

GST Regime -A Fillip to Make in India

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The Good and Services Tax (GST) was launched in India on July 1, 2017 in a midnight function at the Central Hall of Parliament by the Prime Minister in the august presence of the President of India. It was indeed a historic occasion and a paradigm shift as India moved towards 'One Nation, One Tax, One Market.' The global experience has shown that implementation of GST results in numerous benefits for all stakeholders. In the Indian GST regime, the consumers will benefit from lower prices due to removal of cascading in taxes and efficiency gains. The trade and industry will benefit because of uniform single indirect tax throughout the country, seamless flow of input tax credit, removal of tax related barriers at inter-state borders, reduced logistic costs, end to end IT enabled system and minimal interface with the tax authorities. The manufacturers will be able to take more rational decisions with regard to sourcing of raw materials, location of manufacturing and warehousing facilities. The Central and the state governments will witness tax buoyancy and the tax collection costs will reduce significantly. Exports will become more competitive as goods and services will be exported without any taxes embedded in them. 'Make

in India' programme will get a major fillip due to increased ease of doing business and protection from cheap imports as all imports will be subject to Integrated GST, in addition to the basic customs duty. All these benefits will add significantly to the GDP growth of India in the medium and long run.

Need for the Constitutional Amendment:

In the countries where GST has been introduced, barring rare exceptions, GST is unitary in character and is levied either by the Central Government or by the State Governments. The introduction of GST in India required amendment in the Constitution as prior to the Constitutional amendment the fiscal powers between Centre and the states were clearly demarcated as per the entries in the Union List and the State list. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the states had the power to levy tax on the sale of goods. In case of inter-state sales, the Centre had the power to levy a tax (the Central Sales Tax) but the tax was collected and retained entirely by the states. As for services, only the Centre was empowered to levy the Services Tax.

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As both the levels of Government have distinct responsibilities to perform, according to the division of powers prescribed in the constitution, both the states and the centre needed resources to be raised. Therefore, amendment was required in the Constitution so as to concurrently empower the centre and the states to levy and collect GST. The dual GST introduced in India is in keeping with the Constitutional requirements of fiscal federalism.

Journey to launch of GST in India:

The GST has already been introduced in nearly 160 countries and France was the first to introduce GST in the year 1954. In view of numerous benefits GST brings in to the economy, introduction of GST has been on the political agenda of the country for quite some time. The journey to introduction of GST in India has been long and is a culmination of the efforts of many political leaders, economic thinkers and officers of the Centre and the State Governments. The idea of GST was first mooted in the year 2000 during the Prime Ministership of Shri Atal Bihari Vajpayee and a committee was set up headed by the then West Bengal Finance Minister Shri Asim Dasgupta to design a GST model. In

2003, the Vajpayee government set up another task force under Shri Vijay Kelkar to recommend tax reforms. On February 28, 2006, the then Union Finance Minister in his budget for 2006-07 proposed that GST would be introduced from April 1, 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 detailed discussions, the EC released its First Discussion Paper (FDP) on GST in November, 2009. The FDP spelt out the features of the proposed GST and has formed the basis for the present GST regime.

As introduction of GST required constitutional amendment, the political consensus could not be garnered for a long time. The efforts to introduce GST in India picked up momentum after the formation of the present Government. The Constitution (122nd Amendment) Bill, 2014 was introduced in Lok Sabha on December

19, 2014 and was passed by Lok Sabha in May 2015. The bill was taken up in the Rajya Sabha and was then referred to the Joint Select Committee of the Rajya Sabha and the Lok Sabha on May 14, 2015. The Committee submitted its report on July 22, 2015. The progress was rather fast after that. Based on the consensus, the revised constitutional amendment bill was moved on August 1, 2016. The bill was passed by the Rajya Sabha on August 3, 2016 and in the Lok Sabha on August 8, 2016. After ratification by required number of state legislatures and assent of the President, the Constitutional amendment was notified as Constitution (101st Amendment) Act 2016 on September 8, 2016. The Constitutional amendment paved the way for introduction of Goods and Services Tax in India.

Constitution (101st Amendment) Act 2016:

The Constitutional amendment empowers the Centre and the States to levy and collect the Goods and Services Tax (GST). The GST has been defined as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. Thus, alcohol for human consumption has been kept out of the GST by way of definition of the GST in the Constitution. On the other hand, five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and the GST Council can decide the date from which they shall be included in GST. On inter-State supply of goods and services, an Integrated GST (IGST) would be levied and collected by the Centre. It will ensure that the GST is truly a destination based consumption tax, and there is seamless flow of input tax credit, even when goods are moving from one state to another.

The GST Council:

A significant feature of the Constitutional amendment is provision

GST Council - Constitution



- Chairperson – Union FM
- Vice Chairperson - to be chosen amongst the Ministers of State Government
- Members - MOS (Finance) and all Ministers of Finance / Taxation of each State
- Quorum is 50% of total members
- States - 2/3 weightage and Centre - 1/3 weightage
- Decision by 75% majority
- Council to make recommendations on everything related to GST including laws, rules and rates etc.

relating to constitution of the GST Council. The Council comprises of the Union Finance Minister (Chairman of the Council), the Union Minister of State (Revenue) and the State Finance/Taxation Ministers of 29 states and two union territories with legislature (Delhi and Puducherry). The guiding principle of the GST Council is to ensure harmonization of different aspects of GST between the Centre and the States as well as among States with a view to develop a harmonized national market for goods and services within India. The Council is tasked to make recommendations to the Union and the States on the following:

- (i) the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- (ii) the goods and services that may be subjected to or exempted from the GST;
- (iii) the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
- (iv) model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- (v) the threshold limit of turnover below which the goods and services may be exempted from GST;
- (vi) the rates including floor rates with bands of GST;
- (vii) any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- (viii) special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and
- (ix) any other matter relating to the GST, as the Council may decide.

