The Awaited Goods and Service Tax- Role in the growth of Business

Shashi Sawhney¹, Anjali Raghav²
¹Chartered Accountant, INDIA
²Assistant Professor, Galgotias University, INDIA

ABSTRACT
A comprehensive indirect tax on Goods and Services which encapsulates charge on sale, manufacture and consumption of services and goods at the country-wide level. The intent of introduction of this single uniform tax is to consolidate almost all taxes falling under indirect tax regime into one single tax, substituting multiple taxes and taming the restraints and inefficiencies in the current structure of indirect tax.

The instigation of Central VAT (CENVAT) has eliminated the cascading thrust of “tax on tax” to a great expanse by bestowing a system of “set off” for amount of taxes already paid on input goods and services up to the point of production. Likewise, the instigation of VAT in all the States has eliminated the cascading sequel by providing set-off for the amount of taxes paid on input goods as well as amount of taxes paid on prior purchases. Yet, the twain the State VAT and the CENVAT have certain flaws. The instigation of GST will not only embrace more Central taxes under indirect tax umbrella and consolidate taxes on goods and services for set-off abatement, but also apprehend acknowledged value addition in the dispensation trade. With the introduction of GST, anunrelenting series of set-off from the indigenous manufacturer’s producer’s location and service provider’s location upto the retailer's position would be determined which would overcome the charge of all cascading thrusts, covering the substance of service tax and CENVAT. This is the quintessence of GST.

This paper has a technical background, covering all the developments happened in the India for the introduction of this law i.e. amendment in the Constitution of India, proposed administrative changes and compliance requirements.

Period of Study:
This paper accounts for all major events happened in India from the day this law was proposed in the parliament to the date.

Finally, conclusions are drawn regarding its effect on the Indian economy.

Keywords---
GST Goods and Service Tax
CGST Central Goods and Service Tax
SGST State Goods and Service Tax
PAN Permanent Account Number
SAD Special Additional Duty
IGST Integrated Goods and Services Tax
CENVAT Central Value Added Tax

I. OBJECTIVES

a) A comprehensive indirect tax on added value of goods and services;
b) Levied and collected on the added value at all stages of supply chain;
c) No differentiation between goods and services;
d) Seamless input tax credit throughout the supply chain;
e) At all levels of manufacture/ production and distribution, taxes are a traverse and tax is borne by the final consumer;
f) All industries are taxed with limited exclusions i.e. exceptions/ exemptions;
g) In most countries single tax rate exists covering both, goods and services;
h) However, many countries have multiple VAT rate systems;
i) More than 140 countries have already introduced GST/ National VAT;
j) GST has been a part of European tax systems since 50 years;
k) In the entire Asia – Pacific region, GST is the most preferred form of indirect-taxes;
l) Currently, over 40 GST models are in force, each have its own specifications and peculiarities;
m) Singapore and New Zealand have a single GST rate system;
n) Indonesia’s GST model has five rates, multiple exemption and zero rate categories;
o) In China, GST is applied on repairs, services for replacement of goods. In addition to this, a separate tax similar to VAT is levied on businesses;
p) Majority of the countries have a single GST rate;
q) In most of the countries, rate of GST ranges between 15-20 per cent;
r) GST provides the benefit of 100 per cent set-off of taxes paid on input goods and services.
s) All sections of the economy are taxed with the limited exclusions/ exemptions;
t) Canada has adopted dual VAT structure;
u) Brazil has adopted a dual GST system where tax is charged by, Central and State Governments, simultaneously; and
v) India, on the way to implement GST.

II. HYPOTHESIS

Currently, in India there are multiple indirect tax levies at various stages of value chain which highly impacts the end to end supply chain designs. In the current scenario, if a company has to provide its service or goods to customers following types of taxes are to be levied:

a) **Service Tax**: Levied on provision of services at an approximate rate of 14%;
b) **Value Added Tax (VAT)**: Levied on goods at the time of their sale within the State at an approximate rate of 5% / 12.5% / 14.5%;
c) **Customs Duty**: Levied on goods at the time of their import at an approximate rate of 28.85%;
d) **Excise Duty**: Levied on goods at the time of their manufacture at an approximate rate of 12.36%;
e) **Central Sales Tax (CST)**: Levied on goods at the time of their inter-state sale from one state to another at an approximate rate of 2% if goods are for resale, else at VAT rate;
f) **Entry tax/ Octroi/ Local Body Tax**: Levied on entry of goods within State/ local limits (tax rate depends on the nature of goods).

