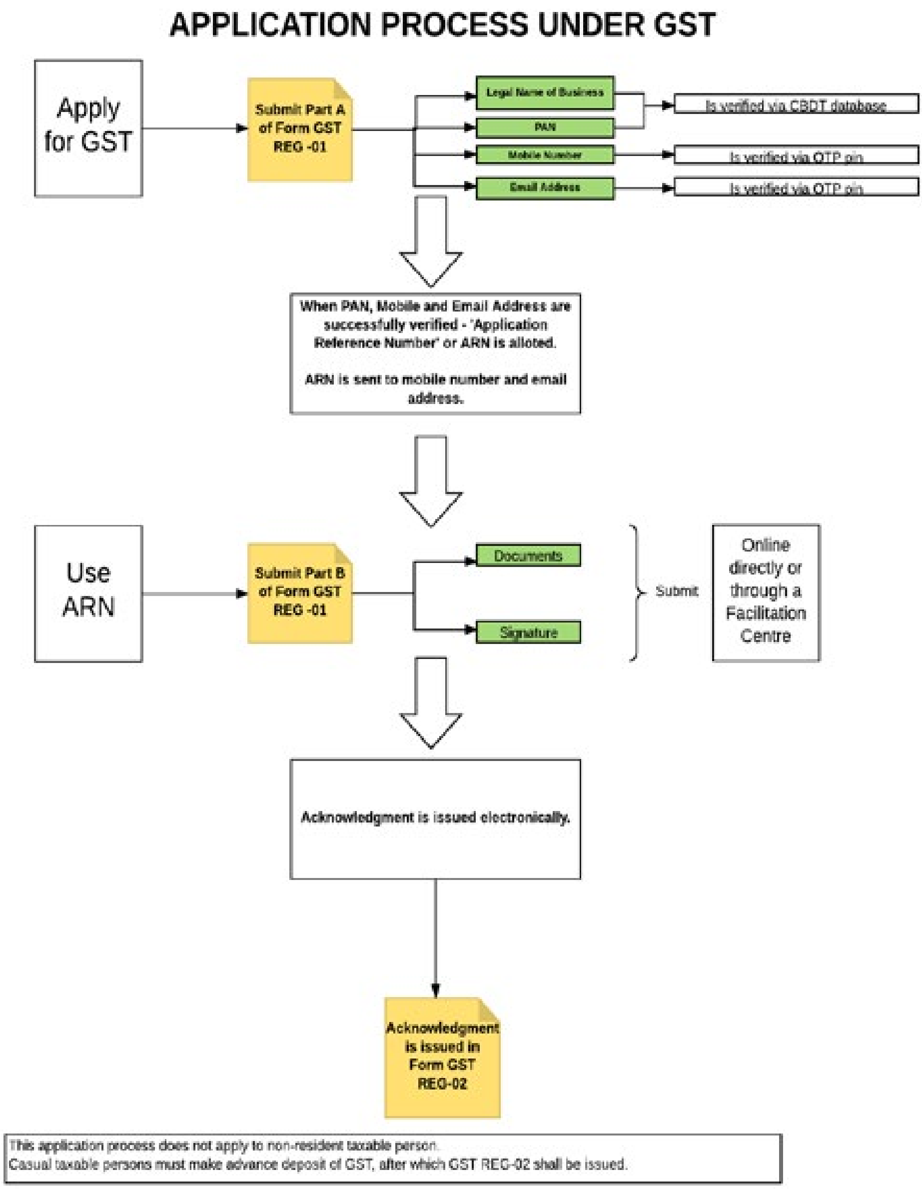
- Any specialised agency of UNO (United Nations Organisation) or any multilateral financial institution and organisation notified under the United Nations Act, 1947
- Consulate or Embassy of foreign countries
- Any other person notified by the Board/Commissioner
- The central government or state government may, based on the recommendation of the GST council, notify exemption from registration to specific persons.

Q. What would the process of registration be under the proposed GST regime for new businesses/applicants?

A. Each taxpayer will be allotted a state-wise Permanent Account Number (PAN) ba
Goods and Services Taxpayer Identification Number (GSTIN). Those tax payers who
registered under the current state or central tax regime, will be migrated to the co
and granted GST registration suo motto with a request to provide additional inforn
required online.

A new applicant would be allowed to apply for registration on the common portal
enrollment. Once a complete application is submitted online, a message asking for
confirmation of the data submitted will be sent through e-mail and SMS to the aut
signatory of the applicant. On receipt of such a confirmation from the authorised s
acknowledgement number would be generated and intimated to the applicant. On
application is approved and the GSTIN is generated, the same along with Log-in ID
temporary password will be sent to the authorized signatory.

A.



Steps for applying for GST

- Every person, other than a non-resident taxable person who wants to register under GST must provide his Permanent Account Number (PAN), mobile number and e-mail address in Part A of FORM GST REG-01.
    - The PAN shall be validated online via the Common Portal from the database maintained by the Central Board of Direct Taxes
    - The mobile number is verified through a one-time password sent to the said mobile number.

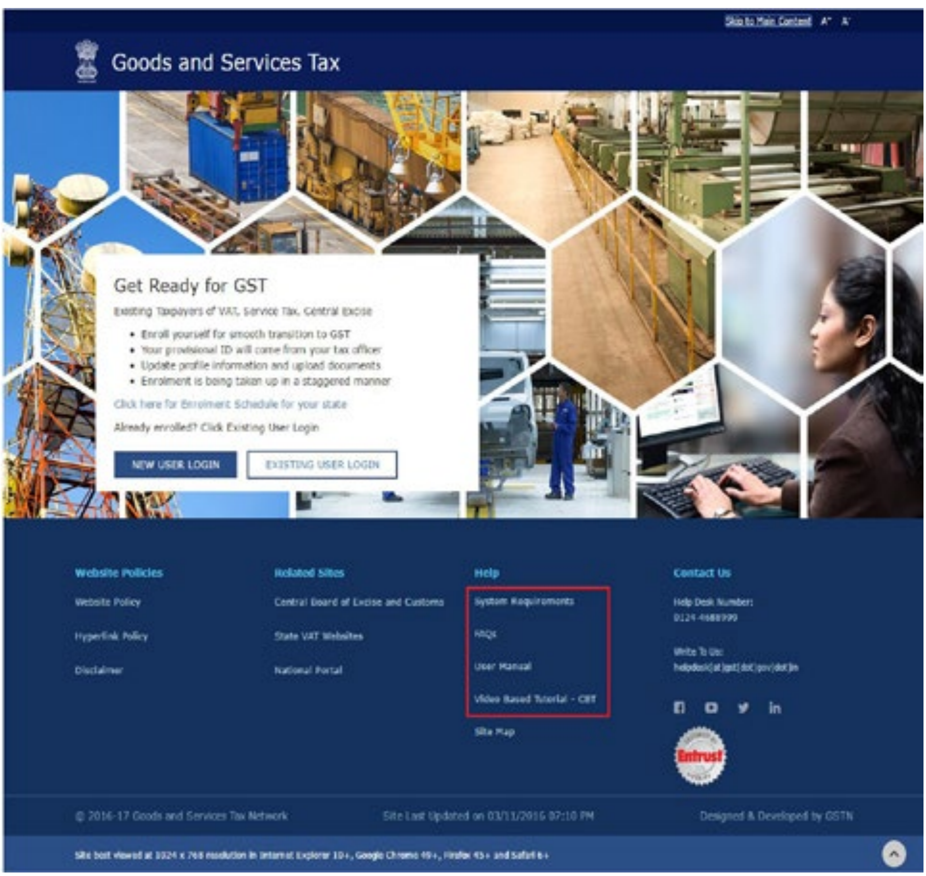
- The e-mail address is verified through a separate one-time password sent to the said e-mail address.

- On successful verification of the PAN, mobile number and e-mail address, an application reference number (ARN) is generated and sent on the mobile number and e-mail address provided.
- Using the application reference number or ARN generated Part B of FORM GST REG-01 has to be submitted. It must be signed and documents specified in the Form must be submitted at the Common Portal either directly or through a Facilitation Centre, notified by the Board.

Q. How can I view a full guide on registration?

A. To view the artefacts, you need to perform the following steps:

1. Access the www.gst.gov.in URL. The GST Home page is displayed.
2. Under the **Help** menu given below the GST Home page, click the relevant artefact option. The relevant artefact is displayed.



Email FAQs -I

The emails were received by the GST Policy Wing from various sources and were scrutinized and developed into short FAQs. It should be noted that the emails received or the replies quoted are only for educational and guidance purposes and do not hold any legal validity.

S.No.	Query	Reply
Composition		
1	Whether a person can avail the composition scheme on Small Retail Trading of goods if he is holding both incomes like Sale of business: Rs.25 lakh (Small Retail Trader) and Rental income: Rs.12lakhs, whereas the person was registered earlier in VAT Composition Scheme and was paying Service Tax on rental income?	Renting is a service and supplier of service, except restaurant service, cannot opt for composition scheme. Since you are supplying both goods & services, you are not eligible for composition scheme.
2	Can traders selling on ecommerce portals avail composition scheme if their turnover is less than 75 lakhs?	No, Sub-section (2) of section 10 refers.
Exports		
3	Whether every registered person who intends to export requires fresh Bond/LUT even if the same was issued on or before 30 Jun, 2017 and is still live i.e. not one year old.	Circular No. 4/4/2017 - GST dated 07.07.2017 clarifies this. Old LUT/bond is valid till 31.07.2017, after which fresh LUT/Bond in the new format is required to be submitted.
4	Some assessees had multiple central excise registrations under the earlier regime and were having different LUT/ Bond for each premises. In GST, there will be single registration for such assesses. Do they require furnishing fresh bond/LUT for their principal place of business or the existing Bond/LUT issued to them prior to 30.06.2017 shall be applicable for the export purpose.	Circular No. 4/4/2017 - GST dated 07.07.2017 clarifies this. Old LUT/bond is valid till 31.07.2017, after which fresh LUT/Bond in the new format is required to be submitted.

