

GST – CONCEPT & STATUS – AUGUST, 2016

Introduction

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would instantly spur economic growth. Last but not the least, this tax, because of its transparent character, would be easier to administer.

Genesis

2. The idea of moving towards the GST was first mooted by the then Union Finance Minister in his Budget for 2006-07. Initially, it was proposed that GST would be introduced from 1st April, 2010. The Empowered Committee of State Finance Ministers (EC) which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, the EC released its First Discussion Paper (FDP) on the GST in November, 2009. This spells out the features of the proposed GST and has formed the basis for discussion between the Centre and the States so far.

Salient Features of GST

3. The salient features of GST are as under:
- (i) GST would be applicable on supply of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.
 - (ii) GST would be a destination based tax as against the present concept of origin based tax.

For Departmental Officers only

- (iii) It would be a dual GST with the Centre and the States simultaneously levying it on a common base. The GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States would be called State GST (SGST).
- (iv) An Integrated GST (IGST) would be levied on inter-State supply (including stock transfers) of goods or services. This would be collected by the Centre so that the credit chain is not disrupted.
- (v) Import of goods or services would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties.
- (vi) CGST, SGST & IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GST Council (GSTC).
- (vii) GST would replace the following taxes currently levied and collected by the Centre:
 - a) Central Excise duty
 - b) Duties of Excise (Medicinal and Toilet Preparations)
 - c) 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 far as they relate to supply of goods or services
- (viii) State taxes that would be 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 far as they relate to supply of goods or services
- (ix) GST would apply to all goods and services except Alcohol for human consumption, Electricity and Real Estate.

- (x) GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.
- (xi) Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Excise duty.
- (xii) A common threshold exemption would apply to both CGST and SGST. Taxpayers with a turnover below it would be exempt from GST. A compounding option (i.e. to pay tax at a flat rate without credits) would be available to small taxpayers below a certain threshold. The threshold exemption and compounding scheme would be optional.
- (xiii) The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as far as possible.
- (xiv) Exports would be zero-rated.
- (xv) Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST paid on inputs may be used only for paying SGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilised, except in specified circumstances of inter-State supplies, for payment of IGST. The credit would be permitted to be utilised in the following manner:
 - a) ITC of CGST allowed for payment of CGST;
 - b) ITC of SGST allowed for payment of SGST;
 - c) ITC of CGST allowed for payment of CGST & IGST in that order;
 - d) ITC of SGST allowed for payment of SGST & IGST in that order;
 - e) ITC of IGST allowed for payment of IGST, CGST & SGST in that order.
- (xvi) Accounts would be settled periodically between the Centre and the State to ensure that the credit of SGST used for payment of IGST is transferred by the Exporting State to the Centre. Similarly the IGST used for payment of SGST would be transferred by the Centre to the Importing State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by the Centre to the destination State.
- (xvii) The laws, regulations and procedures for levy and collection of CGST and SGST would be harmonized to the extent possible.

GST and Centre-State Financial Relations

4. Currently, fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while

the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax. Since the States are not empowered to levy any tax on the sale or purchase of goods in the course of their importation into or exportation from India, the Centre levies and collects this tax as additional duties of customs, which is in addition to the Basic Customs Duty. This additional duty of customs counterbalances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of the GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

4.1 The assignment of concurrent jurisdiction to the Centre and the States for the levy of GST would require a unique institutional mechanism that would ensure that decisions about the structure, design and operation of GST are taken jointly by the two. For it to be effective, such a mechanism also needs to have Constitutional force.

Constitution (One Hundred and Twenty Second) Amendment Bill, 2014

5. To address all these and other issues, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha on 22.03.2011. The said Bill lapsed with the dissolution of the 15th Lok Sabha. The Constitution (122nd Amendment) Bill was introduced in the 16th Lok Sabha on 19.12.2014. The Bill provides for a levy of GST on supply of all goods or services except for the specified goods. The tax shall be levied as Dual GST separately but concurrently by the Union (CGST) and the States (SGST). The Parliament would have exclusive power to levy GST (IGST) on inter-State trade or commerce (including imports) in goods or services. The Central Government will have the power to levy excise duty in addition to the GST on tobacco and tobacco products.

5.1 A GSTC would be constituted comprising the Union Finance Minister, the Minister of State (Revenue) and the State Finance Ministers to recommend on the GST rate, exemption and thresholds, taxes to be subsumed and other features. This mechanism would ensure some degree of harmonization on different aspects of GST between the Centre and the States as well as across States. One half of the total number of members of GSTC would form quorum in meetings of GSTC. Decision in GSTC would be taken by a majority of not less than three-fourth of weighted votes cast. Centre would have one-third

weightage of the total votes cast and all the States taken together would have two-third of weightage of the total votes cast.

