Most Important India’s biggest tax reform – The GST

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Content

The complete view to India's biggest tax reform – the GST

Introduction

India is the world's third-largest economy as per gross domestic product (GDP) in purchasing power parity (PPP) terms and is expected to lead the world as well as emerging nations in terms of growth this year and the next. According to the International Monetary Fund (IMF)—at a time when global growth is projected at 3.3% in 2015 and 3.8% in 2016—India is projected to grow at 7.5% in each of these years, up from 7.3% in 2014.1 The World Bank too has projected India's growth at 7.5% in 2015.

India's biggest indirect tax reform since 1947 looks like it has finally arrived—the Goods and Service Tax (GST). From its first official mention in 2009 when a discussion paper was introduced by the previous United Progressive Alliance government to the point when the current Modi government tabled the Constitution Amendment Bill in the parliament, building consensus on the GST hasn't been easy. The most prominent hurdle in introducing this new tax structure has been the ongoing struggle between the states and the centre on the loss of revenue. It's taken years to resolve, but even now it is an issue that isn't anywhere close to being completely fixed. Nonetheless, the introduction of the Constitution Amendment Bill in the parliament seems like the first key step towards bringing in the belated GST reform.

Why does India need the GST?

The GST is being introduced not only to get rid of the current confusion of indirect taxes that are partial and suffer from infirmities, mainly exemptions and multiple rates, but also to improve tax compliances. The spread of GST in different countries has been one of the most important developments in taxation over the last six decades. Owing to its capacity to raise revenue in the most transparent and neutral manner, more than 150 countries have adopted the GST. With the increase of international trade in services, the GST has become a preferred global standard. All OECD countries, except the US, follow this taxation structure.

Justification of GST in India

There was a burden of “tax on tax” in the pre-existing Central excise duty of the Government of India and sales tax system of the State Governments. The introduction of Central VAT (CENVAT) has removed the cascading burden of “tax on tax” to a good extent by providing a mechanism of “set off” for tax paid on inputs and services upto the stage of production, and has been an improvement over the pre-existing Central excise duty. Similarly, the introduction of VAT in the States has removed the cascading effect by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has again been an improvement over the previous sales tax regime. But both the CENVAT and the State VAT have certain incompleteness. The incompleteness in CENVAT is that it has yet not been extended to include chain of value addition in the distributive 30 trade below the stage of production. It has also not included several Central taxes, such as Additional Excise Duties, Additional Customs Duty, Surcharges etc. in the overall framework of CENVAT, and thus kept the benefits of comprehensive input tax and service tax setoff out of the reach of manufacturers/ dealers. The introduction of GST will not only include comprehensively more indirect Central taxes and integrate goods and services taxes for set-off relief, but also capture certain value addition in the distributive trade. Similarly, in the present State-level VAT scheme, CENVAT load on the goods has not yet been removed and the cascading effect of that part of tax burden has remained unrelieved. Moreover, there are several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which have still not been subsumed in the VAT. Further, there has also not been any integration of VAT on goods with tax on services at the State level with removal of cascading effect of service tax. In addition, although the burden of Central Sales Tax (CST) on inter-State movement of goods has been lessened with reduction of CST rate from 4% to 2%, this burden has also not been fully phased out. With the introduction of GST at the State level, the additional burden of CENVAT and services tax would be comprehensively removed, 31 and a continuous chain of set-off from the original producer's point and service provider's point upto the retailer's level would be established which would eliminate the burden of all cascading effects, including the burden of CENVAT and service tax. This is the essence of GST. Also, major Central and State taxes will get subsumed into GST which will reduce the multiplicity of taxes, and thus bring down the compliance cost. With GST, the burden of CST will also be phased out. Thus GST is not simply VAT plus service tax, but a major improvement over the previous system of VAT and disjointed services tax a justified step forward.

Are you ready for GST?

India proposes to introduce a dual system of Goods and Services Tax (GST), with taxes imposed at both federal and state levels and a further distinction between GST on goods and GST on services. It is expected that the move to GST will create a simplified and integrated system of indirect taxation. The introduction of a dual GST will be, in effect, an integration and rationalization of the existing regimes at both federal and state levels. It is however fundamentally different from the present regime in a variety of ways.

India's policymakers have recognized that as an increasingly important international market and as the destination for considerable foreign investment, India needs a tax regime that is closely integrated with the rest of the world.

We are playing a key role in fostering awareness of the GST through our various communications.

What is GST?

GST stands for "Goods and Services Tax", and is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. Its main objective is to consolidates all indirect tax levies into a single tax, except customs (excluding SAD) replacing multiple tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in tax administration.

Therefore, GST is a broad base a single comprehensive tax levied on goods and services through a tax credit mechanism, this tax is collected on value-added goods and services at each stage of sale or purchase in this supply chain.

The system allows the set-off GST paid in the procurement of goods and services against the GST which is payable on the supply of goods or services. However, the end consumer bears this tax as he is the last person in the supply chain.

Features of an Ideal GST

GST is a comprehensive value added tax on goods and services. It is levied and collected on value addition at each stage of sale or purchase of goods or supply of services based on input tax credit method but without State boundaries.

The main features of GST are as under:-

- ✓ **GST is based on the principle of value added tax and either "input tax method" or "subtraction" method, with emphasis on voluntary compliance and accounts based system.**
- ✓ **It is a comprehensive levy and collection on both goods and services at the same rate with benefit of input tax credit or subtraction of value of penultimate transaction value.**
- ✓ **Minimum number of floor rates of tax, generally, not exceeding two rates.**
- ✓ **No scope for levy of cess, re-sale tax, additional tax, special tax, turnover tax etc.**
- ✓ **No scope for multiple levy of tax on goods and services, such as, sales tax, entry tax, octroi, entertainment tax, luxury tax, etc.**
- ✓ **Zero rating of exports and inter State sales of goods and supply of services.**
- ✓ **Taxing of capital goods and inputs whether goods or services relatable to manufacture at lower rate, so as to reduce inventory carrying cost and cost of production.**
- ✓ **A common law and procedures throughout the country under a single administration.**
- ✓ **GST is a destination based tax and levied at single point at the time of consumption of goods or services by the ultimate consumer.**

The Present System of Indirect Taxes

Let us first understand the various indirect taxes that are presently being levied by the Central & State Governments.

The state government levies the octroi charges when the product enters the state. These charges are applicable in Maharashtra and Gujarat.

Service tax is a tax levied by the government on service providers on certain service transactions, but is actually borne by the customers.

