GOODS AND SERVICES TAX (GST) BILL- AN OVERVIEW

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ABSTRACT

Goods and Services Tax (GST) is a proposed system of indirect taxation in India merging most of the existing taxes into single system of taxation. It was introduced as the Indian Constitution (One Hundred and First Amendment) Act 2016. The GST is administered & governed by GST Council and its Chairman is Union Finance Minister of India.

Keywords: GST

INTRODUCTION

The Goods and Services Tax (GST) is the biggest reform in India’s indirect tax structure since the economy began to be opened up 25 years ago, at last looks set to become into reality. The Constitution (122nd) Amendment Bill comes up in Rajya Sabha, on the back of a broad political consensus and boosted by the ‘good wishes’ of the Congress, which holds the crucial cards on its passage. Here’s how GST differs from the current regimes, how it will work, and what will happen if Parliament clears the Bill. The day after, Government hints at the rate more than 18 per cent. So also Lok Sabha as accepted the amendment Bill in parliament on 29th March, 2017.

GST would be a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India, to replace taxes levied by the central and state governments. The GST is consumption based tax levied on the supply of Goods and Services which means it would be levied and collected at each stage of sale or purchase of goods or services based on the input tax credit method. This method allows GST-registered businesses to claim tax credit to the value of GST they paid on purchase of goods or services as part of their normal commercial activity. Taxable goods and services are not distinguished from one another and are taxed at a single rate in a supply chain till the goods or services reach from manufacturer the consumer. The administrative responsibility would generally rest with a single authority to levy tax on goods and services. Exports would be considered as zero-rated supply and imports would be levied the same taxes as domestic goods and services adhering to the destination principle in addition to the Customs Duty which will not be subsumed in the GST.

GST would be a significant step in the reform of indirect taxation in India, by amalgamating several Central and State taxes into a single tax would mitigate cascading or double taxation and facilitating a common national market. The simplicity of the tax should lead to easier administration and enforcement. From the consumer point of view, the big advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25% to30%, free movement of goods from one state to another without stopping at state borders for hours for payment of state tax or entry tax and there will be a reduction in price and paperwork also.
STAGES IN GST

Stage 1- Manufacturing

Let us imagine a manufacturer of, say, garment. He buys raw material or inputs eg. cloth, thread, buttons, tailoring equipment — worth Rs 100, a sum that includes a tax of Rs 10. With these raw materials, he manufactures a garment. In the process of creating the garment, the manufacturer adds value to the materials he started out with. Let us take this value added by him to be Rs 30. The gross value of his good would, then, be Rs 100 + 30, or Rs 130.

At a tax rate of 10%, the tax on output (this garment) will then be Rs 13. But under GST, he can set off this tax (Rs 13) against the tax he has already paid on raw material/inputs (Rs 10). Therefore, the effective GST incidence on the manufacturer is only Rs.3 (13 – 10 = 3).

Stage 2- Wholesale

The next stage is that of the same passing from the manufacturer to the wholesaler. The wholesaler purchases it for Rs 130, and he adds on value (which is basically his ‘margin’) of, say, Rs 20. The gross value of the good (garment) he sells would then be Rs 130 + 20 — or a total of Rs 150. A 10% tax on this amount will be Rs 15. But again, under GST, he can set off the tax on his output (Rs 15) against the tax on his purchased good from the manufacturer (Rs 13). Thus, the effective GST incidence on the wholesaler is only Rs 2 (15 – 13=2).

Stage 3- Retail

In the final stage, a retailer buys the same from the wholesaler. To his purchase price of Rs 150, he adds value, or margin, of, say, Rs 10. The gross value of what he sells would then be Rs 150 + 20 — or a total of Rs 160. A 10% tax on this amount will be Rs 16. But by setting off this tax (Rs 16) against the tax on his purchase from the wholesaler (Rs 15), the retailer brings down the effective GST incidence on himself to Rs 1 (16 –15=1).

Thus, the total GST on the entire value chain from the point of raw material/input suppliers (who can claim no tax credit since they haven’t purchased anything themselves) through the manufacturer, wholesaler and retailer is, Rs.16 (10 + 3 +2 + 1).

