GST – CONCEPT & STATUS – As on 5th April, 2017

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 to be around 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing 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 2007-08. 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 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 sofar.

GST and Centre-State Financial Relations

3. 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 sale of goods. In 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 (commonly known as CVD and SAD) counter balances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

3.1 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 First) Amendment Act, 2016

4. To address all these and other issues, the Constitution (122ndAmendment) Bill was introduced in the 16thLok Sabha on 19.12.2014. The Bill provides for a levy of GST on supply of all goods or services except for Alcohol for human consumption. The tax shall be levied as Dual GST separately but concurrently by the Union (central tax - CGST) and the States (including Union Territories with legislatures) (State tax - SGST) / Union territories without legislatures (Union territory tax- UTGST). The Parliament would have exclusive power to levy GST (integrated tax - 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. The tax on supply of five specified petroleum products namely crude, high speed diesel, petrol, ATF and natural gas would be levied from a later date on the recommendation of GST Council.

4.1 A Goods and Services Tax Council (GSTC) shall 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 and minimum of 20 States would be required for majority because 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.

4.2 The Constitution Amendment Bill was earlier passed by the Lok Sabha in May, 2015. The Bill was referred to the Select of Rajya Sabha on 12.05.2015. The Select Committee had submitted its Report on the Bill on 22.07.2015. The Bill with certain amendments was finally passed in the Rajya Sabha and thereafter by Lok Sabha in August, 2016. Further the bill had been ratified by required number of States and received assent of the President on 8thSeptember, 2016 and has since been enacted as Constitution (101st Amendment) Act, 2016w.e.f. 16th September, 2016.

Goods and Services Tax Council (GSTC)

5. The GSTC has been notified with effect from 12th September, 2016. GSTC is being assisted by a Secretariat. Thirteen meetings of the GSTC have been held so far. The following decisions have been taken by the GSTC:

(i) The threshold exemption limit would be Rs. 20 lac. For special category States enumerated in article 279A of the Constitution, threshold exemption limit has been fixed at Rs. 10 lac.

(ii) Composition threshold shall be Rs. 50 lac. Composition scheme shall not be available to inter-State suppliers, service providers (except restaurant service) and specified category of manufacturers.

(iii) Existing tax incentive schemes of Central or State governments may be continued by respective government by way of reimbursement through budgetary route. The schemes, in the present form, would not continue in GST.

(iv) There would be four tax rates namely 5%, 12%, 18% and 28%. Besides, some goods and services would be under the list of exempt items. Rate for precious metals is yet to be fixed. A cess over the peak rate of 28% on certain specified luxury and sin goods would be imposed for a period of five years to compensate States for any revenue loss on account of implementation of GST. The Council has asked the Committee of officers to fit various goods and services in these four slabs keeping in view the present incidence of tax.

(v) The five laws namely CGST Law, UTGST Law, IGST Law, SGST Law and GST Compensation Law have been recommended.

(vi) In order to ensure single interface, all administrative control over 90% of taxpayers having turnover below Rs. 1.5 crore would vest with State tax administration and 10% with the Central tax administration. Further all administrative control over taxpayers having turnover above Rs. 1.5 crore shall be divided equally in the ratio of 50% each for the Central and State tax administration.

(vii) Powers under the IGST Act shall also be cross-empowered on the same basis as under CGST and SGST Acts with few exceptions.

(viii) Power to collect GST in territorial waters shall be delegated by Central Government to the States.

(ix) Formula and mechanism for GST Compensation Cess has been finalised.

(x) Four rules on input tax credit, composition levy, transitional provisions and valuation have been recommended. Further five Rules on registration, invoice, payments, returns and refund, finalized in September, 2016 and as amended in light of the GST bills introduced in the Parliament, have also been recommended.

Salient Features of GST

6. The salient features of GST are asunder:

(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 ofservices.

(ii) GST would be based on the principle of destination based consumption taxation as against the present principle of origin basedtaxation.

(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 [including Union territories with legislature] would be called State GST(SGST). Union territories without legislature would levy Union territory GST (UTGST).

(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 notdisrupted.

(v) Import of goods would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customsduties.

(vi) Import of services would be treated as inter-State supplies and would be subject to IGST.

(vii) CGST, SGST /UTGST& IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GSTC.

(viii) GST would replace the following taxes currently levied and collected by theCentre:

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) ServiceTax;

h) Cesses and surcharges insofar as they relate to supply of goods orservices.