A tax on the amount by which the value of an article has been increased at each stage of its production or distribution.

A comprehensive tax levy on the manufacture, sale and consumption of goods and services at a national level.

Customs Duty is a type of indirect tax levied on goods imported into India as well as on goods exported from India. Taxable event is import into or export from India. Import of goods means bringing into India of goods from a place outside India.

Central Excise duty is an indirect tax levied on those goods which are manufactured in India and are meant for home consumption. The taxable event is 'manufacture' and the liability of central excise duty arises as soon as the goods are manufactured.

The GST shall subsume all the above taxes, except the Basic Customs Duty that will continue to be charged even after the introduction of GST. Other indirect taxes, such as stamp duties etc. shall also continue. India shall adopt a Dual GST model, meaning that the GST would be administered both by the Central and the State Governments. This makes it the first tax of its kind in India!

HORTCOMINGS IN THE PRESENT STRUCTURE

NEED OF GST

HORTCOMINGS IN THE PRESENT STRUCTURE AND NEED OF GST

8. Tax Cascading

The most significant contributing factor to tax cascading is the partial coverage by Central and State taxes. The exempt sectors are not allowed to claim any credit for the Cenvat or the Service Tax paid on their inputs.

2. Levy of Excise Duty on manufacturing point

The CENVAT is levied on goods manufactured or produced in India. Limiting the tax to the point of manufacturing is a severe impediment to an efficient and neutral application of tax. Taxable event at manufacturing point itself forms a narrow base. For example, valuation as per excise valuation rules of a product, whose consumer price is Rs. 100/-, is, say, Rs. 70/-. In such a case, excise duty as per the present provisions is payable only on Rs.70/-, and not on Rs.100/-.

1. Inability of States to levy tax on services

With no powers to levy tax on incomes or the fastest growing components of consumer expenditures, the States have to rely almost exclusively on compliance improvements or rate increases for any buoyancy in their own-source revenues.

7. Interpretational Issues

Whether an activity is sale or works contract; sale or service, is not free from doubt in many cases.

5. Lack of Uniformity in Provisions and Rates

4. Fixation of sites – Local Sale vs. Central Sale

6. Complexities in Administration

3. Complexity in determining the nature of transaction – Sale vs. Service

Advantages of Comprehensive GST

One tax:

The common base for charging GST for Centre and the state will consist of an amalgamation (subsuming) of several central taxes and state taxes which will enable them to give one tax rather than giving about 16 taxes.

Common market:

There will be a common market in the absence of CST and entry tax. At present, goods are being sold mostly within the state in order to avoid paying the CST which is not credited at the stage of manufacture or in course of trading. Good quality products being manufactured in one part of the country will find more market in the farthest part of the country because there will be no CST and no entry tax

Distinction between goods and services will go:

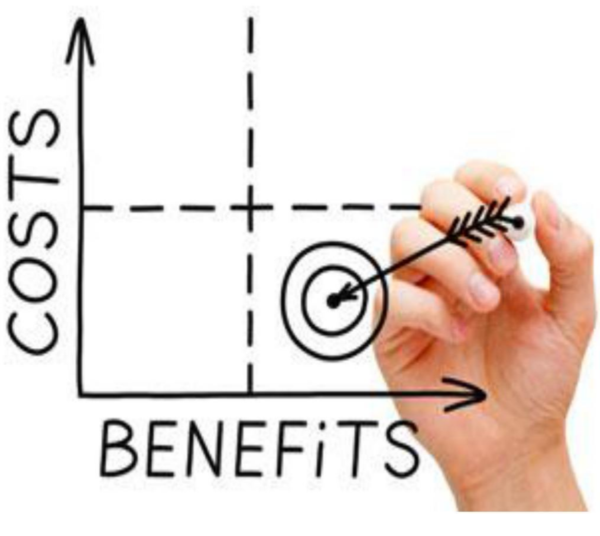
In some cases, there is a distinction between goods and services when they are sold as a package. These controversies will go.

Invoicing will be simpler:

At present, the invoices are more detailed since taxes on goods and services are written separately for one transaction. With the introduction of GST only one rate will be written.

Common exemptions between Centre and states:

Now the exemptions given by the Centre and the states being different, the final price becomes different in different states. In the GST regime, exemptions will be common between the Centre and the states which will make the rates of duty same all over India.



Big central excise tariff will go:

I will be the happiest to see when this big and fat central excise tariff goes away. It has got eight digit classifications like 44079990, 76069110. They attract different rates many times. All these will be replaced by one rate. What a relief!

Concept of manufacture will go:

Manufacture is a highly complicated concept. It is defined mostly by judgements of Supreme Court and high courts. It is a den of controversy. The concept of manufacture will be replaced by the concept of value added which is numerically measureable and is not controversial.

Classification controversies will go:

Now, classification controversies are galore since there are so many rates of duty. This problem will also go if the exemptions are limited.

Problem of identification will go:

At present, identifying a commodity like whether it is rubber or resin, paper or board, ash, or dross dominate the proceedings since rates of duty are different. These controversies will be over.

Undue enrichment law will go:

At present, there is a law in central excise and service tax which provide for refusing refund of higher duty paid in case the burden of higher rate of tax imposed already has not been passed on to the consumer. This is a highly litigated law which will necessarily have to go because GST will be a combination of so many taxes apart from these two taxes. And these taxes do not have the same provision. Moreover, if the unjust enrichment of law is made to apply to GST as a whole, the purpose of seamless movement of goods and services will be defeated.

Zero rating will be more comprehensive and more easy:

Even without GST, zero rating (giving relief for the input duty) is possible, but it does not give relief for some of the duties. With GST, zero rating will be more comprehensive.

MODELS OF GST

There are three prime models of GST:

- **GST at Central (Union) Government Level only**
- **GST at State Government Level only**
- **GST at both, Union and State Government Levels**

Which types of GST is to be proposed for India…??

There is a planning to implement a dual GST System. Under Dual GST System, CGST (Central goods and service tax) and SGST (State goods and Service tax) are charged by Central and State Government respectively on the taxable value of a transaction of goods and Services. Excise duty, additional excise duty, service tax, custom duty, Education Cesses, Surcharge etc. and VAT, Entertainment tax, Luxury tax, Taxes on lotteries, betting and gambling , Cesses and Entry Tax etc. would be subsumed into CGST and SGST respectively. But on the interstate sale of goods and services, IGST (Integrated) goods and service tax) is applicable and collected by the Central. IGST is a combination of CGST and SGST. –

IGST model

IGST model has been design for taxation of inter-State transaction of Goods and Services.