5	With reference to clause 5 of Rule 96 A as inserted vides Ntf No. 15/2017 – Central Tax dated 01st July 2017 "(5) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond." It may be clarified as to whether any conditions and safeguard has been notified by the Board as on date, as certain parties have filed LUT for export in this office	Yes, conditions and safeguards have been specified by Notification No. 16/2017-Central Tax dated 07.07.2017 and clarified in detail in Circular No. 4/4/2017 - GST dated 07.07.2017. The sum and substance of these documents is that the facility of Letter of Undertaking in place of a bond is available to a registered person who is either (a) a status holder as specified in the Foreign Trade Policy 2015-2020; or (b) who has received the due foreign inward remittances amounting to a minimum of 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year. The person should not have been prosecuted for any offence under the Central Goods and Services Tax Act, 2017 (12 of 2017) or under any of the existing laws in a case where the amount of tax evaded exceeds two hundred and fifty lakh rupees.
6	In case of export of services, who will pay the service tax as for Bhutan, Nepal and Bangladesh?	The place of supply is outside India but as the supplier is located in India, it is a case of inter-State supply and subject to IGST. It will be zero rated if the sale proceeds are realized in convertible foreign exchange.
7	Will GST be debited in duty credit scrips such as Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS)?	No.
8	In view of definition of 'export of goods' given in Section 2(5) of the IGST Act, 2017, the supply of goods by the manufacturer to merchant exporter cannot be treated as exports as he is not taking out the goods out of India. He is supplying the goods to the merchant-exporter. Therefore, is the manufacturer required to pay CGST and SGST in all cases of exports by merchant-exporter even though the goods are being sealed in container for export from the premises of manufacturer-exporter? Does the merchant-exporter have the option either to avail option of Bond/LUT or to pay IGST for export of such goods?	Yes The manufacturer would be liable to pay CGST and SGST. The merchant-exporter has the option either to avail option of Bond/LUT or to pay IGST for export of such goods. There is no provision on the lines of Form H under the CST Act in the GST.

9	As per Rule 96A of Central Tax, the LUT is to be accepted by the Jurisdictional Commissioner, Udaipur whereas in pre GST era the same was accepted by the jurisdictional Deputy/Assistant Commissioner Kota. The Commissioner of Kota region has office at Udaipur which is 290 Kilometers away from Kota due to which it is impractical to file LUT at Udaipur with Commissioner as compared to previous procedure.	Circular No. 2/2/2017-GST dated 04.07.2017 has clarified that an exporter wishing to export without payment of integrated tax may approach the jurisdictional AC/DC for acceptance of bond/LUT. Circular No. 4/4/2017-GST dated 07.07.2017 has further clarified that the bond /LUT shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter.
10	As per sub-rule 5 of rule 96A of Central Tax Rule, Board will notify where LUT is to be furnished in place of Bond. Since Board has not notified so far, therefore, this office is of the view that Bond is to be furnished in all cases as of now. Please clarify	The Board has, vide Notification 16/2017-Central Tax dated 07.072017, specified the conditions and safeguards under which an exporter may file a LUT instead of a bond.
11	Whether in case of assesses exporting goods under LUT in Central Excise Act 1944, can export goods after 01.07.2017 under GST on the basis of the said LUT filed under Central Excise Act, 1944 until that LUT expires.	In terms of Para 6 of Circular No. 4/4/2017 dated 07.07.2017 exports are allowed under existing LUTs/Bonds till 31st July 2017. Exporters shall submit the LUTs/bond in the revised format latest by 31st July, 2017.
12	There is lack of clarity in the trade regarding the eligibility conditions for the LUT/Bond as per the Notification No. 16/2017 – Central Tax. Para i(b) of the said notification requires the exporter to receive the due foreign inward remittances amounting to a minimum 10% of the export turnover, which should not be less than one crore rupees, in the preceding financial year. It is not clear for the exporters having an export turnover of say Rs. 5 Crore. For such people whose 10% of the export turnover is below one crore, what is the implication? Are those exporters who have received their total due inward remittance of e.g. Rs. 5 Crore eligible for availing the facility of LUT?	Condition i(b) in the said Notification means that: the registered person should have received at least 10% of his/her export turnover as foreign inward remittance in the preceding financial year and the foreign inward remittance in the preceding financial year should not be less than one crore rupees. E.g. if a registered person has an export turnover in FY 2016-17 of Rs. 5 crores and has received foreign inward remittance of Rs. 5 crores in the same FY, then he shall satisfy Condition i(b), and shall be eligible for execution of LUT.
Invoice & Returns		
13	If an Assessee has two or more units with single registration, how the invoices are to be maintained viz., separate invoices unit wise or single invoice for all units ?	He can issue unit-wise invoice also. But there should not be any duplication in numbering system.

14	Do we have clarity on when invoice data uploading will begin on the GSTN?	Government is ready to launch this. However, a simpler return called GSTR-3B has also been devised due to the demands from the trade and industry for extension of time limit for filing of normal returns.
15	Would head offices providing centralized HR, Finance and IT functions also need to raise invoices to its branches?	Yes, if the head office and branches are distinct persons as specified in section 25(4), invoice is required to be issued and GST should also be paid.
16	Kindly clarify the accounting treatment of Credit Note while raising Invoice after implementation of GST?	For the purpose of GST law, credit note can be issued to reduce the taxable value or to reduce tax payable or to claim goods return, where the relevant invoice had already been issued and taxable value or tax charged in that tax invoice is in excess. Section 34 of CGST Act, 2017 may be referred to for further details.
17	Whether any trader having turnover of less than Rs. 20 lakh needs to sell his goods on proper invoice/billing?	Only registered persons are required to issue tax invoices as per provision of Section 31 read with rules. An unregistered person may supply goods on ordinary commercial invoices and he cannot issue tax invoice.
18	What is the procedure/documents required for sending free replacement to the customers at free of cost?	Where free replacement is provided to the customers without consideration under warranty, no GST is chargeable on such replacement. In such cases goods may be sent on delivery challan as provided in rule 55 of the CGST Rules, 2017.
19	If we are only dealing in exempted items what is the type of invoice we are required to issue to our buyers? Is it bill of supply or regular GST Invoice?	You may issue a commercial invoice in such cases. However, if you are a registered person, you may issue a bill of supply for exempt supplies.
20	How the invoicing should be done for free goods given along with sale so that corresponding input tax credit is not required to be reversed for products under scheme?	Invoice value would include value of all goods including those supplied free. In such cases, ITC is not required to be reversed.
21	Under GST, how to send demonstration equipment and instruments to customers or branch offices with in India on returnable basis? – No sale is involved	As the goods are sent on returnable basis and no transfer of title is involved, it is not a supply of goods. If some element of service is involved, the same will be a taxable supply. The goods may be sent on delivery challan without invoice as it is not a supply of goods.
22	How to send equipment and instruments to manufacturers' factory for repairs and calibration with in India on returnable basis? – No sale is involved.	Challan for movement of goods without supply is to be issued in terms of Rule 55 of CGST Rules.

23	Clarification is sought on the following: Revision in GSTR Returns	Mistakes can be corrected in subsequent returns to be filed through amendment Table (For example Table 11 of GSTR-1). Such mistakes can be corrected till the due date for filing of the return for the month of September subsequent to end of the year or filing of the annual return, whichever is earlier.

Input Tax Credit

24	How can a trader avail ITC while selling goods/services to unregistered/exempted GST traders?	The fact that a registered person is supplying goods to an unregistered or exempted person has no consequence on availment of ITC by the supplier.
25	Please clarify the procedure of availing ITC on Additional Compensation Cess on some products like Tobacco, Coke, Cigarettes.	ITC of cess can be used only for payment of cess
26	Please clarify ITC Credit status for the following condition: If Recipient (Good & Service) is registered under GST & Re-seller/Supplier is under exemption OR composition schemes	In case of unregistered dealer, recipient will pay tax on reverse charge basis. He can get the ITC provided he fulfills other conditions as mentioned in section 16 of the CGST Act, 2017. In case of purchase from composition taxable person, the composition person cannot charge any tax and hence the question of availing ITC does not arise.
27	Please clarify ITC Credit status for the following condition: On GST Deducted Commission for Distributor registered under GST Taxpayer	Any deductions under TDS/TCS provisions from amount paid or credited to the supplier shall be credited to the electronic cash ledger which can be used for payment of tax.
28	Please clarify ITC Credit status for the following condition: if Commission received Without Deducting GST in cases where distributor under Exemption OR composition Scheme	The section concerning GST deduction (Section 51 of CGST Act, 2017) has not been operationalized till now. But if the distributor is under threshold exemption or under composition scheme, the requirement for GST deduction depends upon the taxable supply and value of contract rather than the nature of the supplier.
29	How should importers take credit of clean energy cess paid on goods lying as stock 30.06.2017?	No credit for clean energy cess can be taken.
30	Since our products are under 0% and we are using various services like telephone, professional charges for which we will be paying GST to our registered service providers and this amount will	You are not eligible for refund of unutilized Input Tax Credit as there is no tax on output supply.

	not be utilized towards any payment of outward goods. Are we eligible for refund on the services obtained and GSTN paid for the same? If yes what is the procedure? If no what is the accounting effect?	Tax paid on such services may be accounted along with the services availed i.e. booked as expenses.
31	Whether ITC Transition provisions on goods purchased within the State on which tax on MRP has been paid, covered under 140(3) or 140(1)? If covered under 140(1) then how a credit claim be made, as presently in Vat return only the amount is reflected and it is non-adjustable?	Section 140 (1) of CGST Act is applicable for a person who was registered under the existing laws (e.g. under Central Excise, Service Tax, Value Added Tax). And therefore, credit of taxes paid on inputs was getting recorded in the returns filed. Section 140 (3) of CGST Act is applicable for persons who were not liable for registration under existing laws or who were selling/providing non-taxable, exempt goods/services but their supplies are liable to tax under GST. Please also refer to Section 140 of the SGST Act of your respective state and the associated rules.
32	Please clarify on availment of input tax credit of GST paid on trucks, commonly used for G.T.A business, Safex, Multi-modal and packing business?	No ITC is permitted to GTA engaged in providing GTA services which are under RCM and are treated as exempted supplies in the hand of GTA. However, if GTA is also liable to pay tax under forward charge as supplier, he is not permitted to avail ITC if he is claiming the concessional rate of 5%. If ITC is claimed, the GST rate for GTA in forward charge will be 18%.
33	What will be the Input Credit of newly launched project of building construction after 01.07.2017?	ITC is permitted to pay output tax of construction/work contract services. Please see section 17(5) (c) and (d) of CGST Act, 2017.
34	What are the provisions under CGST Act as to the eligibility of CENVAT credit of service tax on invoices which are received after the appointed date for the services received under the service tax regime?	ITC is available in terms of section 140(5) of CGST Act, 2017.
35	How a service Provider can get input GST credit benefit in pure labour Contract under Input Credit?	He needs to use input for furtherance of business and should fulfill the conditions mentioned in section 16 of CGST Act, 2017. The input should not fall within the negative list provided in section 17(5) of the CGST Act, 2017.
36	GSTR-1 (Point 9) – As banks are eligible to claim only 50% of Input credit consider excluding banks from reporting of exempt/ non-GST supplies in	Return Rules have already been notified. It is not possible to make exception for one sector.

	GSTR-1?	
37	Clarification is sought for the following: Penal Interest on loans and advances	Penal interest is a consideration for tolerating an act and it is a supply of service and will be taxable.
38	In case of takeover of a Partnership firm by a Private Limited Company, then who will get the ITC credit? And who should file the GST TRAN-1?	If the business is transferred as a going concern, and liabilities are also transferred then ITC can be transferred to the company. The company can file TRAN-1.
Job Work		
39	Whether the job worker (who converts barley into Malt) has to charge GST from the Principal only on the Job Work charges or full value of goods, i.e. (Value of Raw Material + Job Work Charges)?	The job worker has to pay GST on job work charges only.
40	In case of job workers not operating under Notification 214/86-CE (i.e. registered under excise at present), whether they can carry forward the credit availed on RM/PM supplied to them by the principal manufacturer? Also is there any restriction on carry forward of the credit on input services distributed to them by the principal as ISD under Rule 7 of the Credit Rules and remaining unutilized on the day of GST implementation?	The credit on RM/PM supplied by the principal manufacturer can be availed by the manufacturer rather than the job worker. Section 141 of CGST Act, 2017 refers. Further if job worker is registered under existing law, Cenvat Credit in respect of input services received from ISD as shown in return can be carried forward.
Levy		
41	Should GST be charged on labour charges in an invoice?	Yes, if the activity is taxable.
42	Would tax be payable on sale of business assets on which no credit was claimed?	Yes provided the aggregate value of supplies is more than Rs. 20 lakhs (Rs. 10 lakhs in special category States).
43	PayPal is USA based company. It provides services to its account holders spread worldwide. Whether services given by PayPal would be covered under Section 13(8) of IGST Act?	If the place of supply is in India, the registered recipient will have to pay tax under reverse charge and if the recipient is unregistered, PayPal will pay GST in accordance with section 14 of IGST Act.

44	Whether 5% GST applicable to the Transport service provider is to be charged on the total freight amount bill?	It will be on the invoice value of GTA services determined in terms of section 15
45	Does Rental Income less than Rs. 20 Lac per annum attract GST?	No. That said, where the rental income from a single property is less than Rs. 20 lakhs but the aggregate rental income from various properties exceed rupees twenty lakhs, the requirement for registration and GST payment will be there.
46	In reference to Section 15 of GST, CTT and STT are statutory levy under Income Tax. Is there any GST tax on another governmental Tax, SEBI Fees and Stamp Duty as per Various State Government rates?	As per Section 15 the value will be inclusive of all taxes except CGST, SGST, UTGST and IGST. So all taxes will be included in the value for the purpose of GST except where benefit of Pure agent as provided in Rule 33 of CGST Rules, 2017 is availed.
47	Provisions of Notification no. 7/2017 are applicable under CGST only. Kindly clarify whether provisions of notification no. 7/2017 will be applicable for SGST ACT, IGST ACT and UTGST ACT?	Separate notifications are issued under SGST Act, IGST Act and UTGST Act.
48	Whether GST would be payable in case of demand of excise duty made upon finalization of provisional excise assessment in post GST period?	Demands arising from finalization of provisional assessments under the Central Excise Act, unless recovered under the said Act, shall be recovered as an arrear of tax under GST Act.
49	What option shall be opted while clearing samples from factory to warehouse location: a) No GST should be levied but corresponding ITC should be reversed b) GST should be levied but GST (ITC) paid on samples cleared should be reversed at receiving warehouse location.	Depends upon the location of the factory and warehouse. If both are located in the same State and not registered separately, no GST is to be charged. Once finally supplied to any other recipient, no GST is to be charged but ITC on the same is to be reversed.

Central Board of Excise and Customs
Department of Revenue, Ministry of Finance, Government of India

FREQUENTLY ASKED QUESTIONS (FAQs)

GST Migration

Q1. I am an existing PAN-based Service Tax (ST) and Central Excise (CE) assessee, and wish to enroll in GST. I have business premises and factories in the State of Telangana. Through the ACES portal, I received the Provisional ID and password for the State of Andhra Pradesh, whereas my Principle Place of Business is in Telangana.

A: Assessees situated in the State of "Telangana", but incorrectly issued Provisional IDs and passwords for "Andhra Pradesh", have now been issued new Provisional IDs and passwords for "Telangana". The previous Provisional IDs and passwords issued for "Andhra Pradesh" have been cancelled, and can no longer be used for migrating to GST. You are requested to get new Provisional IDs and passwords through the ACES portal at www.aces.gov.in and complete the GST migration process. In case of any difficulties, please contact the CBEC Mitra Helpdesk at cbecmitra.helpdesk@icegate.gov.in or call at the toll-free number 1800-1200-232.

Q2. I am an existing PAN-based Service Tax (Centralized registration) assessee, and wish to enroll in GST. I have multiple registered business premises in different States (i.e., 5 different States on the same PAN) from where services are provided. I have not received the Provisional IDs and passwords for all the different States (i.e., I have received the Provisional IDs and passwords for two States only).

A: On ACES portal, the Centralized Registration (CR) captures the address details (including State) of the assessee's registered business premises in a State, as well as, branches or many registered addresses in different States across the country from where services are provided.

As a policy, these assessees are issued only one Provisional ID and password for each State (across the CR premises and all branches). For example, an assessee having CR number ABCDE1234FSD002 is having business premises in Delhi, and branches in Haryana, Karnataka, Maharashtra and Tamil Nadu. In this case, the assessee is issued five Provisional IDs and passwords, one for each State.

The CR assessee may also have a factory (under Central Excise or CE registration) or a Service Tax (ST) single premises registration (independent of CR) in the State of Tamil Nadu (registration number ABCDE1234FXM001 or ABCDE1234FSD001). Then a Provisional ID and password for the State of Tamil Nadu will be issued against either the CE or ST registration number mentioned earlier. In this case, the

CR assessee will get four Provisional IDs and passwords for the remaining States i.e. Delhi, Haryana, Maharashtra and Karnataka.

Q3. I am an existing taxpayer and wish to enroll in GST. To complete the Provisional Registration process on the GST Common Portal, I need to enter the one-time-password (OTP) in the OTP Verification window. However, I received the OTP on my mobile number, and not on my registered email ID.

A: For further assistance, please contact the GST helpdesk at helpdesk@gst.gov.in or call at 0124-4688999. To find the answer to your question, you can also refer to the Frequently Asked Questions or FAQs on the GST Common Portal.

Q4. I am an existing taxpayer and wish to enroll in GST. For migrating to GST, I created a new username and password on the GST Common Portal. However, I have forgotten the username (or password) created. When I tried to create a new username (or password), I received the message: "Provisional ID entered is already mapped to a user. Kindly login with a valid username".

A: For further assistance, please contact the GST helpdesk at helpdesk@gst.gov.in or call at 0124-4688999. To find the answer to your question, you can also refer to the Frequently Asked Questions or FAQs on the GST Common Portal.

Q5. I am an existing taxpayer and wish to enroll in GST. I have received the Provisional ID and password. On the Login page of the GST Common Portal, I entered the Provisional ID and password. After clicking the LOGIN button, I received the message: "User name or password is not valid. Please ensure that enrollment for your State has started".

A: For further assistance, please contact the GST helpdesk at helpdesk@gst.gov.in or call at 0124-4688999. To find the answer to your question, you can also refer to the Frequently Asked Questions or FAQs on the GST Common Portal.

Q6. I am an existing taxpayer and wish to enroll in GST. I received the Provisional ID and password for migrating to GST. On the GST Common Portal, on the Login page, I entered the Provisional ID and password in the respective fields. After clicking the LOGIN button, I got the message: "Not activated".

A: For further assistance, please contact the GST helpdesk at helpdesk@gst.gov.in or call at 0124-4688999. To find the answer to your question, you can also refer to the Frequently Asked Questions or FAQs on the GST Common Portal.

Q7. I am an existing PAN-based Service Tax (ST), Central Excise (CE) and State VAT assessee. I received the Provisional ID and password from the State VAT. While migrating to GST through VAT on the GST Common Portal, I did not add my ST and CE details in the Enrolment Application.

A: The facility to add existing registrations in the Enrolment Application is available on the GST Common Portal. You can add the remaining registrations at the time of enrolment under GST. However, if you have submitted the Enrolment Application with DSC or E-sign without adding the remaining registrations, and have already received the Application Reference Number (ARN), you will not be able to add the remaining registrations now. You will be able to add or remove the other registrations in the Enrolment Application only after the appointed date (i.e., date of implementation of GST) through the process of amendment (non-core).

Q8. I am an existing PAN-based Service Tax (ST), Central Excise (CE) and State VAT assessee. I did not receive the Provisional ID and password for migrating to GST.

A: You may have multiple registrations under the State VAT department. For further investigation, please contact CBEC Mitra Helpdesk at cbecmitra.helpdesk@gst.gov.in or call at the toll-free number 1800-1200-232. When requesting help, please provide your registration details to CBEC Mitra Helpdesk. CBEC Mitra Helpdesk will notify you as soon as the issue is resolved.

Q9. I am an existing PAN-based Service Tax (ST), Central Excise (CE) and State VAT assessee. For migrating to GST, I received the Provisional ID and password from the State VAT department. Do I also need to add my ST and CE registration details in the Enrolment Application also?

A: Yes, you must add your Service Tax (ST) and Central Excise (CE) registration details in GST FORM-20 on the GST Common Portal.

Note: Since GST registration is based on PAN and State, only one Provisional ID and password will be issued to a given PAN for a given State, irrespective of the number of registrations on that PAN within the State. In case the assessee wishes to enroll in GST for the other registrations as well, the details of these registrations (addresses of premises) may be included as 'Additional Place of Business'.

Q10. I am an existing PAN-based Service Tax (ST) and Central Excise (CE) assessee. After logging into the ACES portal, under SERVICE TAX, the Provisional ID is showing "Awaited".

A: If you are already registered as a Central Excise (CE) or Service Tax (ST) assessee on the ACES portal, after 31.01.2017, then your Provisional ID and password for migrating to GST has not yet been generated. You are advised to wait for the same. Any updates on issuance of Provisional IDs and passwords, to such assessees, will be published on both the CBEC and ACES websites. So, please checking the status of your registration at www.cbec.gov.in and www.aces.gov.in.

Central Board of Excise and Customs

Department of Revenue, Ministry of Finance, Government of India

Q11. I am an existing taxpayer and wish to enroll in GST. My previous registration number was ST001 and after cancellation (or surrender), my current registration number is ST002. However, a Provisional ID and password has been issued against my previous registration number ST001. I logged into the ACES portal (using my existing ACES username and password), and received the Provisional ID and password for my previous registration number ST001, but not for the current registration number ST002.

A: As a policy, if the assessee has multiple registrations within a State on the same PAN, only one Provisional ID and password will be issued, as per the following order: Only one Provisional ID and password will be issued to a given PAN within a State, irrespective of the number of registrations on that PAN within that State.

Apparently, you have more than one registration i.e., ST001 and ST002, of which registration number ST001 is either "Inactive" or "Surrendered". However, as per CBEC guidelines, a Provisional ID and password has already been allotted against the registration number ST001. For further assistance, please contact CBEC Mitra Helpdesk at cbecmitra.helpdesk@gst.gov.in or call at the toll-free number 1800-1200-232, and provide your registration details (both earlier and current registration numbers).

Note: As per the ACES website, the registration number ST001 is "Active" and thus eligible for issuance of Provisional ID and password.

Q12. I am an existing taxpayer and wish to enroll in GST. I have received the Provisional ID and password. On the GST Common Portal, I entered the Provisional ID and password in the respective fields. After clicking the LOGIN button, I received the message: "Provisional ID is invalid".

A: Firstly, clear your web browser's cache i.e., delete your browsing history, and then sign into the GST Common Portal again. You will receive a 10-digit access token (or password) along with the Provisional ID. In case you have received an access token of less than 10 digits, please insert a "0" or zero as prefix to the token i.e., if you received an access token of"12345678", then the corrected token number is "0012345678". If the issue persists, please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further assistance. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q13. I am an existing taxpayer and wish to enroll in GST. I received the Provisional ID and password for migrating to GST. On the GST Common Portal, on the Login page, I entered the Provisional ID and password in the respective fields. After clicking the LOGIN button, I got the message: "Not activated".

A: Multiple causes may have contributed to this problem. For further investigation, please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q14. I am an existing taxpayer and wish to enroll in GST. For enrolment under GST, I want to create a new username and password. However, I have not received the one-time-password (OTP) on my registered mobile number. The problem continued even after I clicked the "RESEND OTP" button on the GST Common Portal.

A: Your mobile number may be registered for Do Not Disturb (DND) services, due to which the OTP cannot not be delivered. You are advised to de-activate DND services from your mobile network. Once de-registered, you must redo the entire process of registration on the GST Common Portal. If the problem persists, please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation.

Q15. I am an existing taxpayer and wish to enroll in GST. For enrolment under GST, I wanted to create a new username and password. However, I have not received the one-time- password (OTP) on my registered email. The problem continued even after I clicked the "RESEND OTP" button on the GST Common Portal.

A: The one-time-password (OTP) may have been delivered to the spam folder of your registered email ID. Please check the spam folder of your email account. If you find the OTP in the spam folder, please change the spam-filter policy settings of your email account to allow legitimate emails sent by GSTN. This will ensure that a future OTP sent by GSTN is not marked or filtered as spam. If you do not find the OTP in the spam folder, please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q16. I am an existing taxpayer and wish to enroll in GST. While submitting GST FORM-20 with DSC, I received the error message: "DSC is not registered with authorised signatory".

A: Please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q17. I am an existing taxpayer and wish to enroll in GST. I have submitted the Enrolment Application i.e., GST FORM-20 on the GST Common Portal. However, I have not received the Application Reference Number (ARN) through email with all details.

A: Please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q18. I am an existing taxpayer and wish to enroll in GST. On submitting the Enrolment Application i.e., GST FORM-20 on the GST Common Portal, I received the message: "Submitted & Pending for verification".

A: Please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

Q19. I am an existing taxpayer and wish to enroll in GST. On the GST Common Portal, while filing GST FORM-20, the desired RANGE CODE is not appearing in the drop-down list.

A: Please contact the GST Helpdesk at helpdesk@gst.gov.in or call at 0124-4688999 for further investigation. When you send your service request over email or phone, a support ticket is registered with GST Helpdesk and the issue is forwarded to the appropriate technical team for analysis and resolution.

NATIONAL ACADEMY OF CUSTOMS, INDIRECT TAXES AND NARCOTICS (NACIN)

Frequently Asked Questions on E Way Bill

Q 1. What is an E Way Bill?

Ans. E-way bill ***(FORM GST EWB-01)*** *is an electronic document (available to supplier / recipient / transporter) generated on the common portal evidencing movement of goods of consignment value more than Rs. 50000/-. It has two Components-Part A comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation; and Part B –comprising of transport details - transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number for road.*

Q 2. What is the common portal for e-way bill?

Ans. The Common Goods and Services Tax Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in.

Q 3. What is consignment value?

Ans. The consignment value of goods shall be the value, determined in accordance with the provisions of section 15 of the CGST Act, 2017, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document.

Q 4. Whether consignment value of goods shall include tax also? In case of movement other than by way of supply, value may not be available? How to value such cases?

Ans. As per Explanation 2 to Rule 138(1) of CGST Rules, 2017, the consignment value shall also include the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document. Furthermore, in view of the valuation provisions in Section 15 of the CGST Act, 2017, Customs duty shall also be includible in the value of goods.

In case of movement of goods for reasons other than supply, the movement would be occasioned by means of a delivery challan which is a mandatory document. The delivery *challan has to necessarily contain the value of goods as per Rule 55 of the CGST Rules, 2017. The value given in the delivery challan should be adopted in the e-way bill.*

Q 5. What are the benefits of e-way bill?

Ans. Following benefits are expected from e-way bill mechanism

- **(i)** *Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts*
- **(ii)** *It will facilitate faster movement of goods*
- **(iii)** *It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.*

Q 6. When will the e-way bill provisions be implemented?

Ans. The e-way bill provisions in respect of inter-state supplies of goods shall be implemented w.e.f 1st February, 2018.

The States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June,2018.

Q 7. When should an e-way bill be generated?

Ans. As per Rule 138 of the CGST Rules, 2017, an e-way bill has to be generated prior to the commencement of transport of goods.

Q 8. Whether E-way bill need to be generated for all movements of goods?

Ans. E-way bill is not required to be generated in the following cases:

a) *Transport of goods as specified in Annexure to Rule 138 of the CGST Rules, 2017 which is reproduced below:*

S/No.	*Description of Goods*
1	*Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers*
2	*Kerosene oil sold under PDS*
3	*Postal baggage transported by Department of Posts*
4	*Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)*
5	*Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)*
6	*Currency*
7	*Used personal and household effects*
8	*Coral, unworked (0508) and worked coral (9601)*

b) *Goods being transported by a non-motorised conveyance;*

c) *Goods being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and*

d) *In respect of movement of goods within such areas as are notified under rule 138(14) (d) of the SGST Rules, 2017 of the concerned State.*
e) *where the goods, other than de-oiled cake, being transported are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017*
f) *where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and*
g) *where the goods being transported are treated as no supply under Schedule III of the Act.*

Q 9. Whether an e-way bill is to be issued, even when there is no supply?

Ans. Yes. Even if the movement of goods is caused due to reasons others than supply, the e-way bill is required to be issued. Reasons other than supply include movement of goods due to job-work, replacement under warranty, recipient not known, supply of liquid gas where quantity is not known, supply returns, exhibition or fairs, for own use, Sale on approval basis and others etc.