Thus, total price of the garment under GST would be Rs. 166 (150+16).

Let us compare with the existing system-

In a non-GST system, there is a cascading burden of “tax on tax”, as there are no set-offs for taxes paid on inputs or on previous purchases.

Thus, if we consider the same example as above, the manufacturer buys raw materials/inputs at Rs 100 after paying tax of Rs 10. The gross value of the garment (good) he manufacturers would be Rs 130, on which he pays a tax of Rs 13. But since there is no set-off against the Rs 10 he has already paid as tax on raw materials/inputs, the good is sold to the wholesaler at Rs 143 (130 + 13).

With the wholesaler adding value of Rs 20, the gross value of the good sold by him is, then, Rs 163. On this, the tax of Rs 16.30 (at 10%) takes the sale value of the good to Rs 179.30. The wholesaler, again, cannot set off the tax on the sale of his good against the tax paid on his previous purchase from the manufacturer.

The retailer, thus, buys the good at Rs 179.30, and sells it at a gross value of Rs 208.23, which includes his value addition of Rs 10 and a tax of Rs 18.93 (at 10% of Rs 179.30). Again, there is no mechanism for setting off the tax on the retailer’s sale against the tax paid on his previous purchase.

The total tax on the chain from the raw material/input suppliers to the final retailer in this full no-GST regime will, thus, work out to Rs 10 + 13 + 16.30 + 18.93 = Rs 58.23. For the final consumer, the price of the good would then be Rs 150 + 58.23 = Rs 208.23.
Compare this Rs 208.23, with a tax of Rs 58.23, to the final price of Rs 166, which includes a total tax of Rs 16, under GST.

Thus reduction in tax burden is Rs. (58.23-16) 42.23 and reduction in price is Rs.(208.23-116) 92.23.

Currently, we have Value-Added Tax (VAT) systems both at the central and state levels. But the central VAT or CENVAT mechanism extends tax set-offs only against central excise duty and service tax paid up to the level of production. CENVAT does not extend to value addition by the distributive trade below the stage of manufacturing; even manufacturers cannot claim set-off against other central taxes such as additional excise duty and surcharge.

Likewise, state VATs cover only sales. Sellers can claim credit only against VAT paid on previous purchases. The VAT also does not subsume a host of other taxes imposed within the states such as luxury and entertainment tax, octroi, etc.

If once the GST comes into effect, all Central- and State-level taxes and levies on all goods and services will be subsumed within an integrated tax having two components- a central GST and a state GST. This will ensure a complete, comprehensive and continuous mechanism of tax credits. Under this, there will be tax only on value addition at each stage, with the producer/seller at every stage able to set off his taxes against the central/state GST paid on his purchases. The end-consumer will bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

**What about the Bill in Parliament?**

It basically seeks to amend the Constitution to empower both the Centre and the states to levy GST. This they cannot do now, because the Centre cannot impose any tax on goods beyond manufacturing (Excise) or primary import (Customs) stage, while states do not have the power to tax services. The proposed GST would subsume various central (Excise Duty, Additional Excise Duty, service tax, Countervailing or Additional Customs Duty, Special Additional Duty of Customs, etc.), as well as state-level indirect taxes (VAT/sales tax, purchase tax, entertainment tax, luxury tax, octroi, entry tax, etc).The Bill has already passed in the Parliament on 29th March 2017 and there will only be a national-level central GST (NGST) and a state-level GST (SGST) spanning the entire value chain for all goods and services, with some exemptions.

GST will be applicable from 01 July 2017.