The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services. The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information is also submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

The major advantages of IGST Model are:

- **Applicable to Inter-state stock transfers of goods and services.**
- **Maintenance of uninterrupted ITC chain on inter-State transactions.**
- **No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.**
- **No refund claim in exporting State, as ITC is used up while paying the tax.**
- **Self-monitoring model.**
- **Level of computerization is limited to inter-State dealers and Central and State Governments should be able to computerise their processes expeditiously.**
- **As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.**
- Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

Transaction	New System	Old System	Comment
Sale within the state	SGST and CGST	VAT & EXCISE / SERVICE TAX	Under new system. A transaction of sale within the state shall have two taxes, SGST- which goes to state, and CGST- which goes to centre
Sale outside the state	IGST	CST & EXCISE / SERVICE TAX	Under new system. A transaction of sale from one state to another shall have only one type of taxes the IGST- which goes to centre.

It is worth mentioning here that the levy of Excise or Service Tax was not dependent on the levy of VAT/CST, as they were governed by different laws.

Probable Taxes/Duties to be subsumed in GST

As per the dual tax regime that has been announced for GST in India, there will be a Central stream for taxes and a State stream for the same taxes. In order to allow this model of taxation both the Centre and States will have to make policy changes. It is expected that the proposed concurrent dual GST system would preserve and protect the fiscal powers and at the same time rationalize the indirect tax structure by subsuming a plethora of Central and Local Taxes into a consolidated levy.

(A) Central GST may subsume the following indirect taxes/duties on supply of goods and services:

- ✓ Central Excise Duties (CENVAT)
- ✓ Additional Excise Duties including those levied under Additional Duties of Excise (Goods of Special Importance) Act, 1957
- ✓ Additional Custom Duties in the nature of countervailing duties, i.e., CVD, SAD and other domestic taxes impose on imports to achieve a level playing field between domestic and imported goods although, under the GST regime all the imports will suffer a reverse charge.
- ✓ Cesses levied by the Union viz., Cess on rubber, tea, coffee etc.
- ✓ Service Tax
- ✓ Central Sales Tax – to be completely phased out
- ✓ Surcharges levied by the Union viz., National Calamity Contingent Duty, Education Cess, Special Additional Duties of Excise on Motor-Spirit and High Speed Diesel (HSD).

(B) State GST may subsume the following

- ✓ Value Added Tax • Purchase Tax
- ✓ State Excise Duty (except on liquor)
- ✓ Entertainment Tax (unless it is levied by the local bodies)
- ✓ Luxury Tax
- ✓ Octroi
- ✓ Entry tax in lieu of Octroi
- ✓ Taxes on Lottery, Betting and Gambling

Taxes/Duties not to be subsumed in

(B) In State GST

- ✓ Taxes on Liquors
- ✓ Toll Tax
- ✓ Environment Tax
- ✓ Road Tax
- ✓ Property Tax
- ✓ Tax on Consumption or Sale of Electricity – Not certain
- ✓ Stamp Duty

(A) In Central GST

- ✓ Basic Customs Duty
- ✓ Excise Duty on Tobacco products
- ✓ Export Duty
- ✓ Specific Cess
- ✓ Specific Central Cess like Education and Oil Cess.

(C) Certain components of petroleum, liquor are likely to be outside the GST structure. Further, State Excise on liquor may also be kept outside the GST. In other words, in such circumstances, all taxes and duties on these goods will be outside the scope of GST.

Tax on items containing Alcohol:
Alcoholic beverages would be kept out of the purview of GST. Sales Tax/VAT could be continued to be levied on alcoholic beverages as per the existing practice. In case it has been made Vatable by some States, there is no objection to that. Excise Duty, which is presently levied by the States may not also be affected.

Tax on Tobacco products:
Tobacco products would be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST with ITC.

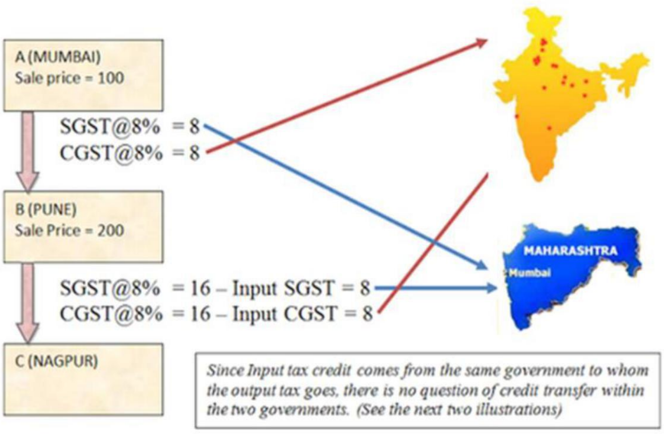
Tax on Petroleum Products:
As far as petroleum products are concerned, it was decided that the basket of petroleum products, i.e. crude, motor spirit (including ATF) and HSD would be kept outside GST as is the prevailing practice in India. Sales Tax could continue to be levied by the States on these products with prevailing floor rate. Similarly, Centre could also continue its levies. A final view whether Natural Gas should be kept outside the GST will be taken after further deliberations.

Taxation of Services:
As indicated earlier, both the Centre and the States will have concurrent power to levy tax on goods and services. In the case of States, the principle for taxation of intra-State and inter46 State has already been formulated by the Working Group of Principal Secretaries /Secretaries of Finance / Taxation and Commissioners of Trade Taxes with senior representatives of Department of Revenue, Government of India. For inter-State transactions an innovative model of Integrated GST will be adopted by appropriately aligning and integrating CGST and IGST.

How GST operates?

Case 1: Sale in one state, resale in the same state:-

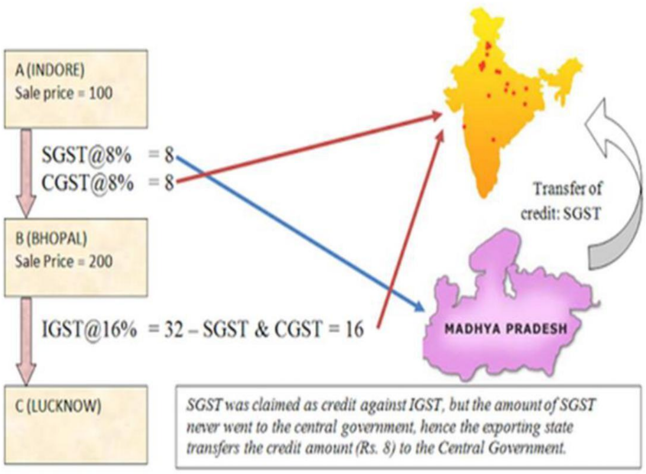
In the example illustrated below, goods are moving from Mumbai to Pune. Since it is a sale within a state, CGST and SGST will be levied. The collection goes to the Central Government and the State Government as pointed out in the diagram. Then the goods are resold from Pune to Nagpur. This is again a sale within a state, so CGST and SGST will be levied. Sale price is increased so tax liability will also increase. In the case of resale, the credit of input CGST and input SGST (Rs. 8) is claimed as shown; and the remaining taxes go to the respective governments.