Q 10. Who should generate e-way bill?

Ans. An e-way bill contains two parts- Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding Rs. 50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.

*Where the goods are transported by a registered person-whether as consignor or recipient, the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) Where the e-way is not generated by registered person and the goods are handed over to the transporter, for transportation of goods by road, the registered person shall furnish the information relating to the transporter in Part B of **FORM GST EWB-01** on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of **FORM GST EWB-01**.*

*In a nutshell, E-way bill is to be generated by the **consignor or consignee** himself (if the transportation is being done in own/hired conveyance or by railways by air or by Vessel) or the **transporter** (if the goods are handed over to a transporter for transportation by road). Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than Rs. 50,000/- it shall be the responsibility of the transporter to generate it.*

In case the goods to be transported are supplied through an e-commerce operator, the information in Part A may be furnished by such ecommerce operator.

Q 11. Who has to generate E-way bill in case of transportation of goods by rail, air or vessel?

Ans. The registered person, being the supplier or recipient, is required to generate E-way Bill by furnishing the information in part B of the E-Way bill viz transport document *number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number).*

Q 12. Who causes movement of goods?

Ans. The movement of goods can be caused by the supplier, if he is registered and he undertakes to transport the goods. In case the recipient undertakes to transport or arrange transport, the movement would be caused by him.

In case the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

Q 13. Is there any time gap allowed between furnishing information in Part-A and updating transport details in Part-B?

Ans. On furnishing of Part-A, a unique number will be generated on the portal which shall be valid for 72 hours for updation of Part B of FORM GST EWB-01.

Q 14. Is it mandatory to generate e-way bill? What if not done? What are the consequences for non-issuance of e-way bill?

Ans. It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than 50,000/- and it is not otherwise exempted in terms of Rule 138(14) of CGST Rules, 2017.

Further no e-way bill is required to be generated in respect of goods being transported by a non-motorised conveyance; goods being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and in respect of movement of goods within such areas as are notified under rule 138(14) (d) of the SGST Rules, 2017 of the concerned State.

If e-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138, the same will be considered as contravention of rules. As per Section 122(1)(xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of Rs. 10,000/- or tax sought to be evaded (wherever applicable) whichever is greater. Moreover, as per Section 129(1) of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

Q 15. Is e-way bill required when the goods are supplied by an unregistered supplier?

Ans. Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is *known at the time of commencement of movement of goods. The recipient shall be liable to generate e-way bill.*

There could be three possibilities as below:

Situation	***Movement caused by***	***Impact***
Recipient is unknown	*Unregistered person*	*E-way bill* ***not required****; However, the supplier has an option to generate e-way bill under "citizen" option on the e-way bill portal*
Recipient is known and is unregistered	*Unregistered person*	*E-way bill* ***not required****; However, the supplier has an option to generate e-way bill under "citizen" option on the e-way bill portal*
Recipient is known and is registered	*Deemed to be caused by the Registered recipient*	*Recipient to generate e-way bill*

Q 16. What are the reasons for transportation to be furnished in the part A of e-way bill?

Ans. E-way bill is to be issued for movement of goods, irrespective of the fact whether the movement of goods is caused by reasons of supply or otherwise. The format for GST EWB-01 lists ten reasons for transportation viz Supply, Export or Import, Job Work, SKD or CKD, Recipient not known, Line Sales, Sales Return, Exhibition or fairs, for own use and Others, one of which can be chosen.

Q 17. Whether an unregistered transporter need to compulsorily enroll on the e-way bill system?

Ans. Yes, in terms of Rule 58 of the CGST Rules, 2017 read with section 35(2) of the CGST Act, 2017, a transporter and operator of godown or warehouse, if not already registered, shall have to enrol on the common portal by filing GST ENR-01.

The transporter enrolled in any one State or UT shall be deemed to be enrolled in other States as well.

The unregistered transporter gets a transporter Id when he enrols on the system.

Q 18. What is invoice reference number?

Ans. A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in ***FORM GST INV-1*** *and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.*

In the above case, the registered person will not have to upload the information in Part A of ***FORM GST EWB-01*** *for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in* ***FORM GST INV-1****.*

Q 19. Can the e-way bill be cancelled if the goods are not transported after generation of e-way bill?

Ans. Where an e-way bill has been generated, but goods are either not being transported or are not being transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

However, if the e-way has been verified in transit in accordance with the provisions of rule 138 B of the CGST Rules, 2017, the same cannot be cancelled.

Q 20. What happens if the conveyance is changed en-route?

Ans. Where the goods are transferred from one conveyance to another, the consigner or the recipient, who has provided information in Part- A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01.

Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of the conveyance in the e-way bill on the common portal in ***FORM GST EWB-01****.*

Q 21. Can the transporter assigned by a supplier or recipient further re-assign the e-way bill to another transporter?

Ans. The consignor or the recipient, who has furnished the information in Part-A, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part-B for further movement of consignment.

However once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case maybe, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

Q 22. How does transporter come to know that particular e-way bill has been assigned to him?

Ans. The transporter comes to know the EWBs assigned to him by the taxpayers for transportation, in one of the following ways:

- *The transporter can go to reports section and select 'EWB assigned to me for trans' and see the list.*
- *The transporter can go to 'Update Vehicle No' and select 'Generator GSTIN' option and enter taxpayer GSTIN, who has assigned or likely to assign the EWBs to him.*

- *The tax payer can contact and inform the transporter that the particular EWB is assigned to him.*

Q 23. How does the supplier or recipient come to know about the e-way bills generated on his GSTIN by other person/party?

Ans. The supplier or the recipient can view the same from either of the following options:

- *He can view on his dashboard, after logging on to the system;*
- *He can go to reject option and select date and see the e-way bills generated on his GSTIN by others.*
- *He can go to report section and see the 'EWBs by other parties'.*
- *He will get one SMS everyday indicating the total e-way bill activities on his GSTIN.*

Q 24. How does the tax payer become transporter in the e-way bill system?

Ans. To change his position from supplier or recipient to transporter, the tax payer has to select the option 'Register as Transporter' under registration and update his profile. Once it is done, the system changes tax payer as transporter.

Q 25. How many times can Part-B or Vehicle number be updated for an e-way bill?

Ans. The Part-B (Vehicle details) can be updated as many times as one wants for movement of goods to the destination. However, the updating should be done within the validity period and at any given point of time, the vehicle number updated should be that of the one which is actually carrying the goods. The validity of e-way bill is not re-calculated for subsequent entries in Part-B.

Q 26. What is the concept of acceptance of e-way bill by the recipient?

Ans. The details of e-way bill generated shall be made available to the-

(a) supplier, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the recipient or the transporter; or

(b) recipient, if registered, where the information in Part A of FORM GST EWB-01 has been furnished by the supplier or the transporter,

on the common portal, and the supplier or the recipient, as the case maybe, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within seventy-two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

Q 27. What happens if multiple consignments are transported in one conveyance?

*Ans. Where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **FORM GST EWB-02** may be generated by him on the common portal prior to the movement of goods.*

The various situations where multiple consignments are transported in one conveyance may be as under:

Situation	***Impact***
Multiple consignments in one conveyance; all more than Rs. 50000/-; and the consignor has generated e-way bill for all the consignments.	*A consolidated e-way bill in **FORM GST EWB-2** may be generated on the common portal prior to the movement*
*Multiple consignments in one conveyance; all more than Rs. 50000/-; but the consignor has **not** generated e-way bill*	*Transporter shall generate individual **FORM GST EWB-01** and may also generate consolidated e-way bill **FORM GST EWB-02***
Multiple consignments in one conveyance; a few less than Rs. 50000/- and e-way bill not generated for these consignments (less than Rs. 50,000/-)	*Transporter shall generate **FORM GST EWB-01** (for consignments of value more than Rs. 50000/-) and may generate e-way bill for consignments less than Rs. 50,000/-; and may also generate consolidated e-way bill **FORM GST EWB-02***

Q 28. Many distributors transport goods of multiple customers and know the details of the requirement only at the time of delivery? What to do if name of the consignee is not known?

Ans. *Such movement of goods would be for reasons other than supply. The reasons for transportation will have to be mentioned in the Part A of the e-way bill.*

Q 29. What is the validity period of e-way bill?

Ans. The validity of e-way bill remains valid for a time period which is based on distance to be travelled by the goods as below:

Distance	***Validity Period***
Less than 100 Km	*One day*
For every 100 km thereafter	*Additional one day*

Q 30. What is a day for e-way bill? How to count hours/day in e-way bill?

Ans. This has been explained in Rule 138(10) of CGST Rules, 2017. The "relevant date" shall mean the date on which the e-way bill has been generated and the period of validity *shall be counted from the **time** at which the e-way bill has been generated and each day shall be counted as twenty-four hours.*

Q 31. Can the validity period of e-way bill be extended?

Ans. In general No. However, Commissioner may extend the validity period only by way of issuance of a notification for certain categories of goods which shall be specified later.

*Also, if under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of **FORM GST EWB-01**.*

Q 32. What is the validity period of consolidated e-way bill?

Ans. A consolidated e-way bill has no separate validity and will be governed by the underlying validity period of the individual e-way bills.

Q 33. Can a e-way bill be modified?

Ans. No. Part-A of an e-way bill once generated, cannot be modified. However, Part-B can be updated as many times as the transport vehicle is changed within the overall validity period. The validity period is not changed when the Part-B is updated.

Q 34. Is it necessary to feed information and generate e-way bill electronically in the common portal?

Ans. Yes. The facility of generation and cancellation of e-way bill is also available through SMS.

Q 35. What is EBN? Who gives it?

Ans. Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal. The common portal will generate the EBN.

Q 36. Whether e-way bill generated in one state is valid in another state?

Ans. Yes it is valid throughout the country.