With the levy and charge of above all taxes the cost of product or service increases. Also, the company has to bear the cost for complying with the provisions of law which not only adds to the cost but also causes inconvenience and inefficiencies. In order to overcome such hardships and to simplify the indirect tax regime, GST law has been proposed. All the above indirect taxes (except custom duty) will be subsumed in the proposed GST model.

III. INTRODUCTION

GST is a tax on Goods and Services and is postulated as all-embracing indirect tax, levied on consumption, sale or manufacture of goods and services at the country-wide level. The basic intent of GST is to submerge all indirect taxes into a consolidated single tax except customs duty (excluding Special Additional Duty) removing multiple taxes and taming the restraints and inefficiencies in the current structure of indirect tax.

Therefore, GST is a single tax levied on goods and services which provides the benefit of tax credit and is collected on the added value of goods and services at all stages of sales and purchases. The ultimate consumer, being the last person in the supply chain will bear this tax. The amount of GST paid on the purchase of input goods and input services will be allowed as set-off against the amount of GST payable on the supply of goods and services.

In the Article 366(12A) of the Constitution of India, the term GST is defined as “any tax on supply of goods or services or both except the taxes on supply of the alcoholic liquor for human consumption.”

Article 366(26A) of the Constitution of India stipulates that “services means anything other than goods.”

Consequently, the proposed GST law will cover all services under its scope unless “negative list of services” are separately enlisted and/or notified.

Under the proposed GST model there would be two components –

a) The Central GST, which the Central Government would be required to levy and collect;
b) The State GST, which the State Governments would be required to levy and collect from the respective states.

Under GST, taxes like service tax, central excise duty, additional duty of customs and additional excise duty, entertainment tax, taxes on betting and gambling and on lotteries, state VAT and entry tax would be subsumed.

GST is one of the unique reforms under the tax regime of one country under the indirect system. In the prevailing scenario taxes are being levied and charged by the center and the state respectively as stated earlier. The law authority imposes tax on government which is predetermined position of law.
IV. WHY THE DUAL GST MODEL NEEDED?

As already discussed, GST is a destination based consumption tax. In certain countries like Australia, New Zealand, Germany there is a Single (Central) GST model where the collection and the levy of GST is being done by the Centre for both Centre and the states and subsequently distributes the individual states’ share in accordance with its consumption pattern.

In the Quebec Province of Canada the Single (State) GST model is applicable where the reverse policy has been adopted then that in the Single (Central) GST model. In this, the individual states collect GST for the twain, the Center and their respective states and thereafter transfer the Centre’s share to the Centre. Fewer countries have adopted such model.

The another GST model is the DUAL GST model where both Centre and the States charge and collect their shares of GST simultaneously according to their streams of Central GST(CGST) and States GST(SGST).

The most critical part of GST model is in respect of interstate movement of goods and services. Twelve GST models have been considered then finally the conclusion was to adopt the IGST model. Under this model the IGST having CGST and SGST is being levied and collected by the Centre.

The Centre in turn retains the share of CGST and transfers the SGST shares to the respective states and this entire mechanism will be computerised.

In context to the interstate movement of Goods and Services, the Central GST model is preferable over others as there is absence of complications involved in determining the GST share of the destination states.

India could not have opted for this model, considering the federal structure of our constitution and fiscal autonomy for the states enshrined in it.

The Constitution of India on the other hand gives supremacy to Centre over the states in three important areas those are Defense, External Affairs and finance. Since Centre cannot be made to outsource the collection of Centre’s portion of GST to the states. Therefore, it is being determined the DUAL GST model as the best option for India.

Hence, certain powers relevant for levy of tax will be derived or available to the Centre or state respectively by virtue of amendment in the Constitution and (One Hundred and Twenty Second Amendment Bill, 2014).

This Bill has been introduced and passed by Lok Sabha in May 2015 and has been referred to the select committee by the Rajya Sabha.
V. HISTORY IN PARLIAMENT AND EMPOWERED COMMITTEE

<table>
<thead>
<tr>
<th>Year</th>
<th>Events taken place</th>
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<tr>
<td>2000</td>
<td>Committee headed by Asim Dasgupta (The Finance Minister of Government of West Bengal) was set up by Vajpayee Government. This committee was entrusted with the responsibility to design the model GST law and to oversee the preparedness at the IT back-end for its rollout.</td>
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<td>28 February 2006</td>
<td>During the budget of 2006-07, the then Union Finance Minister, P. Chidambaram, made an announcement that the GST would be introduced from 1 April 2010. Further, the Empowered Committee of State Finance Ministers (hereinafter referred to as Empowered Committee) were requested to work with the Central Government and prepare an extensive roadmap of implementation of GST in India. The Empowered Committee of State Finance Ministers set up a joint working group, which after intensive internal dialogues; interactions with the representatives and experts of the Industry and Chambers of Commerce, submitted its report to the Empowered Committee on 19 November 2007.</td>
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<td>April 2008</td>
<td>The report of the Joint Working Group went through several rounds of detailed discussions in the meeting of the Empowered Committee. The rigorous discussions lead to certain changes which were incorporated in the report and a final draft was sent to Government of India.</td>
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<tr>
<td>December 2014</td>
<td>The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 was introduced in the Lok Sabha by Finance Minister Arun Jaitley.</td>
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VI. SALIENT FEATURES OF GST