Case 2: Sale in one state, resale in another state

In this case, goods are moving from Indore to Bhopal. Since it is a sale within a state, CGST and SGST will be levied. The collection goes to the Central Government and the State Government as pointed out in the diagram. Later the goods are resold from Bhopal to Lucknow (outside the state). Therefore, IGST will be levied. Whole IGST goes to the central government.

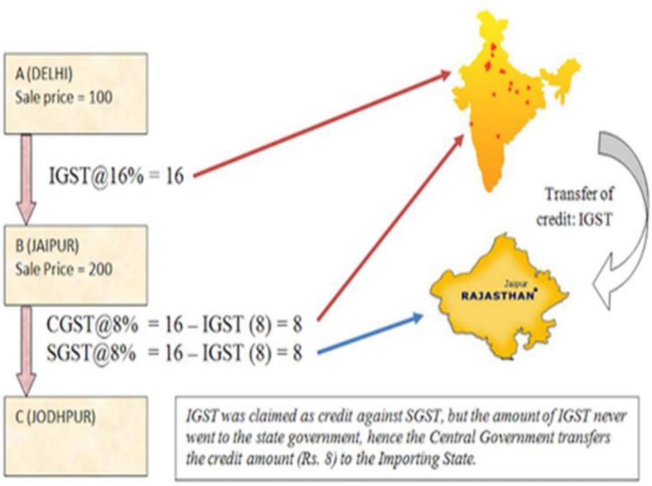
Against IGST, both the input taxes are taken as credit. But we see that SGST never went to the central government, still the credit is claimed. This is the crux of GST. Since this amounts to a loss to the Central Government, the state government compensates the central government by transferring the credit to the central government.



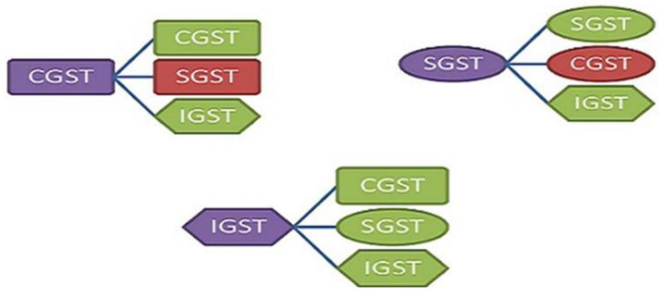
Case 3: Sale outside the state, resale in that state

In this case, goods are moving from Delhi to Jaipur. Since it is an interstate sale, IGST will be levied. The collection goes to the Central Government. Later the goods are resold from Jaipur to Jodhpur (within the state). Therefore, CGST and SGST will be levied.

Against CGST and SGST, 50% of the IGST, that is Rs. 8, is taken as a credit. But we see that IGST never went to the state government, still the credit is claimed against SGST. Since this amounts to a loss to the State Government, the Central government compensates the State government by transferring the credit to the State government.



Tax Credit Mechanism



Cross utilization of credit of CGST between goods and services would be allowed. Similarly, the facility of cross utilization of credit will be available in case of SGST. However, the cross utilization of CGST and SGST would generally not be allowed except in the case of inter-State supply of goods and services.

Threshold Limit, Assessment and Administration

For the purpose of assessment and administration of different assesses, following categorization has been recommended:- Threshold limit (common for goods and services) can be allowed somewhere between Rs. 10 lacs and Rs. 20 lacs. Gross turnover of goods upto Rs. 1.5 Crores may be assigned exclusively to the State; Gross turnover of services upto Rs. 1.5 Crores may be assigned exclusively to the Centre. Gross turnover of above Rs. 1.5 Crores may be assigned to both the Governments – for the administration of CGST to the Centre and for the administration of SGST to the State.

Documents for availing tax credit

Any one of the following may be prescribed as eligible documentary proof for claiming input tax credit:

- ❖ The Invoice
- ❖ Payment of tax
- ❖ Hybrid System

Most probably, credit would be allowed either on the basis of payment of tax or hybrid system. In payment basis, the legislature may stipulate that either the seller will pay tax or, alternatively, the buyer will pay tax on reverse charge basis.

Refund

Refund of GST may arise due to the following two factors: -

- ❖ Zero rated supplies, e.g., export of goods and services; or
- ❖ Inter-State transactions.

The quantum of refund in case of inter-State transactions would depend upon the model of payment of tax being adopted by the Government, if the seller (or the buyer under reverse charge system) is required to pay full GST, without adjusting the input tax credit, the volume of refund will certainly be higher.

Probable GST Rates in India

This implies that the cumulative duty applied on goods is 26.56% in the present scenario and 12.36% on services. Under the GST regime, the service shall also be subject to full rate of GST.