Q 37. What if one consignment, is transported in CKD/SKD condition in multiple transport vehicles?

Ans. As per Rule 55(5) of the CGST Rules, 2017, in such cases, the supplier shall issue the complete invoice before dispatch of the first consignment and shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice Each such subsequent consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and the original copy of the invoice *shall be sent along with the last consignment. Every consignment shall also be accompanied with a separate e-way bill.*

Q 38. Can a transport vehicle be intercepted?

Ans. Yes, the Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.

Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

Q 39. Are there any checks and balances on excessive use of power of interception of vehicles and inspection of goods?

Ans. A summary report of every inspection of goods in transit shall be recorded online on the common portal by the proper officer in Part A of ***FORM GST EWB-03*** *within twenty-four hours of inspection and the final report in Part B of* ***FORM GST EWB-03*** *shall be recorded within three days of such inspection.*

Once physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in ***FORM GST EWB-04*** *on the common portal.*

Q 40. What is the responsibility of transporters, owners or operators of godown or warehouse?

Ans. As per section 35(2) of the CGST Act, 2017, every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as prescribed in rule 58 of the CGST Rules, 2017.

Q 41. What has to be done by the transporter if consignee refuses to take goods or rejects the goods?

Ans. The transporter can get one more e-way bill generated with the help of supplier or recipient by indicating supply as 'Sales Return' and with relevant document details and return the goods to supplier.

Q 42. What are the documents to be carried by the person in charge of a conveyance while transporting goods?

Ans. The person in charge of a conveyance shall carry—

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance in such manner as may be notified by the Commissioner.

Q 43. *What are RFIDs?*

Ans. RFIDs are Radio Frequency Identification Device used for identification. The Commissioner may require RFIDs to be embedded on to the conveyance in such manner as may be notified. The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

Q 44. Is it necessary that the e-way bill has to be mapped to a RFID device?

Ans. It is optional. However, The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

Q 45. Are there any special situations where e-way bill needs to be issued even if the value of the consignment is less than Rs. 50,000/-?

Ans. As per the provisos to Rule 138(1) of CGST Rules, 2017, w*here goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall have to be generated by the principal irrespective of the value of the consignment. Also, where handicraft goods are being transported from one State to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall have to be generated by the said person irrespective of the value of the consignment.*

Q 46. Can a tax payer update his business name, address, mobile number or e-mail id in the e-way bill system?

Ans. No. EWB System will not allow tax payer to update these details directly. The taxpayer has to change these details at GST Common portal, from where it will be updated in EWB system.

Q 47. What are the modes of e-way bill generation?

Ans. The e-way bill can be generated through multiple modes viz the common portal for e-way bill or Using SMS based facility or Android App or Site-to-Site integration or GSP (Goods and Services Tax Suvidha Provider).

For using the SMS facility, a person has to register the mobile numbers through which he wants to generate the e-way bill on the e-way bill system.

For using Android App, the tax payer has to register the EMEI numbers of the mobiles through which he wants to generate the e-way bill on the e-way bill system.

For site to site integration, the APIs of the e-way bill system have to be used for integrating the system.

Q 48. What is the role of sub-users in e-way bill system? How can sub-users be activated?

Ans. A taxpayer can create sub-users in the e-way bill system and assign specific roles to them like generation of EWB or rejection or report generation activities based on requirements. This helps the large firms with multi locations/ shifts to distribute work.

Q 49. Whether information submitted for e-way bill can be used for filing GST Returns?

Ans. The information furnished in the Part-A of E-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in GSTR-1.

Q 50. Whether individuals while shifting their personal belongings will have to generate E-way bill?

Ans. No. Used personal and household effects are specifically exempted from the requirement of E-way Bill as explained in Q 8 above.

***Disclaimer**:*

The FAQs on E-Way Bill have been compiled by NACIN and are for training and academic purposes only. The information is intended only to provide a general overview and is not intended to be treated as legal advice or opinion. For greater details, you are requested to refer to the respective CGST/SGST/UTGST/IGST Acts and Rules.

Tweet FAQs

The tweets received by askGST_GoI handle were scrutinized and developed into a short FAQ of 100 tweets. It should be noted that the tweets received or the replies quoted are only for educational and guidance purposes and do not hold any legal validity.

S. No.	*Questions / Tweets Received*	*Replies*
Registration		
1.	Does aggregate turnover include value of inward supplies received on which RCM is payable?	Refer Section 2(6) of CGST Act. Aggregate turnover does not include value of inward supplies on which tax is payable on reverse charge basis.
2.	What if the dealer migrated with wrong PAN as the status of firm was changed from proprietorship to partnership?	New registration would be required as partnership firm would have new PAN.
3.	A taxable person's business is in many states. All supplies are below 10 Lakhs. He makes an Inter State supply from one state. Is he liable for registration?	He is liable to register if the aggregate turnover (all India) is more than 20 lacs or if he is engaged in inter-State supplies.
4.	Can we use provisional GSTIN or do we get new GSTIN? Can we start using provisional GSTIN till new one is issued?	Provisional GSTIN (PID) should be converted into final GSTIN within 90 days. Yes, provisional GSTIN can be used till final GSTIN is issued. PID & final GSTIN would be same.
5.	Whether trader of country liquor is required to migrate to GST from VAT as liquor is out of GST law?	If the person is involved in 100% supply of goods which are not liable for GST, then no registration is required.
6.	Not liable to tax as mentioned u/s 23 of CGST means nil rated supply or abated value of supply?	Not liable to tax means supplies which is not leviable to tax under the CGST/SGST/IGST Act. Please refer to definition under Section 2(78) of the CGST Act.
7.	Whether civil contractor doing projects in various states requires separate registration for all states or a single registration at state of head office will suffice?	A supplier of service will have to register at the location from where he is supplying services.
8.	Whether aggregate turnover includes turnover of supplies on which tax is payable by the recipient under reverse charge?	Outward supplies on which tax is paid on reverse charge basis by the recipient will be included in the aggregate turnover of the supplier.
9.	If there are two SEZ units within same state, whether two registrations are required to be obtained?	SEZs under same PAN in a state require one registration. Please see proviso to rule 8(1) of CGST Rules.
10.	Is an advocate providing interstate supply chargeable under Reverse Charge liable for registration?	Exemption from registration has been provided to such suppliers who are making only those supplies on which recipient is liable to discharge GST under RCM.

11.	When is registration in other state required? Will giving service from Nasik to other state require registration in other state?	If services are being provided from Nasik then registration is required to be taken only in Maharashtra and IGST to be paid on inter-state supplies.
12.	I have migrated under GST but want to register as ISD. Whether I can apply now & what is the procedure?	A separate & new registration is required for ISD. New registrations are being opened from 0800 hrs. on 25.06.2017.
13.	I have enrolled in GST but I forgot to enter SAC codes. What should I do? The status is migrated.	The same can be filled while filing FORM REG-26 for converting provisional ID to final registration.
14.	I have ST number on individual name and have migrated to GST.I wish to transfer this on my proprietorship firm.	This conversion may be done while filling FORM REG-26 for converting provisional ID to final registration.
15.	Please tell if rental income up to 20 lacs attracts GST or attracts any other charge?	GST is leviable only if aggregate turnover is more than 20 lacs. (Rs. 10 lacs in 11 special category States). For computing aggregate supplies turnover of all supplies made by you would be added.
16.	If someone trades only 0% GST items (grains, pulses) then is it necessary to register for GST, if the turnover exceeds ₹20 lacs?	A person dealing with 100% exempted supply is not liable to register irrespective of turnover.
17.	Is it correct that person dealing exclusively in NIL rated or exempt goods/ services liable to register if turnover > 20/10 Lakh?	There is no liability of registration if the person is dealing with 100% exempt supplies.
18.	If I register voluntarily though turnover is less than 20 Lakhs, am I required to pay tax from 1st supply I make post registration?	Yes, you would be treated as a normal taxable person.
19.	Whether a separate GSTIN would be allotted to a registered person for deducting TDS (he has PAN and TAN as well)?	Separate registration as tax deductor is required.
20.	Is separate registration required for trading and manufacturing by same entity in one state?	There will be only one registration per State for all activities.
21.	I am registered in TN and getting the service from unregistered dealer of AP, should I take registration in AP to discharge GST under RCM?	Any person who makes make inter-state taxable supply is required to take registration. Therefore in this case AP dealer shall take registration and pay tax.
22.	Is there any concept of area based exemption under GST?	There will be no area based exemptions in GST.
23.	If a company in Maharashtra holds only one event in Delhi, will they have to register in Delhi? Will paying IGST from Maharashtra suffice?	Only if you provide any supply from Delhi you need to take registration in Delhi. Else, registration at Mumbai is sufficient (and pay IGST on supplies made from Mumbai to Delhi)

24.	How long can I wait to register in GST ?	An unregistered person has 30 days to complete its registration formalities from its date of liability to obtain registration.
25.	What If I am not liable to register under GST but I was registered under Service tax ?	You can apply for cancellation of Provisional ID on or before 31st July 2017.
26.	When turnover of agents will be added to that of the principal for registration?	No.
27.	If I am not an existing taxpayer and wish to newly register under GST, when can I do so?	You would be able to apply for new registration at the GST Portal gst.gov.in from 0800 hrs. on 25th June 2017
	Refund	
28.	I have a pending export refund in Service Tax. What will happen?	Refunds under earlier laws will be given under the respective laws only.
29.	As an exporter, how do I ensure that my working capital is not blocked as refunds?	Appropriate provisions have been made in the law by providing for grant of 90% refund on provisional basis within 7 days from filing of registration.
	Cess	
30.	What will be the impact of GST on coal? Will the clean energy Cess on coal go or will it stay?	Clean Environmental Cess on coal will be replaced by GST Compensation Cess.
	Composition Scheme	
31.	Suppose I am in composition scheme in GST. If I purchase goods from unregistered person, then GST will be paid to Government by me or not?	Yes, you will be liable to pay tax on reverse charge basis for supplies from unregistered person.
	Customs	
32.	What duties will be levied on import of goods?	Customs duty and cess as applicable + IGST+ GST compensation cess. IGST and GST compensation cess shall be paid after adding all customs duty and customs cess to the value of imports.
	Exports	
33.	Present Procedures have Service Tax on Nepal, But no Goods Tax on Nepal. But, With GST, what tax will apply?	The export procedure for Nepal would be same as that to other Countries.
34.	Are there exemptions for SEZ? How will a SEZ transaction happen in GST regime?	Supplies to SEZs are zero-rated supplies as defined in Section 16 of IGST Act.
35.	How would the sale and purchase of goods to and from SEZ will be treated? Will it be export / input?	Supply to SEZs is zero rated supplies and supplies by SEZs are treated as imports.