a) The proposed GST law would replace and subsume the following taxes which are currently being levied and collected by the Centre:
   (i) Central Excise Duty;
   (ii) Service Tax;
   (iii) Duties of Excise (medicinal and toilet preparations);
   (iv) Additional Duties of excise (textiles and textile products);
   (v) Special Additional Duty of Customs (SAD);
   (vi) Additional Duties of Customs (commonly known as CVD);
   (vii) Additional Duties of excise (Goods of Special Importance); and
   (viii) Cesses and surcharges insofar as they relate to supply of goods or services.

b) The State taxes which would be subsumed in the proposed GST law are as follows:
   (i) State VAT;
   (ii) Purchase Tax;
VII. MODEL GOODS AND SERVICES TAX LAW FOR INDIA

It is pertinent to consider certain consequential administrative issues while developing a functional GST model in a federal economy, having the intent of comprehensive consistent rates mechanism. Along with this, the upholding of the powers of the Central and the State Government(s) in the pith taxation shall also needs to be considered. In addition to this proposed model that would be easily implemented and can be generally acceptable to stakeholders is needed.

While considering the report on Goods and Services Tax by the Joint Working Group, set up by the Empowered Committee of State Finance Ministers, a DUAL GST structure is recommended which explicates the functions, authorities and responsibilities of the Central Government and the State Governments.

To devise a suitable mechanism that will be enforceable on both the Centre and the States. This will comprise of consistent rate structure along with the desideratum for further modifications, if required, with a collectively agreed amendment in the Constitution of India.

VIII. PRINCIPAL FEATURES OF THE PROPOSED GST LAW HAVE BEEN DISCUSSED AS UNDER

(i) GST will comprise of two components:-
   • Central GST; imposed by the Centre.
   • State GST; imposed by the state.

   Both Central GST and State GST will have consistent rates which will be advised appropriately, taking into consideration acceptability and revenue by both. Implementation of this dual GST law would require multiple statutes; one would be for CGST and different SGST statutes for each state. Yet, the prime model of the law would remain same. The provisions of chargeability, measures of levy including valuation provisions, definition of taxable person and taxable event, basis of classification etc. would be consistent as far as practicable.

(ii) GST would embrace all transactions made for consideration, pertaining to goods and services, under the ambit of Central GST and State GST.

(iii) The collection of Central GST would be paid to the accounts of the Central Government and the collection of the State GST would be paid to the accounts of different States Government separately. It should be adequately ensured that the account heads for all goods and services should have proper indication as to whether a particular account relates to Central GST or State GST.

(iv) As both Central GST and State GST would be regarded separately, any amount of tax paid against Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The principles for payment and allowance of credit for state GST would also be similar. The taxpayer would be required to maintain separate books of account detailing utilization or refund of credit. Further, there would be alignment in the rules for utilization of credit for central GST and state GST.

(v) The application of input tax credit of Central GST would not be allowed against State GST and vice versa. In other words, cross utilization of ITC would not be allowed.

(vi) The problem between the Central government and the States Government, related to the accumulation of credit with regard to refund of GST would be circumvent. However, in case of exports, purchase of capital goods, the problem between the Central Government and States Government would be solved only if refund/adjustment gets completed continuously within defined timelines.

(vii) The mechanism for collection of Central GST and State GST would be uniform to the extent feasible, and would be advocated in the respective legislation for Central GST and State GST.

(viii) The responsibility for execution and management of Central GST would be given to the Central Government and for State GST respective states would be responsible. This implies Central Government and the States Governments would have a concurrent jurisdiction on the entire value chain system.

(ix) As per the current phenomenon VAT is not applicable below the threshold limit as prescribed in different State VAT Acts. This varies from State to State. A similar phenomenon wherein a single State GST across all states is preferred. Further, it is
under discussion that for all states and union territories a single threshold limit of Rs. 10 Lakhs may be adopted thereby making a suitable provision for adequate compensation to the States where currently lower VAT rate is prevailing. This is particularly in the North-Eastern States and special category states.