(ix) State taxes that would be subsumed within the GSTare:

a) StateVAT;

b) Central SalesTax;

c) PurchaseTax;

d) LuxuryTax;

e) Entry Tax (Allforms);

f) Entertainment Tax (except those levied by the localbodies);

g) Taxes on advertisements;

h) Taxes on lotteries, betting andgambling;

i) State cesses and surcharges insofar as they relate to supply of goods or services.

(x) GST would apply to all goods and services except Alcohol for human consumption.

(xi) GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural gas) would be applicable from a date to be recommended by the GSTC.

(xii) Tobacco and tobacco products would be subject to GST. In addition, the Centre would continue to levy Central Exciseduty.

(xiii) A common threshold exemption would apply to both CGST and SGST. Taxpayers with an annual turnover of Rs. 20 lac(Rs. 10 lacfor special category States as specified in article 279A of the Constitution) 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 (including to specified category of manufacturers and service providers) having an annual turnover of up to Rs. 50 lac. The threshold exemption and compounding scheme would beoptional.

(xiv) 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 well as across States as far aspossible.

(xv) Exports would be zero-rated.

(xvi) Credit of CGST paid on inputs may 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. The credit would be permitted to be utilized in the following manner:

a) ITC of CGST allowed for payment of CGST & IGST in that order;

b) ITC of SGST allowed for payment of SGST & IGST in that order;

c) ITC of UTGST allowed for payment of UTGST & IGST in that order;

d) ITC of IGST allowed for payment of IGST, CGST & SGST/UTGST in that order.

ITC of CGST cannot be used for payment of SGST/UTGST and vice versa.

(xvii) 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 originating State to the Centre. Similarly the IGST used for payment of SGST would be transferred by Centre to the destination State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by Centre to the destination State. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers.

(xviii) Input Tax Credit (ITC) to be broad based by making it 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.

(xix) Electronic filing of returns by different class of persons at different cut-off dates.

(xx) Various modes of payment of tax available to the taxpayer including internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS).

(xxi) Obligation on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakhs and fifty thousand rupees (Rs. 2.5 lac).

(xxii) Refund of tax to be sought by taxpayer or by any other person who has borne the incidence of tax within two years from the relevant date.

(xxiii) Obligation on electronic commerce operators to collect 'tax at source', at such rate not exceeding one per cent. (1%) of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals.

(xxiv) System of self-assessment of the taxes payable by the registered person.

(xxv) Audit of registered persons to be conducted in order to verify compliance with the provisions of Act.

(xxvi) 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.

(xxvii) 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 willful mis-statement.

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

(xxix) Officers wouldhave restrictive powers of inspection, search, seizure and arrest.

(xxx) Goods and Services Tax Appellate Tribunal would be constituted by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. States would adopt the provisions relating to Tribunal in respective SGST Act.

(xxxi) Provision for penalties for contravention of the provision of the proposed legislation has been made.

(xxxii) Advance Ruling Authority would be constituted by States in order to enable the taxpayer to seek a binding clarity on taxation matters from the department. Centre would adopt such authority under CGST Act.

(xxxiii) An 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.

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

Benefits of GST

7. **(A) Make in India**

(i) Will help to create a unified common national market for India, giving a boost to Foreign investment and "Make in India" campaign;

(ii) Will prevent cascading of taxes as Input Tax Credit will be available across goods and services at every stage of supply;

(iii) Harmonization of laws, procedures and rates of tax;

(iv) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth;

(v) Ultimately it will help in poverty eradication by generating more employment and more financial resources;

(vi) More efficient neutralization of taxes especially for exports thereby making our products more competitive in the international market and give boost to Indian Exports;

(vii) Improve the overall investment climate in the country which will naturally benefit the development in the states;

(viii) Uniform SGST and IGST rates will reduce the incentive for evasion by eliminating rate arbitrage between neighboring States and that between intra and inter-state sales;

(ix) Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption, which in turn means more production thereby helping in the growth of the industries . This will create India as a " Manufacturing hub".

(B) Ease of Doing Business

(i) Simpler tax regime with fewer exemptions;

(ii) Reductions in the multiplicity of taxes that are at present governing our indirect tax system leading to simplification and uniformity;

(iii) Reduction in compliance costs - No multiple record keeping for a variety of taxes - so lesser investment of resources and manpower in maintaining records;

(iv) Simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc;

(v) All interaction to be through the common GSTN portal- so less public interface between the taxpayer and the tax administration;

(vi) Will improve environment of compliance as all returns to be filed online, input credits to be verified online, encouraging more paper trail of transactions;

(vii) Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods and services will lend greater certainty to taxation system;

(viii) Timelines to be provided for important activities like obtaining registration, refunds, etc;

(ix) Electronic matching of input tax credits all-across India thus making the process more transparent and accountable.