**Central taxes that The GST will replace**
- Central Excise Duty
- Duties of Excise (medicinal and toilet preparations)
- Additional Duties of Excise (goods of special importance)
- Additional Duties of Excise (textiles and textile products)
- Additional Duties of Customs (commonly known as CVD)
- Special Additional Duty of Customs (SAD)
- Service Tax
- Cesses and surcharges in so far as they relate to supply of goods or services

**State taxes that The GST will subsume**
- State VAT
- Central Sales Tax
- Purchase Tax
- Luxury Tax
- Entry Tax (all forms)
- Entertainment Tax (not levied by local bodies)
- Taxes on advertisements
Taxes on lotteries, betting and gambling
- State cesses and surcharges

**The GST Council**

It consists of the union Finance Minister (chairman) and MoS in charge of Revenue; Minister in charge of Finance or Taxation, or any other Minister, nominated by each state decisions be made by three-fourths majority of votes cast; Centre shall have a third of votes cast, states shall together have two-thirds. Mechanism for resolving disputes arising out of its recommendations may be decided by the Council itself.

Under GST, the existing system of levy of tax on manufacture, provision of taxable services, and sale of goods will be replaced by the concept of ‘SUPPLY’. The taxable event under GST is the ‘Supply’ of Goods or Services. It is very important, therefore, to understand the place of supply in determining the right charge of tax on supply. The model GST Law lays down the criteria to determine the place of supply. Based on these criteria, you can treat the supply of goods or services as either Intra-State (within the State) or Inter-State (Outside the State).

There are two important components which determine the tax to be charged on a supply:
- **Location of the Supplier** – It is the registered place of business of the supplier
- **Place of Supply** – It is the registered place of business of the recipient.

**Intra State Tax**

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\begin{array}{c}
\text{Location of the supplier} \\
\text{Karnatak} \\
\text{Intra-State supply} \\
\text{Charge tax} \\
\text{CGST} \\
\text{SGST}
\end{array}
\]

**Inter State Tax**

\[
\begin{array}{c}
\text{Location of the supplier} \\
\text{Karnataka} \\
\text{Intra-State supply} \\
\text{Charge tax} \\
\text{IGST}
\end{array}
\]

In the current indirect tax regime, there are accounting and tax professionals who are authorized to file returns on behalf of taxable persons. Currently, this role is performed by Chartered Accountants...
Who a Tax Return Preparer is, under GST?

A Tax Return Preparer is a person approved by the Central or State Government to perform any or all of the following activities, on behalf of a taxable person:

1. File an application for fresh registration
2. File an application for amendment or cancellation of registration
3. Furnish details of outward and inward supplies
4. Furnish monthly, quarterly, annual or final GST returns
5. Make payments for credit into the electronic cash ledger, i.e. payments for tax, interest, penalty, fees or any other amount
6. File a claim for refund
7. Represent the taxable person in any proceeding under the Act, other than inspection, search, seizure and arrest
8. File an appeal to the First Appellate Authority
9. File an appeal to the Appellate Tribunal (can only be done by a CA/CS/ICWA/Advocate)

Who can become a Tax Return Preparer?

A person can become a Tax Return Preparer under GST if he/she satisfies the conditions listed below:

1. Should be a citizen of India
2. Should be a person of sound mind
3. Has not been declared as insolvent
4. Has not been convicted for an offence with imprisonment for more than two years
5. Meets the required education or work experience criteria, given below:

Filing of Returns by a Tax Return Preparer

A taxable person can authorize a Tax Return Preparer to file GST returns. Once authorized, the Tax Return Preparer prepares and furnishes the Statement, which has to be confirmed by the taxable person.

At any time, a taxable person can withdraw the authorization given to a Tax Return Preparer using Form GST TRP -7.

What changes there would be after India launches GST?

“The tax rate under GST may be nominal or zero rated for the time being. It has been proposed to insulate the revenues of the States from the impact of GST, with the expectation that in due course, GST will be levied on petroleum and petroleum products.” The central government has assured states of compensation for any revenue losses incurred by them from the date of introduction of GST for a period of five years.

As India is a federal republic GST would be implemented concurrently by the Central Government and by State Governments.
Constitutional Amendment

Main article: One Hundred and First Amendment of the Constitution of India

The Constitution (One Hundred Twenty Second Amendment) Bill, 2014 proposes a national Value Added Tax to be implemented in India from 1 July 2017.

Legislation

The government is planning to introduce three bills for GST in the parliament in winter session 2016 viz. CGST law, IGST law and compensation law. There will be no GST on the sale and purchase of securities. That will continue to be governed by Securities Transaction Tax (STT).