5.2 The Constitution Amendment Bill needs to be passed by a two-third majority in both Houses of Parliament and subsequent ratification by at least half of the State Legislatures. The Bill was earlier passed by the Lok Sabha in May, 2015. The Bill was referred to the Select Committee (of 21 members led by Sh. Bhupendra Yadav, Hon'ble MP) of Rajya Sabha on 12.05.2015. The Select Committee had submitted its Report on the Bill on 22.07.2015. The Bill has finally been passed in the Rajya Sabha and thereafter by Lok Sabha in August, 2016. Further the bill has since been ratified by 20 States and now awaits receipt of assent by the President. This would complete the process of the amendment of the Constitution.

Other Legislative Requirements

6. Suitable legislation for the levy of GST (Central GST Bill and State GST Bills) drawing powers from the Constitution can be introduced in Parliament or the State Legislatures only after the enactment of the Constitution Amendment Bill and on the recommendation by the GSTC. Unlike the Constitutional Amendment, the GST Bills would need to be passed by a simple majority. Obviously, the levy of the tax can commence only after the GST Law has been enacted by the respective legislatures. Also, unlike the State VAT, the date of commencement of this levy would have to be synchronized across the Centre and the States. This is because the IGST model cannot function unless the Centre and all the States participate simultaneously.

Recent Developments on the GST

7. Six Committees have been constituted by the Empowered Committee of State Finance Ministers (EC) to deal with the various aspects of work relating to the introduction of GST. The Committees are:

- (i) The Committee on the Problem of Dual Control, Threshold and Exemptions in GST Regime;
- (ii) The Committee on Revenue Neutral Rates for State GST & Central GST and Place of Supply Rules (A Sub-Committee has been constituted to examine issues relating to the Place of Supply Rules);
- (iii) The Committee on IGST & GST on Imports (A Sub-Committee has been set up to examine issues pertaining to IGST model);

- (iv) The Committee to examine Business Processes under GST Regime (Three Sub-Committees have been constituted to examine issues pertaining to Registration & Returns, Refunds and Payments);
- (v) The Committee to draft model GST Law (Three Sub-Committees have been constituted to draft various aspects of the model law);
- (vi) The Committee to draft model GST Rules.

7.1 First five Committees have submitted their final reports which have been approved by the Empowered Committee and are under consideration of the Government of India. The EC has asked the Committee on the Problem of Dual Control, Threshold and Exemptions in GST Regime to re-work on the limits of threshold exemption and compounding threshold.

7.2 The Reports on four business processes, viz. registration, return, payment and refunds were put in public domain for comments and feedback of stakeholders in October, 2015. Interactive workshops for trade and industry were conducted at various places for educating them. The feedback so received has since been examined and necessary changes are being incorporated in Model GST Law.

7.3 The Report of the Committee to draft Model GST Law was put in public domain, in the form of draft Model GST Law / draft IGST Act, for comments and feedback of stakeholders in June, 2016. The feedback so received is being examined to carry out necessary changes in the draft Model GST Law.

7.3 GSTN is a private company constituted under Section 25 of the Companies Act, 1956 has been set up by the Government. GSTN would provide three front end services, namely registration, payment and return to taxpayers. It will also assist some States with the development of back end modules. GSTN has already appointed M/s Infosys as Managed Service Provider at a total project cost of around Rs 1380 crores for a period of five years.

Role of CBEC

8. The CBEC is playing an active role in the deliberations in the various Committees constituted by the Empowered Committee. It is expected to play an equally important role in the drafting of GST law and procedures, particularly the CGST and IGST law, which will be exclusive domain of the Centre. This apart, the CBEC would need to prepare, in advance, for meeting the implementation challenges, which are quite formidable. The number of

taxpayers is likely to go up significantly. The existing IT infrastructure of CBEC would need to be suitably scaled up to handle such large volumes. Based on the legal provisions and procedure for GST, the content of work-flow software such as ACES (Automated Central Excise & Service Tax) would require review. DG Systems has already constituted a Steering Committee for implementation of GST System for CBEC. Augmentation of human resources would be necessary to handle such large number of taxpayers scattered across the length and breadth of the country. Capacity building, particularly in the field of Accountancy and Information Technology for the departmental officers have to be taken up in a big way.

8.1 CBEC officials, as members of these Committees / Sub-committees, are playing a significant role in the work relating to design and contours of the proposed GST regime.

8.2 The meeting of the Empowered Committee are attended by the Member (GST), CBEC and other officials.

8.3 A GST Policy Wing headed by a Commissioner level officer has been created within CBEC. Further Directorate General of Service Tax has been shifted from Mumbai to Delhi and has been renamed as Directorate General of GST. The said Directorate has been given a well-defined mandate to work on various aspects of GST.

9. The GST law is still evolving and the dialogue continues between the Centre and the States on related issues. A number of procedural, legal and administrative issues relating to GST are under active discussions in various Committees / Sub-committees constituted by the EC and in various Groups constituted by the CBEC.

(This Note is for creating general awareness about the GST among the officers and staff of CBEC)