There should be an upper tax rate and a lower tax rate in relation to gross annual turnover in the ascertainment of compounding scheme for the purpose of GST. There would be particularly a compounding scheme cut off at Rs 50 lakh of gross annual turnover and a lower tax rate of .5% across the states is proposed. As per the scheme for the dealers the registration of GST is being permitted having turnover below the compounding cut off.

(x) The taxpayer is required to submit the return at periodical intervals in the common format as far as possible to central as well as state GST authorities.

(xii) Each and every taxpayer will be assigned a taxpayer identification number linked with his PAN number of total 13/15 digits. As discussed that by bringing the GST linked system in line with the prevailing PAN based system for income tax will facilitates exchange of data and the compliances of taxpayer.

IX. CONCLUSION

The introduction of GST would lead to a paradigm shift in Indirect Tax regime and would require business enterprises to take a close look at their current business and future business models. The business enterprises would need to quantify and evaluate its impact on their vertical and/or horizontal integration.

In nutshell, the following conclusions can be drawn from the above discussion:

I. Tax base and the taxable value would be changed

Since, both CGST & SGST shall be levied on same tax base and therefore both would be charged on the same taxable value. This is altogether different from current scheme of taxation where Central Taxes like excise, Central Sales tax are first charged on the basic value of goods and then State taxes are charged on a value which includes basic value and central taxes already charged.

After introduction of GST, both CGST & SGST will be charged on same taxable amount and hence, total taxes paid would get reduced substantially.

II. Substantial influence on prices of Goods and Services in B2B Segment

The basic principles of GST would be similar to VAT principles, any amount paid as input tax would be allowed as credit against the amount payable as output GST thereby significantly impacting the profitability of the business.

III. Incidence on prices of Goods and Services in B2C Segment

Although, under GST tax base will get broaden and dual taxes in the form of CGST and SGST will be applicable, but since tax credits will be available to all the participants in B2B segment, it is anticipated that final prices of the industrial goods for the consumers may get reduced.

However, it is anticipated that the prices of the services offered in B2C segment may get increased. This is because the combined rate of CGST and SGST is higher than the rate of service tax being charged at present.

IV. Availability of benefit of Input Tax Credit in the entire value chain

The amount of tax paid as input tax would be allowed as credit against the payment of output tax throughout the logistics chain for supply of goods which will provide significant additional credits which are currently missed out on purchases from traders, who are not registered under Excise.

Further, the amount of Service tax paid on SGST will now be available for set off against SGST on goods. This would be a big relief to the traders who pay VAT or Excise as output tax and do not get any credit for service tax paid by them on input services.

V. Impact on strategic Business Decisions

With the imposition of GST, any business enterprise can easily break-up every stage of production of
its business into a separate company and there would not be any impact on the total taxes paid by that company.

One can decide to outsource its production process or entire production activity only by considering the feasibility and profitability as per other factors. **Make or buy** decisions would not be impacted because tax structure would be uniform and would not have any difference amongst two options.

**VI. Benefit of Economies of scale and division of labour**

Business units will not be forced to do anything in which it is inefficient, just to comply with the tax laws. They can concentrate on the things in which they are best fitted and will increase their efficiencies.

Businesses can enjoy the benefits of Economies of scale and advantages of Division of Labor on a larger scale than under present tax regime.

**VII. Unutilized and accumulated credits of Service Tax, Input Excise & VAT at the effective date of GST.**

The Government is in talks that while transforming the tax structure from current to GST regime, the provisions in relation to the carry forward and set off of accumulated CENVAT credit and VAT credit which will remain unutilized on GST effective date, will be in place. Loss of this accumulated credit will not likely to happen.

**VIII. Different levels of threshold**

This is explained with below example:

- Taxable turnover of a small manufacturer ‘A’ - below Rs. 10 Lakhs;
- Taxable turnover of medium dealer ‘B’ - below Rs. 50 Lakhs;
- Taxable turnover of a large dealer ‘C’ - above Rs. 150 Lakhs.

Now, if A sells goods to consumers directly, his goods will not be afflicted by any GST, but if he sell to B, the same goods will afflict SGST and if he sells to C, the same goods will afflict CGST as well as SGST. Thus, same goods manufactured by A will attract different tax treatments.

**IX. Transfers to branches & Job Work Transactions and their treatment**

The draft discussion paper on GST is concerned to the imposition of GST on all transactions of Goods and Services made for consideration. But in the case of transfer of goods to branch offices and at place of Job work, the paper is silent. However, there could be two options for the treatment of this. One option could be the imposition of GST on such transactions also, this would facilitate a seamless tax credit mechanism. The second option could be to transfer the stock at zero rate instead of exempting the same.

**REFERENCES**