GST Threshold

GST threshold was set at 10 lakh (US$15,000) for the north-east and hill states and ₹20 lakh (US$30,000) for other states in the first GST council meet. Centre and states agreed that assessee up to 1.5 crore (US$220,000) will be assessed by states and above that will be assessed by centre and states.

GSTN

Goods and Services Tax Network (GSTN) is a not-for-profit, non-government firm that would provide IT infrastructure and services to the central and state governments, taxpayers and other stakeholders for implementation of the Goods and Services Tax (GST). It will be owned by three stakeholders—the centre, the states and the technology partner NSDL, the then Central Board of Excise and Customs (CBEC) Chairman S. Dutt Majumdar said while addressing a "National Conference on GST". On the possibility of rolling out GST, he said, "There was no need for alarm if GST was not rolled out in April 1, 2017".

Current vs. Proposed regime of Indirect Tax in India

Multiplicity of Taxes

Presently, the Constitution empowers the Central Government to levy excise duty on manufacturing and service tax on the supply of services. Further, it empowers the State Governments to levy sales tax or value added tax (VAT) on the sale of goods. This exclusive division of fiscal powers has led to a multiplicity of indirect taxes in the country. In addition, central sales tax (CST) is levied on inter-State sale of goods by the Central Government, but collected and retained by the exporting States. He has to contact several authorities and maintain separate records for each of them.

The existing tax system contains the following taxes at different level
Complex
The taxes are levied by central government as well as state government. So, a person has to maintain accounts which will comply with all the applicable laws. This multiplicity of taxes at the State and Central levels has resulted in a complex indirect tax structure in the country that is ridden with hidden costs for the trade and industry.

Cascading effects of taxes
In current indirect tax structure in India, there is cascading of taxes due to ‘tax on tax’. No credit of excise duty and service tax paid at the stage of manufacture is available to the traders while paying the State level sales tax or VAT, and vice versa. Further, no credit of State taxes paid in one State can be availed in other States. Hence, the prices of goods and services get artificially inflated to the extent of this ‘tax on tax’.

Tax Arbitrage
The problem of tax arbitrage for a single nation poses an invisible barrier for free trade. In many cases, a small difference in rate of tax can result in manifold implications and thus, can induce the business to move into a lower tax territory.

Similarly, Entry tax also acts as barrier for free trade.

GST is seen as a solution to the above problems
GST shall subsume the following taxes in the times to come once the law is in force:[7]

The proposed GST regime shall have the following features:

1. It shall be a destination based taxation
2. It shall have a Dual Administration – Centre and State
3. State wise determination of taxable person – no more centralized registration
4. Seamless credit amongst goods and services

Sources: The Times of India, 30 January 2017
Tax Rate under the proposed GST

As per the decisions made by all will of GST Council on November 3, 2016, tax rates would be at 4 slabs of 5%, 12%, 18% and 28%. Luxury and demerit goods will be taxed at 28% plus cess. Daily needs will be taxed at 5%.

CONCLUSION

Under GST, the existing system of levy of tax on manufacture, provision of taxable services, and sale of goods will be replaced by the concept of ‘SUPPLY’. The taxable event under GST is the ‘Supply’ of Goods or Services. It is very important, therefore, to understand the place of supply in determining the right charge of tax on supply. The model GST Law lays down the criteria to determine the place of supply. Based on these criteria, we can treat the supply of goods or services as either Intra-State (within the State) or Inter-State (Outside the State).

All the existing taxpayers registered under VAT, Service Tax, and Excise are required to furnish the details at GST Common portal for the purpose of migrating themselves into GST regime. To begin with, the taxpayers registered under the State VAT Department needs to provide their details and period for furnishing these details are specified for every state. Once the taxpayers provide their details there will be no need for them to register again with the State or Center once the GST Act is implemented. Enrolment process for other existing taxpayers not registered with VAT will be started at a later date.

With heterogeneous State laws on VAT, the debate on it the necessity for a GST has been reignited. Let us hope the introduction of GST would be beneficial as a solution to the existing problems.

REFERENCES

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