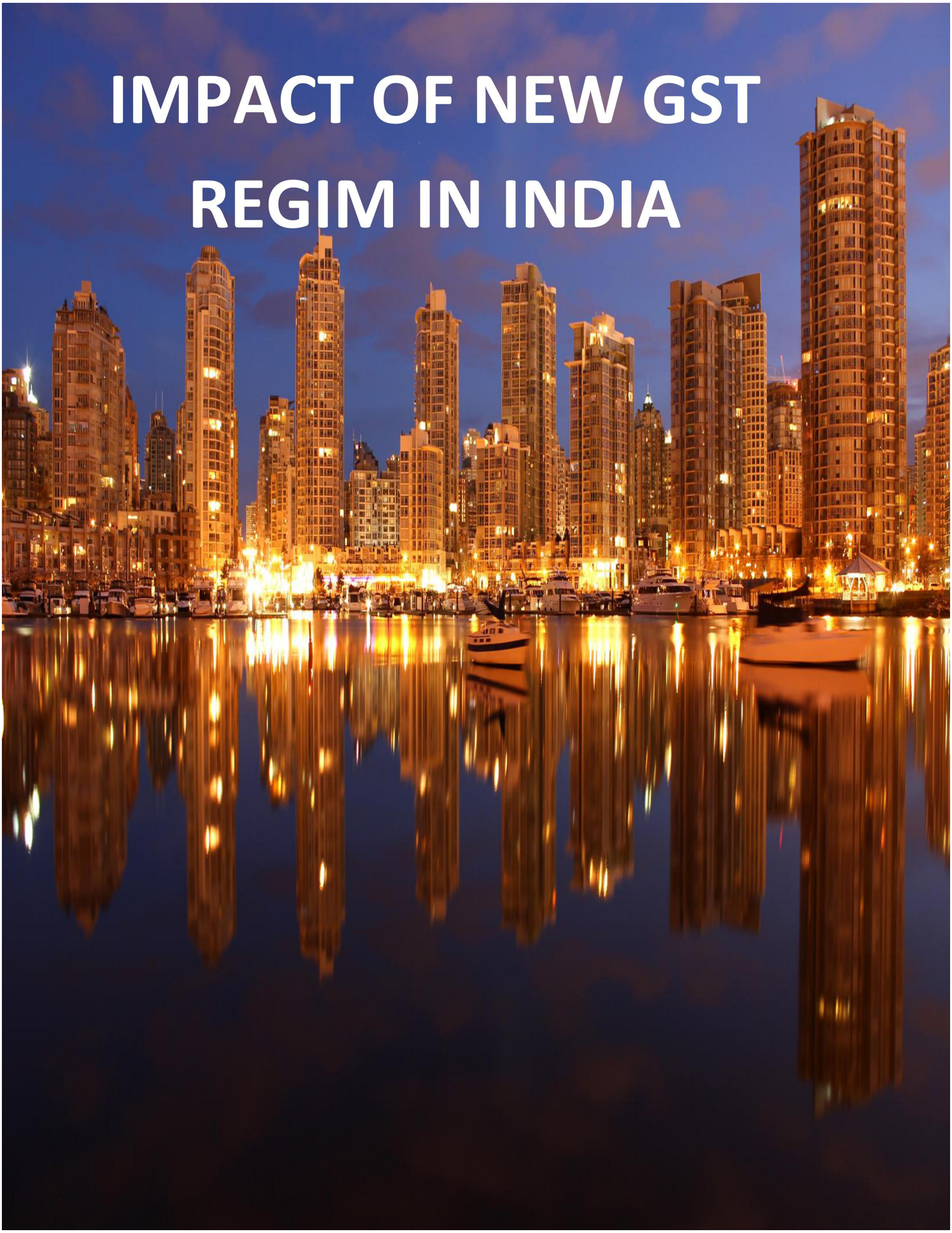
Further, various exemptions under the current scheme will also be quashed. Therefore, the tax base shall increase in totality. Accordingly, the RNR may be fixed in the range of 20% to 24%. This will fulfill the economic requirement of the government and shall also be effective from the business perspective in the industry.

GST Rates – to be based on RNR – Four rates

- Merit rate for essential goods and services
- Standard rate for goods and services in general
- Special rate for precious metals
- NIL rate

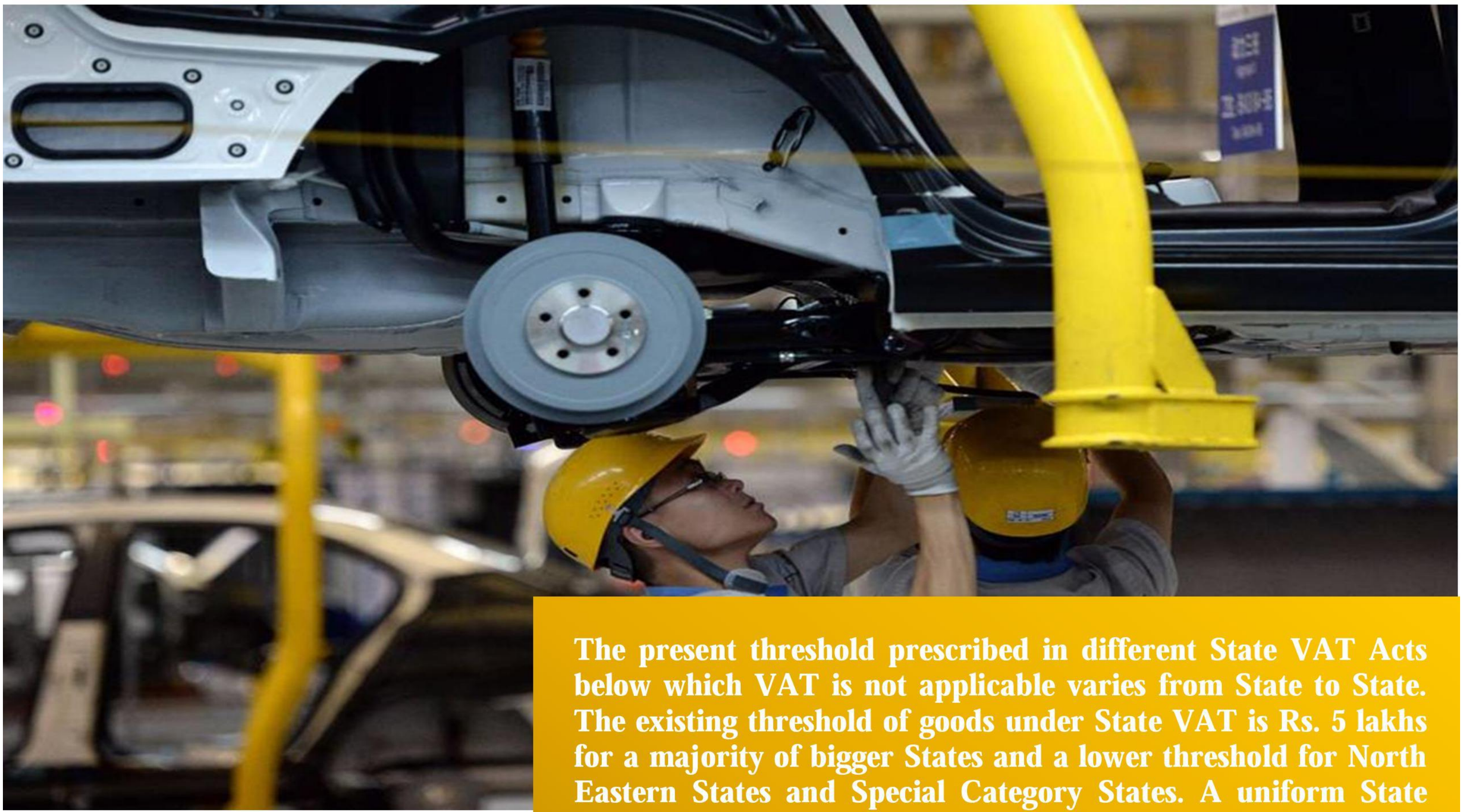
Scope of composition and compounding scheme under GST?