36.	Please clarify status of international export freight under GST as the same was exempt under POPS rules. It is zero rated in most countries.	POS for transport of goods determinable in terms of sec 12(8) or sect 13(8) of IGST Act, 2017, depending upon location of service provider/service receiver. Exports are treated as zero rated supplies.
37.	When goods are being imported from SEZ who will pay IGST?	Such supply is treated as import and present procedure of payment of duty continues with the variation that IGST is levied in place of CVD.
38.	Who will pay IGST when goods are procured from SEZ? Today importer is paying both BCD and CVD.	Such supply is treated as import and present procedure of payment continues with the variation that IGST is levied in place of CVD.
Input Tax Credit		
39.	Is SGST of Rajasthan charged by supplier on purchase from Rajasthan can be utilize for payment of SGST in Madhya Pradesh?	SGST of one State cannot be utilized for discharging of output tax liability of another State.
40.	How one can use SGST credit for the payment of IGST on another state?	SGST Credit can be used for payment of IGST liability under the same GSTIN only.
41.	Can one State CGST be used to pay another state CGST?	The CGST and SGST Credit for a State can be utilized for payment of their respective CGST/SGST liabilities within that State for the same GSTIN only.
42.	In case of service supplied, should the credit be given to the state where it is billed or the state it is rendered?	Tax will be collected in the State from which the supply is made. The supplier will collect IGST and the recipient will take IGST credit.
43.	Company is engaged in manufacturing of cement & power. Which rule to be referred for reversal of credit related to power business?	Detailed rules for reversal of ITC when the supplier is providing exempted and non-exempted supplies have been provided in ITC Rules.
44.	How will the credit / debit note from unregistered supplier be reported to GSTN and ITC claimed in the same?	Like invoice, credit/debit notes on behalf of unregistered person will be given by registered person only. Further, GSTR2 provides for reporting of same by the recipient.
Invoice		
45.	A shop sells taxable & exempt products to the same person (B2C), is it required to issue tax invoice and bill of supply separately?	In such a case the person can issue one tax invoice for the taxable invoice and also declare exempted supply in the same invoice.
46.	Do registered dealers have to record Aadhaar/PAN while selling goods to unregistered dealers?	There is no requirement to take Aadhaar / PAN details of the customer under the GST Act.

47.	All expenses like freight / transport / packing which are charged in Sales Invoice are taxable in GST? How to charge in bill?	All expenses will have to be included in the value and invoice needs to be issued accordingly. Please refer to Section 15 of CGST Act and Invoice Rules.
48.	Can we move construction material to builders on delivery challan and issue tax invoice post completion of activity?	If the goods are meant to be supplied in the course of construction an invoice is necessary. If the goods are tools which are to be used for construction then delivery challan should be issued.
49.	How to treat following transaction in GST (i) Delivered supply shortages in Transit. (ii) Customer gets less quantity and pays less.	The supplier may issue credit note to the customers and adjust his liability.
50.	Should we issue Self Invoice for GST liability discharge on RCM or GST can be discharge through expenses booking voucher?	For RCM liabilities tax invoice has to be issued on self.
	Returns	
51.	What would be done on tax paid on advance receipt if advance has to be refunded in any circumstance	Advance refunded can be adjusted in return.
52.	Do registered dealers have to upload sale details of unregistered dealers also in GST?	Generally not. But required in case of inter-State supplies having invoice value of more than Rs 2.50 Lakhs.
53.	How to incorporate two supplies in return for Pharma with same HSN code of four digits but having different tax rates?	Returns provide for furnishing rate wise details.
	Supply	
54.	Should we discharge GST liability for all reverse charge having small amounts of Transaction or any amount limit is there?	It has been decided that Rs. 5000/- per day exemption will be given in respect of supplies received from unregistered person. For supplies above this amount, a monthly consolidated bill can be raised.
55.	What is treatment of promotional item given free to end consumers by FMCG companies?	Tax will be charged only on the total consideration charged for such supply.
56.	How to comply with 9(4) of CGST Act if POS is in another State of the unregistered supplier	Any person making inter-state supply has to compulsorily obtain registration and therefore in such cases, section 9(4) will not come into play.
57.	Under supply from unregistered dealer the purchaser have to pay GST on RCM basis.so whether stipend paid to intern will also come under RCM?	Stipend paid to interns will be employer-employee transactions. Hence, not liable for GST.
58.	Salary by partnership firm to Partners as per Income Tax Act liable to GST?	Salary will not be liable for GST.
59.	Sec 9(4) of CGST Act 2017. Do I need to pay under RCM if I purchase stationary worth Rs.100 from an unregistered stationery shop?	It has been decided that Rs. 5000/- per day exemption will be given in respect of supplies received from unregistered person.

60.	What is the treatment of promotional item given free to end consumers by FMCG companies? If taxable, whether ITC is allowed?	Tax is payable on consideration received for the supply.
61.	Whether GST will be leviable in case of returnable packing material like drums supplied with finished goods?	GST will be levied on the value charged for the supply only.
62.	How will disposal of scrap be treated in GST?	If the disposal is in the course or furtherance of business purposes, it will be considered as a supply.
63.	I am from MP and providing service to a customer in Maharashtra. I outsource the work to a service provider in Maharashtra, what tax i need to charge?	Generally these will be two supplies where the supplier from MP will charge IGST from the recipient in Maharashtra. Whereas, the service provider in Maharashtra will charge IGST from the recipient in MP.
64.	If address of buyer is Punjab and place of supply is same state of supplier (Rajasthan), then IGST will apply or CGST/SGST?	If the place of supply and the location of the supplier are in the same State then it will be intra-State supply and CGST / SGST will be applicable.
65.	Why is bifurcation of cash deposit as CGST-SGST-IGST required? Is cash held against a GSTIN, to be adjusted via return u/s 39	Three levies are under three different statutes and are required to be separately accounted for.
66.	What is the difference in between 'Nil rated', 'taxable at 0%' and exempted goods and services? Especially in relation with ITC	Exempt supply includes Nil rated (taxable at 0%) and non-Taxable supplies and no ITC is available for such supplies.
67.	Will professional tax will be abolished in Maharashtra after introducing of GST?	Professional tax is not a tax on supply of goods or services but on being in a profession. Professional tax not subsumed in GST.
68.	Employer provides bus service, meal coupon, telephone at residence, gives vehicle for official and personal use, uniform and shoes, any GST?	Where the value of such supplies is in the nature of gifts, no GST will apply till value of such gifts exceeds Rs. 50000/- in a financial year.
69.	The definition of composite supply and the description of same under Section 8 differ. Please explain consequences.	Section 2(30) defines what will be considered as a composite supply. Whereas, Section 8 provides that in case of a composite supply, the treatment for tax rate etc. will be that of principal supply.
70.	Whether slump sale will attract GST. If yes then under which Section?	It will have the same treatment as normal supply.
71.	Salary by Partnership firm to Partners as per Income Tax Act liable to GST? Partners are not employees of the firm.	Salary will not be leviable of GST.
	Transition	
72.	How do I avail transition credit ?	Transition credit can be availed by filing the respective forms under Transition rules upto 30.09.2017.

73.	Please provide the clarity on area based exemption 50/2003 in UK & HP.	Area based exemptions will not be continued under GST. It will be operated through the route of reimbursement as prescribed.
74.	We manufactured excisable goods. But unit availed the exception benefits 50/2003. What about my dealers stock?	The dealer will get deemed credit @ 40% / 60% of the CGST paid on supply of such goods in GST. If the goods are branded and greater than Rs. 25,000, full credit using CTD can be availed.
75.	A trader buys from manufacturer not registered in excise as his turnover is below 1.5cr. Then in such case can trader take ITC on stock up to 40%?	Yes deemed credit will be available subject to satisfaction of other conditions as prescribed.
76.	I am a trader. I have excise paid purchase invoice. Whether I can claim credit of full excise duty on closing stock of 1st July 2017	Full transition credit of such duty will be available on stock in hand in respect of which you have duty paying excise document subject to conditions under Section 140(3) of the CGST Act.
77.	If a trader purchases directly from manufacturer & has documents showing excise, will he get full excise credit or 40% of CGST?	Full transition credit of such duty will be available on stock in hand in respect of which you have duty paying excise document subject to conditions under Section 140(3) of the CGST Act.
78.	If a fsd purchases directly from manufacturer and has value cum excise duty and excise duty is not separately shown will he get full credit?	Full transition credit of such duty will be available on stock in hand in respect of which you have duty paying excise document subject to conditions under Section 140(3) of the CGST Act.
79.	Is the full excise credit also available to traders who purchases directly from manufacturers and excise is separately shown in invoice?	Full transition credit of such duty will be available on stock in hand in respect of which you have duty paying excise document subject to conditions under Section 140(3) of the CGST Act.
80.	In June 17 Vat return no amount carried forward & held stock of Rs. 50 lakhs. Then can we take credit of that stock or not?	The supplier would be eligible to carry forward the closing balance of ITC from VAT return for June 17.
81.	What will be the impact of closing stock which has been already paid vat on 1st July?	The supplier would be eligible to carry forward ITC on such stock from VAT return for June 17.
82.	If in Vat return refund claimed in June 17 & no balance credit in GST. Then what's the position of submission of Form C	Refund claimed under existing law will be handled as per the provisions of the existing law. Form C to be submitted in terms of provision of Rule 1(1) of Transition Rules.
83.	Some service was provided on 28.06.2017 but Invoice will be raised on 05.07.2017. Whether we have to charge Service Tax or GST?	If Point of Tax arises after appointed date, then GST will be chargeable on such supply.

