GOODS AND SERVICE TAX – GST

CA. Dipal Haria

Visiting Lecturer

Shri G.H.Gosrani Commerce and D.D.Nagda BBA College, Jamnagar

E-mail: dipal.haria@oshwaleducationtrust.org

Abstract

The purpose of this paper is to understand and analyze the proposed Goods and Service Tax (GST) structure and make concerned people aware about it. The researcher has tried to minimize the complexity of this topic and attempted to present the topic in a way easy to understand and simplified. Also, so far no authoritative details about GST structure and implementation thereof have been issued by the Government. This paper is complied on the basis of information available from The Constitution 122nd Amendment Bill, 2014 passed by Lok Sabha and various draft reports issued by Expert Committee and Finance Commission

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1. INTRODUCTION

Goods and Service Tax (GST) is a single comprehensive tax levied on all goods and services consumed in the country, subsuming all existing indirect taxes into a single tax regime.

The introduction of GST would be a noteworthy step in the India's biggest indirect tax reform since 1947. GST term was initial used by German Economist during 18th Century. In India, Kelkar Committee has recommended for a single tax GST based on VAT principles.

From its foremost official mention in 2009 when first discussion paper was given by previous UPA Government till now when BJP Government presented Constitution Amendment Bill, 2014, getting consensus was not easy. It has taken years to decide, but even now the matter is not completely fixed.

Then also, the introduction of Constitution Amendment Bill, 2014 in Parliament is like first key step towards bringing awaited GST reform.

2. CURRENT SCENARIO OF INDIRECT TAX

Our Constitution is based on the federal system, wherein powers to make law and levy taxes i.r.o matters given in List I (Union List) in the Seventh Schedule remain with the Central Government, While State Legislature has power to make law and levy taxes i.r.o matters given in List II of the said Schedule. However, for Concurrent List i.e. List III, both Central and State have Legislation powers.

NATURE OF TAX	TAXATION POINT	LEGISLATION POWERS
Excise Duty	Manufacture	Central Government
Service Tax	Provision of Service	Central Government
Sales Tax/VAT/CST	Sale	State Government
Entertainment Tax	Entertainment	State Government
Entry Tax	Entry of Goods	State Government

Thus, the current indirect tax system is multifaceted where taxes are levied by Central and State both at different points of taxation till the product or service is finally consumed by the consumer.

3. WHY GST IS REQUIRED?

As discussed above, because of multiple laws, the individual or business house has to comply with the provisions of various laws, maintain records or books, file different returns on different dates, communicate with various authorities etc. Thus, the compliance cost is very high and also time consuming under the current indirect tax system.

The idea behind GST is to subsume all existing Central and State indirect taxes under a single tax which will be levied on all goods and services. No differentiation between a good or service, whether as an input or a finished product. Under GST, tax paid on inputs is deducted from the tax payable on output produced. The input credit set off functions through the manufacturing and distribution stage of production.

With introduction of GST-a single tax, not only tax administration would undergo a change but also compliance cost would come down. The GST design would alleviate cascading of taxes or double taxation, enabling a common national market with smooth flow of input credit and of information between supplier, buyer and tax authorities.

Let's take an example of a manufacturer who pays excise and a retailer who pays sales tax and compare taxation under current tax regime and GST regime. In example, cost of raw material is Rs. 200. The manufacturer and retailer add Rs. 40 value each. The tax rate is assumed to be 10% for all taxes.

Comparison of tax under current indirect tax regime and GST regime

Transaction	**Current System**	**GST system**
Cost of Raw Material	200	200
Tax on above	**20** (10% on 200)	**20** (10% on 200)
Value added by Mfr.	40	40
Excise duty on above	**4** (10% on 40)	**4** (10% on 40)
Retailer Cost	264	264
Retailers margin	40	40
Sales Tax payable	**30.4** (10% on 304)	**4** (10% on 40)
Final Price incl. Taxes	334.4	304
Of which Taxes	**54.4**	**28**

Both Excise and Sales tax are a VAT system, but the set off for taxes paid is not applicable across these taxes. Therefore, Sales tax is applicable to CENVAT paid. Kindly note the ‘tax on tax’ effect where the final selling price not only has two taxes but also a tax on tax.

While in GST regime, there is a single tax with input credit. This means that each person pays tax only on the value added by him. Consequently, the total tax is less, resulting in a lower price of the good.

The spread of GST in different countries has been one of the most significant developments in taxation over the last six decades. More than 150 countries have adopted the GST, due to its capacity to raise revenue in the most transparent and neutral manner. With the growth of international trade in services, the GST has become a preferred global standard. All OECD countries, except the US, follow this taxation structure.

4. PROPOSED GST STRUCTURE

GST was termed as the greatest tax reform in the Country. The intention of introducing this new tax system was to simplify and streamline the indirect tax structure in India. The objective is to convert the Country into a unified market and at the same time substitute most indirect taxes and include all the existing indirect taxes into a single tax regime.