A Composition/Compounding Scheme will be an important feature of GST to protect the interests of small traders and small scale industries. The Composition/Compounding scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular there will be a compounding cut-off at Rs. 50 lakhs of the gross 49 annual turnover and the floor rate of 0.5% across the States. The scheme would allow option for GST registration for dealers with turnover below the compounding cut-off.


IMPACT OF NEW GST
REGIM IN INDIA

Benefits of GST to the economy

GST will bring about a change on the tax firmament by redistributing the burden of taxation equitably between manufacturing and services. It will lower the tax rate by broadening the tax base and minimizing exemptions. It will reduce distortions by completely switching to the destination principle. It will foster a common market across the country and reduce compliance costs. It will facilitate investment decisions being made on purely economic concerns, independent of tax considerations. It will promote exports. GST will also promote employment. Most importantly, it will spur growth. It is a preliminary estimate India will gain US$15 billion a year.



GST benefit the small entrepreneurs and small traders?

The present threshold prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. The existing threshold of goods under State VAT is Rs. 5 lakhs for a majority of bigger States and a lower threshold for North Eastern States and Special Category States. A uniform State GST threshold across States is desirable and, therefore, the Empowered Committee has recommended that a threshold of gross annual turnover of Rs. 10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States considered that the threshold for Central GST for goods may be kept at Rs.1.5 crore and the threshold for services should also be appropriately high. This raising of threshold will protect the interest of small traders. A Composition scheme for small traders and businesses has also been envisaged under GST.

GST benefit industry, trade and agriculture?

The GST will give more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which will result in widening of tax base and better tax compliance may also lead to lowering of tax burden on an average dealer in industry, trade and agriculture.

Implications of GST on imports

Basic Custom Duty will continue to there under GST system. However, the additional custom duty in lieu of CVD /Excise and the Special Additional Duty (SAD) in lieu of sales tax/VAT will be subsumed in the import GST. The import of services will be subject to Central GST and State GST on a reverse charge mechanism. In other words, the GST will be payable by the Importer on a self-declaration basis. Place of supply rules will determine which state will have the authority to get the tax. However, the taxes so paid will be available as Input Tax Credit and therefore it would be revenue

GST benefit the exporters?

The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

GST benefit the common consumers?

With the introduction of GST, all the cascading effects of CENVAT and service tax will be more comprehensively removed with a continuous chain of set-off from the producer's point to the retailer's point than what was possible under the prevailing CENVAT and VAT regime. Certain major Central and State taxes will also be subsumed in GST and CST will be phased out. Other things remaining the same, the burden of tax on goods would, in general, fall under GST and that would benefit the consumers.


ROADMAP TO
GST IN INDIA

In 2000, the Vajpayee Government set up a committee headed by Asim Dasgupta, the (Finance Minister of the Government of West Bengal) to design a model for GST and oversee IT preparations.

Former Finance Minister Mr. P. Chidambaram had also been making this call in his four Budget Speeches, as under:

Budget Speech 2004-05:

Para 119: Now I turn to my indirect tax proposals ………….. It is my intention to align India's tariff structure to those of ASEAN countries. Eventually, there should be a uniform rate of tax on goods and services.

Budget Speech 2005-06:

Para 94: In the medium to long term, it is my goal that the entire production – distribution chain should be covered by a National VAT, or even better a goods and service tax, encompassing both the Centre and State.

Budget Speech 2006-07:

Para 155 : It is my sense that there is large consensus that the country should move towards a National level Goods and Service Tax (GST) that should be shared between the Centre and the State. I propose that we set April 1, 2010 as the date for introduction of GST. World over goods and services attract the same rate of tax. That Roadmap to GST in India is the foundation of the GST. People must get used to the idea of GST. Hence we must progressively converge the service tax rate and the CENVAT rate. …….

Budget Speech 2007-08:

Para 116: I wish to record my deep appreciation of the spirit of cooperative federalism displayed by State Governments and especially their Finance Ministers. At my request, the Empowered Committee of State Finance Ministers has agreed to work with the Central Government to prepare a roadmap for introducing a national level Goods and Services Tax (GST) with effect from April 1, 2010.

Budget Speech 2014-15:

The debate whether to introduce a Goods and Services Tax (GST) must now come to an end. We have discussed the issue for the past many years. Some States have been apprehensive about surrendering their taxation jurisdiction; others want to be adequately compensated. I have discussed the matter with the States both individually and collectively. I do hope we are able to find a solution in the course of this year and approve the legislative scheme which enables the introduction of GST. This will streamline the tax administration, avoid harassment of the business and result in higher revenue collection both for the Centre and the States. I assure all States that government will be more than fair in dealing with them.

Budget Speech 2015-16:

Finance Minister Arun Jaitley :- We need to revive growth and investment to ensure that more jobs are created for our youth and benefits of development reach millions of our poor. We need an enabling tax policy for this. I have already introduced the Bill to amend the Constitution of India for Goods and Services Tax (GST) in the last Session of this august House. GST is expected to play a transformative role in the way our economy functions. It will add buoyancy to our economy by developing a common Indian market and reducing the cascading effect on the cost of goods and services. We are moving in various fronts to implement GST from the next year.

118. As part of the movement towards GST, I propose to subsume the Education Cess and the Secondary and Higher Education Cess in Central Excise duty. In effect, the general rate of Central Excise Duty of 12.36% including the cesses is being rounded off to 12.5%.

121. Introduction of GST is eagerly awaited by Trade and Industry. To facilitate a smooth transition to levy of tax on services by both the Centre and the States, it is proposed to increase the present rate of service tax plus education cess from 12.36% to a consolidated rate of 14%.

The Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 was introduced in the Lok Sabha by Finance Minister Arun Jaitley on 19 December 2014. The Bill was passed by the House on 6 May 2015. The Government attempted to move the Bill for consideration in the Rajya Sabha on 11 May 2015

The Constitution (122nd Amendment) Bill, 2014 (GST)

Highlights of the Bill

- ✓ The Bill amends the Constitution to introduce the goods and services tax (GST).
- ✓ Parliament and state legislatures will have concurrent powers to makelaws on GST. Only the centre may levy an integrated GST (IGST) on the interstate supply of goods and services, and imports.
- ✓ Alcohol for human consumption has been exempted from the purview of GST. GST will apply to five petroleum products at a later date.
- ✓ The GST Council will recommend rates of tax, period of levy of additional tax, principles of supply, special provisions to certain states etc. The GST Council will consist of the Union Finance Minister, Union Minister of State for Revenue, and state Finance Ministers.
- ✓ The Bill empowers the centre to impose an additional tax of up to 1%, on the inter-state supply of goods for two years or more. This tax will accrue to states from where the supply originates.
- ✓ Parliament may, by law, provide compensation to states for any loss of revenue from the introduction of GST, up to a five year period.

Key Features of the Bill

- ✓ The Bill enables Parliament and state legislatures to frame laws on GST. The GST Council, that includes representatives from the centre and all states, will make recommendations on the implementation of GST.
- ✓ GST is applicable on the supply of goods or services.
- ✓ Alcoholic liquor for human consumption is exempt from GST.
- ✓ Initially, GST will not apply to: (a) petroleum crude, (b) high speed diesel, (c) motor spirit (petrol), (d)• natural gas, and (e) aviation turbine fuel. The GST Council will decide when GST will be levied on them.
- ✓ Tobacco and tobacco products will be subject to GST. The centre may also impose excise duty on tobacco.

Levy of GST

- ✓ Both, Parliament and state legislatures will have the power to make laws on the taxation of goods and• services. A law made by Parliament in relation to GST will not override a state law on GST.
- ✓ The central government will have the exclusive power to levy and collect GST in the course of interstate• trade or commerce, or imports. This will be known as Integrated GST (IGST).
- ✓ A central law will prescribe the manner in which the IGST will be shared between the centre and states,• based on the recommendations of the GST Council.

Additional tax on supply of goods

- ✓ An additional tax of up to 1% on the supply of goods will be levied by centre in the course of inter-state• trade or commerce. The tax will be collected by the centre and directly assigned to the states from where the supply originates
- ✓ This tax will be levied for two years, or for a longer period as recommended by the GST Council. The central government may exempt certain goods from such additional tax.
- ✓ The principles for determining the place of origin from where the supply of such goods takes place will be• formulated by a law of Parliament.
- ✓ Compensation to states
- ✓ Parliament may, by law, provide for compensation to states for revenue losses arising out of the implementation of GST, based on the recommendations of the GST Council. Such compensation could be for a maximum of five years

GST Rate

- ✓ GST rate to be lower than 27%: • FM has assured that the rate of GST will be much lesser than the speculated rate, i.e. 27%.

Challenges In Implementation of GST

There are following challenges in implementing GST throughout the country:

State reluctant to implement GST:
Under GST the taxes would be levied on the basis of destination principle (i.e. taxed in state where goods & services are sold /rendered) and state government is fearful of losing money. Central government should come up with revenue sharing model to solve state's grievances.

Rate of Tax:
The major challenge in implementing GST is to determine the rate of tax. GST rate should be such rate which generates at least the same revenue to the state and Centre as generated in current tax structure. Till now there has been no official announcement regarding GST rates in India but Finance Minister said that GST Rate should be around 18%.

Infrastructure:
IT infrastructure is a key component for success of GST. Without a well-designed and well-functioning IT system, the benefits of GST will remain elusive. In case of VAT also Centre had broad IT infrastructure, but it was a major issue with the states. Therefore both Centre and State needs to develop a High standard IT infrastructure to get the fruits of Goods and Services Tax.

Extensive Training to Tax Administration Staff:

Threshold Limit in GST:

Revenue Neutral Rate (RNR):
It is one of Prominent Factor for its success. We know that in GST regime, the government revenue would not be the same as compared to the current system. Hence, through RNR Government is to ensure that its revenue remains the same despite of giving tax credits.

Legislative challenge/ Federal character:
India is a federal democratic country where both Centre and State Government Exists. Any change in the taxation powers of federal or state government requires amendments of Indian Constitution by two third majorities of its members present and it is also to be ratified by more than 50% state legislative assemblies. Centre Government has already amended "The Constitution (One Hundred and Twenty Second Amendment) Bill, 2014" in Lok Sabha. Now it has to be approved by Rajya Sabha. Central Government should take all opposite parties into confidence and get this Bill passed by Rajya Sabha. Moreover State governments should be convinced to adopt GST bill in their respective states. GST bill is to be passed by the respective state Governments in state assemblies so as to bring majority. This is a herculean task.

ROLE OF CHARTERED ACCOUNTANTS

- ✓ Tracking GST development
- ✓ Review of draft legislation & impact analysis
- ✓ Industry advocacy
- ✓ Implementation assistance
- ✓ Post implementation support
- ✓ To see that all transactions of supply are properly dealt with.
- ✓ Record keeping
- ✓ Departmental Audit
- ✓ External Audit of GST Records
- ✓ System Audit
- ✓ Certifications for tax credit and special audits.
- ✓ Confirm that all the taxable supplies have been considered.

The Audit under the GST regime should be there to find out the correct credit and treatment of input tax credit by the dealer. There is Wide scope for the professional to perform under the GST.

GAME-CHANGING REFORM

➤ The Centre has urged states to adopt the long-delayed goods & services tax (GST) to push growth and reduce costs for India Inc

➤ During the UPA regime, some BJP-ruled states had blocked GST citing loss of revenue

➤ Even in the Monday meeting, state FMs of West Bengal, Gujarat and Tamil Nadu voiced some concerns

➤ Union FM Arun Jaitley is expected to present a revised plan in the Budget next month after taking everyone on board

"GST is one pending issue on which consensus needs to be built and implementation done at an early date... has the potential to significantly improve the growth story — ARUN JAITLEY | FINANCE MINISTER

HANDS FULL

CENTRE KEEN TO PASS FIVE KEY BILLS IN FOUR DAYS; BUDGET SESSION OF PARLIAMENT TO END ON MAY 8

• **122nd Amendment Bill:** Seeks to amend Constitution to introduce goods and services tax; **GST rollout slated for 2016**

• **Land Acquisition Bill:** Creates five special **categories of land use**

• **Juvenile Justice Bill:** Permits juveniles between 16 to 18 years to be **tried as adults** for heinous offences

• **Black Money Bill:** Tracks **unaccounted money** stashed aboard

• **119th Amendment Bill:** Amends First Schedule of Constitution; facilitates **land swap deal** with Bangladesh

The Indian EXPRESS TUESDAY | MARCH 17 | 2015

Gujarat, Maharashtra, Rajasthan & MP flag several concerns

Key BJP-ruled states pick holes in Centre's GST Bill

SHRUTI SRIVASTAVA
NEW DELHI, MARCH 16

THE Centre's Constitution Amendment Bill to implement the proposed goods and services tax (GST) has found little support from the states with even BJP-ruled states like Gujarat, Maharashtra, Rajasthan and Madhya Pradesh flagging several concerns regarding the proposals.

Official sources told *The Indian Express* that the Gujarat government has raised apprehensions about the implementation of five-year compensation provided for in the Bill for any possible revenue loss arising due to the roll out of GST. Also, it has sought extension of the additional 1 per cent levy on supply of goods in inter-state trade beyond the proposed two years.

Similarly, the BJP-ruled Maharashtra has raised objection to the inclusion of octroi in the new indirect tax regime, along with raising concerns about the proposal of the GST compensation.

"States like Rajasthan, Uttar Pradesh and Madhya Pradesh have also raised concerns about the compensation for possible GST losses. The contention is that the provision has been worded in a manner that the Centre may not be obliged to pay the compensation when the GST is rolled out," the sources added.

According to the proposal in the Constitution Amendment Bill, "Parliament may, by law, on the recommendation of the GST Council, provide for compensation to the states for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years".

The Centre has though rebutted the apprehensions, pending states' concerns, the GST Bill may face significant roadblocks.

The government tabled the Bill in December last year after a series of hectic negotiations with the empowered committee of state finance ministers, touting it as the biggest tax reform since 1947.

It proposed to include petroleum and octroi in the GST while at the same time, not subjecting the petroleum products to the levy of GST till the GST Council decides. In the interim, both the Centre and states will continue to impose their respective tax on petroleum products.

It also sweetened the deal for states like Gujarat and Maharashtra by allowing them the additional levy of 1 per cent which can be extended further if the GST Council decides.

The sources said that the Uttar Pradesh government has raised strong objection to the inclusion of entertainment tax in the ambit of GST while it has sought an understanding as to what will happen to the cases of value-added tax which are in disputes at various forums. Madhya Pradesh has asked for a clarification on the amendments in the state powers in making laws under Article 245 of the Constitution.

The state has claimed that under GST a situation will arise where some states may get extra-territorial decision making powers and this situation has to be avoided.

ROADBLOCKS AHEAD

GUJARAT government has raised apprehensions about the implementation of five-year compensation provided for in the Bill for revenue loss due to the roll out of GST

MAHARASHTRA has objected to the inclusion of octroi in the new indirect tax regime

THE GOVERNMENT tabled the Bill in December last year after a series of hectic negotiations with the empowered committee of state finance ministers

THE CENTRE, though rebutted apprehensions, the GST Bill may face major roadblocks

हम व्यापारी / Hum Vyapari

अक्टूबर से 31 अक्टूबर 2014

GST: Centre plans 3-year compensation for states

13 Oct, Prime Minister Narendra Modi's plan to roll out a Goods & Services Tax (GST) by April 2016 could hit another hurdle, as the finance ministry wants to compensate states for only three years. States, on the other hand, have been demanding that the Centre compensate them, for losses incurred on account of switching to the proposed indirect tax regime, for five years. Also, the ministry has ruled out making any provision for compensation in the Constitution amendment Bill; it may be provided for in the GST law. The compensation will be given to states on the lines of a formula to be suggested by the 14th Finance Commission, which is likely to give its report later this month. The panel was asked to give its recommendations on GST's impact on finances of the Centre and states, besides a mechanism for compensation. "In our view, there will not be any loss. But, to address states' concerns, we can compensate them for the first three years. We have conveyed this to the 14th Finance Commission," a finance ministry official, who did not wish to be named, told States had also asked the Centre to make a provision for the compensation in the Constitution amendment Bill, but the finance ministry is not ready to yield on this. The official explained that the Constitution Bill could not have such a provision because as amending it was not easy. An amendment to the Constitution requires passage of the Bill by a two-thirds majority in each house of Parliament, and ratification by at least half the state legislatures.

The Constitution amendment Bill, which will pave the way for GST, is likely to be tabled in Parliament's winter session (but it will not have a compensation provision).

A draft Cabinet note on the amendment Bill has been prepared and will be circulated for an inter-ministerial consultation after Finance Minister Arun Jaitley has approved it.

"The fear over loss of revenue will remain for some time. It had happened at the time of the value-added tax (VAT) implementation as well. But all states eventually gained from it. So, in my view, both the Centre and states will gain from the broad-based structure of GST," said Sumit Dutt Majumder, former chairman of the Central Board of Excise & Customs.

Majumder said putting a sunset clause on the compensation had no meaning. The Centre could not say it would compensate for only three years even if some states made losses for longer.

"The Centre is committed to suitably compensating states through a legal mechanism. We are hopeful of an amicable resolution," said another finance ministry official. However, some manufacturing states like Gujarat, Maharashtra and Tamil Nadu fear incurring losses in the proposed destination-based tax. To allay their fears and to protect their revenues, the Centre is planning to keep alcohol out of the GST ambit, constitutionally. According to a revised draft of the Constitution amendment Bill, petroleum, though zero-rated, will be under GST because it is an input product. GST, a value-added tax, gives credit for taxes paid on inputs. If petroleum is kept out, it will break the chain for input credits. However, since "alcohol is primarily a final product and states have revenue considerations, it can be kept out of GST". Tobacco, on which the Centre levies excise duty, and entry tax in lieu of octroi, will also be subsumed in GST. Among other contentious issues were the GST council and the dispute-resolution authority proposed in the Constitution amendment Bill of 2011. At various meetings of the empowered committee of state finance ministers on GST, states opposed the authority and wanted changes in composition of the council to decide GST rates, exemptions and threshold limits, among other things. "Changes will be made to the composition of the GST council proposed in the Bill of 2011, and the dispute-resolution authority will be dropped in the new version of the Bill," said one of the officials quoted earlier.

The Centre's concerns on the GST compensation issue, as well as those of states, stem from earlier disagreement over on the Central Sales Tax compensation. While states fear they will become dependent on the Centre for their own dues, the finance ministry's suspicion is that states might charge higher compensation on the pretext of something else "as they did in the case of CST".

About Rajput Jain & Associates

Rajput Jain & Associates is a Chartered Accountants firm, with it's headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders.

focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.

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Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.

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