The Constitutional amendment provides that every decision of the

GST Council - Decisions

- ❑ Threshold limit for exemption to be Rs. 20 lac (Rs. 10 lac for special category States)
- ❑ Compounding threshold limit to be Rs. 50 lac with -

Categories	Tax Rate
Traders	1%
Manufacturers	2%
Restaurants	5%

- ❑ Government may convert existing Area based exemption schemes into reimbursement based scheme
- ❑ Four tax rates namely 5%, 12%, 18% and 28%
- ❑ Some goods and services would be exempt
- ❑ Separate tax rate for precious metals

GST Council shall be taken at a meeting by a majority of not less than 3/4th of the weighted votes of the members present and voting. The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in that meeting. One half of the total number of members of the GST Council shall constitute the quorum at its meetings. The weightage of voting has been so assigned that it is not possible for either the Centre or the states to take any decision unilaterally. As the Centre only has 33 per cent weightage in voting, support of majority of the states is also required for any decision to be taken by the Council. However, till now all the decisions in the Council have been taken by consensus and there has not been any occasion for voting.

Functioning of GST Council:

The GST Council, 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 a true spirit of give and take. Despite varying rates of VAT on goods in different states, all goods and services 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 an example to be followed in other spheres of cooperation between the centre and the states.

Compensation to the States:

As GST is a destination based tax, there was apprehension amongst some states, particularly manufacturing states, that implementation of GST may result in loss of revenue for them. Therefore, the Constitution (One Hundred and First Amendment) Act, 2016 provides for compensation to the States for loss of revenue arising on account of implementation

GST Council - Decisions



- ❑ Cess over the peak rate of 28% on specified luxury and sin goods
- ❑ To ensure single interface – all administrative control over
 - 90% of taxpayers having turnover below Rs. 1.5 cr would vest with State tax administration
 - 10% of taxpayers having turnover below of Rs. 1.5 cr. would vest with Central tax administration
 - taxpayers having turnover above Rs. 1.5 cr. would be divided equally between Central and State tax administration

of the Goods and Services Tax for a period of five years. Based on the recommendations of the GST Council, the Goods and Services Tax (Compensation to States), Act 2017 has been enacted. The Compensation Act has fixed the revenues of the year 2015-2016 as the base year revenues and further a nominal annual growth rate of 14 per cent has been provided. The Act provides for levying of a cess, which shall be used for compensation to the states in case there is loss of revenue. This cess shall be levied on luxury items and goods.

Deciding Tax Rates:

While deciding on the tax slabs, the GST Council had a difficult task of balancing three objectives. Firstly, to ensure that interests of poor and vulnerable sections of the society are protected and goods of mass consumption and essential commodities remain at affordable level. Secondly, to ensure that the overall revenues of the States and the Centre are protected. Thirdly, to see that the tax incidence on the goods and services does not increase or decrease substantially from the present incidence of tax. Taking into consideration all these factors and after long deliberations, the Council carefully decided on four tax rates of 5 per cent, 12 per cent, 18 per cent and

28 per cent slabs. In addition, there is an exempt category also.

Supporting Medium and Small Enterprises:

The GST regime has many provisions to address the concerns of the medium and small enterprises. The law provides for an exemption threshold where by it is not mandatory for a business whose aggregate turnover in a financial year is less than Rs. 20 lakh (Rs.10 lakh for special category States) to register. Such small enterprises would be exempt from paying GST. In addition, there is also a composition scheme under which an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed Rs.75 lakhs can opt to file summarised returns on a quarterly basis. The taxpayers dealing in goods (both traders and manufacturers) and restaurant sector can only opt for the composition scheme. Under the Composition Scheme, the manufacturer will pay tax at the rate of 1 per cent; restaurant sector at the rate of 2.5 per cent and traders at the rate of 0.5 per cent of the turnover each under CGST Act and SGST Act. However, the service providers and the tax payers making inter-state supplies or making supplies through e-commerce operators are not eligible for the composition scheme.

Tackling Tax Leakages and Corruption:

The Indian GST will have a mechanism of matching of invoices. Input tax credit of purchased goods and services will only be available if the taxable supplies received by the buyer get matched against the taxable supplies received by the supplier. The Goods and Services Tax Network which is responsible for IT backbone is geared up to match more than three billion invoices per month. This would be a self-regulating mechanism. This will not only check tax frauds and tax evasion, but also bring in more and more businesses into the formal economy. In the new GST regime, the tax-payer can register, file returns and make payment of taxes on a single portal on the net. Even in a rare case, if the tax-payer is to interact with the tax authorities, he will have to interact with only one authority, either from the State Government or from the Central Government as tax officers of the Central Government and the State Government are being cross empowered to take action in one another's law. Thus, corruption will be checked to a large extent as it will become increasingly difficult for the taxpayer to evade taxes and he will have minimal interaction with the tax authorities.

Conclusion:

The launch of GST in India with effect from July 1, 2017 is a transformative reform and will change the way businesses are done in India. All stakeholders have welcomed the reform. The new GST regime will bring in more and more businesses into the formal economy. Radical change of this magnitude is bound to bring about some pain. The tax administrations, both at the centre and the states, are working hard to ensure that the transition is smooth. The gains of this little pain are going to be many and long lasting for the Indian economy. □

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