(C) Benefit to Consumers:

(i) Final price of goods is expected to be lower due to seamless flow of input tax credit between the manufacturer, retailer and service supplier;

(ii) It is expected that a relatively large segment of small retailers will be either exempted from tax or will suffer very low tax rates under a compounding scheme- purchases from such entities will cost less for the consumers;

(iii) Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption.

Goods and Services Tax Network

8. 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 would provide three front end services, namely registration, payment and return to taxpayers. Besides providing these services to the taxpayers, GSTN would be developing back-end IT modules for 25 States who have opted for the same. The migration of existing taxpayers has already started from November, 2016. The Revenue departments of both Centre and States are pursuing the presently registered taxpayers to complete the necessary formalities on the IT system operated by Goods and Services Tax Network (GSTN) for successful migration. About 60 percent of existing registrants have already migrated to the GST systems. GSTN has already appointed M/s Infosys as Managed Service Provider (MSP) at a total project cost of around Rs 1380 crores for a period of five years.

8.1 GSTN has selected 34 IT, ITeS and financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs would develop applications to be used by taxpayers for interacting with the GSTN.

Other Legislative Requirements

9. Suitable legislation for the levy of GST (Central GST Bill, UTGST Bill & IGST Bill and State GST Bills) drawing powers from the Constitution would be introduced in Parliament or the State Legislatures on the recommendations by the GSTC. Unlike the Constitutional Amendment, the GST Bills would need to be passed by a simple majority. 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 participatesimultaneously.

Role of CBEC

10. CBEC is playing an active role in the drafting of GST law and procedures, particularly the CGSTand 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 also need to be suitably scaled up to handle such large volumes of data. 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 re-engineering. DG Systems has already constituted a Steering Committee for implementation of GST System for CBEC. The IT project of CBEC under GST has been approved by the Cabinet on 28thSeptember, 2016. The name of this project is ‘SAKSHAM’ involving a total project value of Rs. 2,256 crores.

10.1 It was also felt that the organizational structure and deployment of human resources needed a review for smooth and effective implementation of GST. A Working Group has after extensive deliberations and studies, submitted its Report which has been approved by the Government.

10.2 Augmentation of human resources would be necessary to handle large taxpayers’ base in GST scattered across the length and breadth of the country. Capacity building, particularly in the field of Accountancy and Information Technology for the departmental officers has to be taken up in a big way. A massive four-tier training programme is being conducted under the leadership of NACEN. This training project is aimed at imparting training on GST law and procedures to more than 60,000 officers of CBEC and Commercial Taxofficersof State Governments. Officers of the office of CAG are also participating and getting trained in this training programme. More than 50000 officers have already been trained.

10.3 It is expected that a momentous reform like GST is popularized and familiarized to the trade and industry who are the vital stakeholders in successful implementation of this reform. Massive Public outreach and knowledge sharing programmes being conducted by various formations of CBEC which, after Model GST Law was put in public domain, has reached to an audience of more than 20,000.

10.4 CBEC would be responsible for administration of the CGST and IGST law. In addition, excise duty regime would continue to be administered by the CBEC for levy and collection of central excise duty on five specified petroleum products as well as ontobacco products. CBEC would also continue to handle the work relating to levy and collection of customs duties.

10.5 The following information is available on the CBEC website **www.cbec.gov.in** :

(i) Presentation on GST

(ii) GST – Concept & Status

(iii) FAQs on GST in English and ten regional languages

(iv) Model GST Law

(v) Draft Rules & Formats

(vi) Constitutional Amendment Act

Way Forward

11. Looking forward, there are number of goal posts that need to be met before GST can be rolled out in the country. The following tasks are required to be completed within defined time frame:

(i) Passage of CGST, UTGST, IGST and GST Compensation laws by Parliament and passage of SGST laws by all State legislatures;
(ii) Recommendation of Model GST Rules by GST Council;
(iii) Notification of GST Rules;
(iv) Recommendation of GST Tax rates by GST Council;
(v) Establishment and upgradation of IT framework;
(vi) Meeting implementation challenges;

(vii) Effective coordination between Centre & State tax administrations;
(viii) Reorganization of field formations;
(ix) Training of Officials; and
(x) Outreach programs for all stakeholders including Trade & Industry.

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