84.	Would we be eligible for credit on Capital Goods in transit and received post GST?	No provision for such credit is there in GST law.
85.	What about VAT balance pending on transition date?	Balance VAT credit in the return will be transferred to new provisional ID as SGST Credit.
86.	What about deemed export against Form H?	Form H will not be there in GST.
87.	Who will bear tax difference on closing stocks as on 30th June 2017? Whether the manufacturer/dealer or government?	Closing ITC in VAT return will be allowed to be carry forward in GST.
88.	How will we get input credit on stock in hand for spare parts billed from other state, excise, CST and entry tax paid?	For all inputs with duty paying documents available respective CGST / SGST credit will be available. But credit of CST will not be available.
89.	A trader buys from manufacturer not registered in excise as his turnover is below 1.5 crore. then in such case can traders take ITC on stock up to 40%	Deemed Credit will be available on stock in hand provided the conditions of section 140(3) read with Rule 1(4) of Transition Rules are satisfied.
90.	Whether we will be eligible for credit of duty paid on Capital Goods in transit and received post GST?	No such provision in GST.
91.	Can ITC of Swach Bharat Cess or Krishi Kalyan Cess be carried forward under GST?	No
92.	Will Clean Energy CESS on imported Coal @ Rs. 400 PMT continue to be applicable in GST?	No. Clean Energy Cess is being repealed. Coal, however, will be subject to compensation cess @ Rs 400/- per tonne.
93.	Whether closing balance of edu cess and secondary higher education cess prior to 1st Mar 2015 can be carried forward in GST?	No it will not be carried forward in GST as it is not covered by definition of "eligible duties and taxes" under Section 140 of the CGST Act.
94.	Can u clarify for 40% benefit on closing stock does 1 year limit apply or not ?	Deemed credit will be available for all stock procured within a 1 year period.
95.	Till what time is transition credit available? Where do I need to declare my input stock?	The window to declare transition credit forms is three months from the appointed day. Please refer to transition rules for more details.
	UTGST	
96.	Will there be GST in A&N Islands as previously there was no VAT	Yes. For supplies within A&N, CGST plus UTGST would be leviable.
	Others	
97.	Whether IGST would be levied twice on high seas sales? First on high seas sales and second on custom clearance. IGST paid on 1 available as ITC?	IGST shall be levied only once on imports.
98.	Will Krishi Mandi Fee (imposed in U.P.) be waived off in GST?	GST does not concern such fee so GST does not affect it.
99.	Is E-Way Bill applicable from 1st July 2017	The present system for E-way Bill in States to continue, till the E-Way Bill procedures are finalized.
100.	Is there a sunset clause for Anti-Profiteering law?	Yes, the sunset clause for Anti-profiteering Authority is of two years.

Attention taxpayers!

Don't wait for the last date, file GSTR-1, 2 and 3 within the prescribed period

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Kindly note that, the following are important points to be remembered in regards to filing of Form GSTR-1

I. Timelines

The regular Returns filing (GSTR-1, GSTR-2, and GSTR-3) deadline relaxed for July/August 2017. The Time period for filing returns (GSTR-1, GSTR-2, and GSTR-3) is given below.

Forms	**For July 2017**	**For August 2017**
GSTR-1	**1^{st} - 10^{th} September**	**Up to 5^{th} October 2017**
GSTR-2	11^{th} -25^{th} September	6^{th} -10^{th} October 2017
GSTR-3	Up to 30^{th} September	Up to 15^{th} October

Please note that

a. Supplier Tax Payer will **not be able to** Upload Invoices or Submit Form GSTR1, for the month of July, 2017, during the period of filing of Form GSTR-2 of July, 2017, viz. 11^{th} to 25^{th} September, 2017.
b. Therefore it is necessary that supplier taxpayers files his Form GSTR 1 for the month of July, 2017, using EVC or DSC (mandatory for companies, LLPs and FLLPs etc.), to avoid late fees payment by 10^{th} September, 2017.
c. If supplier taxpayer does not submits his Form GSTR 1 of July , by 10^{th} September 2017 and if these invoices are uploaded/added by his receiver tax payer in his Form GSTR 2, then

    i. Supplier taxpayer will be required to necessarily take action on (Accept or Reject), the invoices uploaded by Receiver taxpayer.
    ii. Supplier will **not be able to Edit or Modify** Receiver taxpayer uploaded invoices.
    iii. Further the same invoices uploaded, but not filed by the supplier taxpayer in his Form GSTR 1, will be **marked as invalid**.

II. Who should file Form GSTR- 1

1. GSTR-1 to be filed mandatorily by all normal and casual registered tax payers.
2. GSTR 1 needs to be filed even if there is no business activity (Nil Return) during a given tax period.

III. Who should not file Form GSTR -1?

1. Taxpayer opted for Composition scheme
2. Input Service Distributor (ISD)
3. Non-Resident taxable person
4. Tax Deductor at Source
5. Tax Collector at Source
6. Taxpayer Covered under Online Information and Database Access or Retrieval (OIDAR)

IV. Pre-conditions for filing of Form GSTR 1

1. The receiver taxpayer should be a Registered Normal Dealer and should have an active GSTIN.
2. Supplier taxpayer should have valid login credentials (i.e., User ID and password).
3. Supplier taxpayer should have valid and non-expired/unrevoked digital signature certificate (DSC)(in case of companies, LLPs and FLLPs etc.) or EVC (for remaining Taxpayers)

V. Steps in filing Form GSTR 1

1. **Login>GST portal > Services > Returns > Returns Dashboard**
2. Select the financial year and tax period for which GSTR 1 needs to be filed and click SEARCH
3. Select GSTR 1 tile and click on PREPARE ONLINE or PREPARE OFFLINE
4. Fill in the data in respective section
5. Generate summary of GSTR 1
6. Click submit to validate data. No changes can be made in Form GSTR 1 once data is submitted
7. File GSTR 1 using DSC (in case of companies, LLPs and FLLPs etc.) or EVC
8. An Application Reference Number (ARN) is generated and SMS and mail is sent to the Taxpayer

VI. **Methods of filing Form GSTR 1:** The Form GSTR-1 can be filed by any of the following methods:

a) Upload of invoices online: If the taxpayer has limited number of entries, he can directly enter the details on the GST portal. He needs to log in to the GST portal using his user ID and password and navigate to the return dashboard page where he can click on prepare online tab available on GSTR 1 tile to prepare his return online.

b) **Preparation of Form GSTR 1 using Off-line tool:** Excel based offline tool is also provided at https://www.gst.gov.in/download/returns . This can be downloaded and installed on the taxpayer's computer to prepare the return in an offline mode using excel without connecting to internet. The benefits and main features of offline tool (mentioned above) are:

- Can fill in invoices data up to 19, 000 line items using excel utility in offline mode.
- Using offline tool, taxpayer can upload their invoices in Form GSTR 1, more than once, at any time during the day/week/month.
- The invoices uploaded in Form GSTR 1 by supplier will be auto populated in GSTR 2A of the receiver and will be available for view to the receiver.
- Where invoices are more than 500, it will not be available for viewing online to the tax payers. However, they can download it using offline tool and later on upload after edit.

c) Filing of Form GSTR 1 Through GSPs: Taxpayers having very large number of invoices can directly furnish details of Form GSTR 1 to GST System using their accounting applications if they use the services of the GST Suvidha Providers to connect to the GST system through a secured MPLS network connectivity.

VII. Salient Features of Form GSTR-1:

1. Supplier taxpayers (Normal and Casual) are required to file GSTR 1 return (Statement of outward Supplies) on a monthly basis

2. Information to be uploaded in GSTR-1 statement can be broadly divided in two groups.
   a. Group I: The B2B Invoice Details of Supplies to registered person,B2Cl Invoice details of Interstate Supplies with invoice value more than Rs 2.5 lacs per invoice, exports details, credit debit notes related to B2B,B2Cl and Export invoices for which invoice wise details are to be provided and amendment of earlier furnished invoices and credit/debit notes
   b. Group II: Group summary information for whole month is to be reported for B2Cs details of supplies to consumers within the state and inter-state supplies of value less than Rs. 2.5 lacs per invoice, details of advances received and adjusted, NIL rated, Exempt and non-taxable supplies, details of documents like invoice, challans etc. Issued during the month and amendments of above information having impact on tax liabilities.

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VIII. **Late fees for not filing GSTR 1 by the due Date (as per CGST Act):** Late fees of Rs 100/- for every day during which such failure continues subject to maximum of Rs 5000/- , (fees as per SGST Act will be charged separately as per respective SGST Act).

IX. So please don't wait till the last date to act for accept/reject/modify or keep pending of invoices received from Suppliers who have filed GSTR 1. You can accept/reject/modify or keep pending invoices during 11th September to 25th September 2017 on daily or weekly basis at your convenience. There is a Help Section on GST Common Portal for any further assistance or click on the link https://www.gst.gov.in/help/helpmodules/ .

X. For assistance please contact us at Email helpdesk@gst.gov.in or Call at Helpdesk on 0120-4888999