GST system is proposed to incorporate all taxes into one destination based tax at agreed rates with set-off available along the value chain. GST will be applicable on both goods and services.

It is at present proposed to consist of two primary components namely;

1. **The CGST (Central Goods and Service Tax)**
2. **The SGST (State Goods and Services Tax).**

Besides these there shall be an **IGST (Integrated Goods and Services Tax)** applicable to inter-state transactions, where the tax amount shall be transferred to the state where the taxable goods / services initiated in the first instance. Though the original purpose was to have a single GST, however, taking into account the makeshift issues and the antagonism from various States due to their anxieties on revenue collection, GST at present has been proposed to have aforesaid three components (CGST, SGST & IGST). However, Critics claim that CGST, SGST and IGST are nothing but new names for Central Excise/Service Tax, VAT and CST, and hence GST brings nothing new to the table.

This cohesive tax structure is designed as a dual system, wherein both the centre and the states may impose taxes based on their respective constitutional order.

Various nations across the globe have introduced GST in some or other form. It is also a broadly accepted and preferred form of indirect tax in the Asia Pacific region. It is thought-provoking to note that there are over 40 models of GST currently in force, each with its own distinct uniqueness. The Indian GST model proposed by the Empowered Committee and accepted by the Centre will be a dual model for imposing the tax. The dual model will have both the Centre and the concerned State levying GST on a single transaction.

5. PROMINENT FEATURES OF PROPOSED GST MODEL

Because of the multiple levies/taxes under prevailing model of indirect tax, the manufacturers or the traders have to fulfil with the various applicable laws at the same time, which becomes a clumsy activity. Also, under the current model, the continuous chain of set-off benefits, right from the stage of manufacture to ultimate retail sale and consumption is not available which results in the cascading effect (leading to payment of tax on tax at different stages). Such cascading effect apart from commanding compliance challenges to assesses, also results in higher product/service cost to the ultimate consumer. The researcher has summarized the most important features of the proposed GST model as under for your understanding:

- To streamline the tax structure relating to goods and services and also to simplify the tax compliance liability;
- Elimination of cascading effect of multiple taxes which will make the manufacturing sector more competitive and cut down the tax compliance liability;
- To make sure a point to point tax credit mechanism;
- To broaden tax base of the Country followed by reduction in tax rates leading to lower cost to consumers;
- Various Central/State levies would be incorporated under GST[1];
- To be collected on value added at each stage in the supply chain and full tax credit on inputs;
- Permitting manufacturing States to levy an additional 1 per cent tax[2] on supply of goods for two years;
- There will be one CGST [Central Goods and Services Tax] law at all India level and several SGST [State Goods and Service Tax] laws for the different States;
- Inter-state supply of goods and services will invite Integrated Goods and Services Tax [CGST+SGST];
- Import of goods will be subject to Integrated Goods and Services Tax (IGST) & Basic Customs Duty, however, import of services will attract IGST;
- Both CGST and SGST would be imposed on the same price or value unlike State VAT which is currently levied on the value of the goods inclusive of CENVAT (Excise Duty).

[1] Central Levies- Central Excise Duty; Service Tax; Additional Duty of Customs (CVD); Cesses and Surcharges; product specific Cesses (like automobile cess) etc;

State Levies- State VAT; CST; Luxury Tax; Entry Tax; Entertainment Tax; Taxes on lottery; betting and gambling; etc.

[2] UPA has suggested dropping 1 per cent additional duty and BJP has given its nod

6. LIST OF VARIOUS REPORTS ISSUED BY THE JOINT COMMITTEE

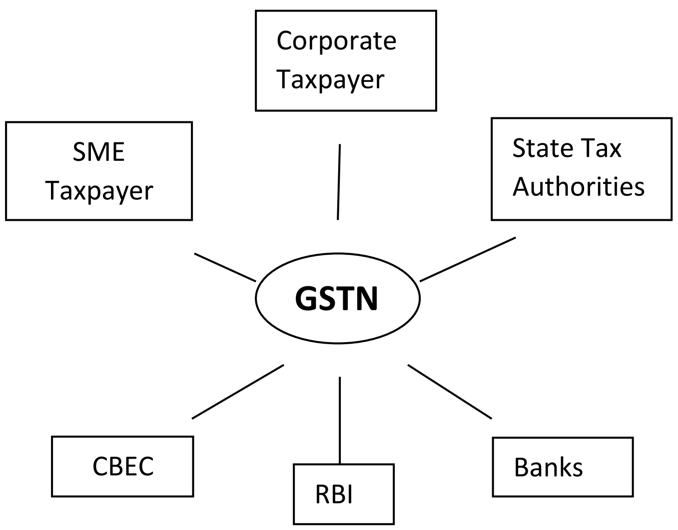
A Joint Committee constituted on April 07, 2014 in consultation with the Government of India for researching the processes under GST has till date developed the following four reports under GST:

- Registration process
- Payment procedure
- