

## **GST – CONCEPT & STATUS – NOVEMBER, 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 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 2006-07. Initially, it was proposed that GST would be introduced from 1<sup>st</sup> 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 based on the principle of destination based consumption taxation as against the present principle of origin based taxation.

- (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.

- (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 an annual turnover of Rs. 20 Lakhs (Rs. 10 Lakhs for special category States) 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 (except manufacturers and service providers) having an annual turnover of upto Rs. 50 Lakhs. 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 well as across 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 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 IGST allowed for payment of IGST, CGST & SGST in that order.ITC of CGST cannot be used for payment of SGST and vice versa.
- (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. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers.
- (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 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) 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 First) Amendment Act, 2016**

5. To address all these and other issues, the Constitution (122<sup>nd</sup> Amendment) Bill was introduced in the 16<sup>th</sup> Lok 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 (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 Goods and Services Tax Council (hereinafter referred to as, “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 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 with certain amendments has finally been 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 8<sup>th</sup> September, 2016 and has since been enacted as Constitution (101<sup>st</sup> Amendment) Act, 2016. The GSTC has also been notified w.e.f. 12<sup>th</sup> September, 2016. GSTC is being assisted by a Secretariat.

### **Other Legislative Requirements**

6. Suitable legislation for the levy of GST (Central GST Bill and State GST Bills) drawing powers from the Constitution would be introduced in Parliament or the State Legislatures 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.

### **Committees under EC on GST Related Tasks**

7. Six Committees were 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 was constituted to examine issues relating to the Place of Supply Rules);
- (iii) The Committee on IGST & GST on Imports (A Sub-Committee was set up to examine issues pertaining to IGST model);
- (iv) The Committee to examine Business Processes under GST Regime (Three Sub-Committees were constituted to examine issues pertaining to Registration & Returns, Refunds and Payments);
- (v) The Committee to draft model GST Law (Three Sub-Committees were 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 at various stages of consideration.

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 have been incorporated in the 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 has been examined to carry out necessary changes in the draft Model GST Law. The revised version of draft Model GST Law / draft IGST Act has been put in public domain on 26<sup>th</sup> November, 2016.

7.4 The Committee to draft model GST Rules have framed draft GST Rules on Registration, Return, Payment, Refund and Invoice which were put in public domain on 26<sup>th</sup> September 2016. The comments and feedback on these rules is under examination for incorporation in the final version of these Rules.

### **Goods and Services Tax Council (GSTC)**

8. Four meetings of the GSTC, which has been notified w.e.f. 12<sup>th</sup> September, 2016, have been held so far. The following decisions have been taken by GSTC:

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

(ii) Composition threshold shall be Rs. 50 lakh. Composition scheme shall not be available to manufacturers and service providers.

(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 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 the present incidence of tax.

## **Goods and Services Tax Network**

9. 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. 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**

10. The CBEC is playing an active 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 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 28<sup>th</sup> September, 2016. The name of this project is 'SAKSHAM' involving a total project value of Rs 2,256 crores.

10.1 A GST Implementation Advisory Committee has been constituted within CBEC under the Chairmanship of Member (L&J and IT) for overall supervision and monitoring of progress towards implementation of GST.

10.2 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 under DG, HRD was thus formed to study the factors affecting CBEC as organization and suggest the plans for reorganization of formations under CBEC under GST regime. The Group, after extensive deliberations and studies, have submitted its Report which is under consideration of the Board.

10.3 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 Tax officers of State Governments. Officers of the office of CAG are also participating and getting trained in this training

programme.

10.4 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 12,000.

10.5 After constitution of GSTC, two Joint Secretary level officers, two Director/Deputy Secretary level officers and four Under Secretary level officers of CBEC have been posted in its Secretariat.

10.6 A GST Policy Wing headed by a Commissioner level officer is already functioning within CBEC. Further Directorate General of GST has been created with a well-defined mandate to work on various aspects of GST.

10.7 The GST law is still evolving and the dialogue continues between the Centre and the States on related issues. It is however clear that the 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 petroleum and tobacco products. The CBEC would also continue to handle the work relating to levy and collection of customs duties.

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

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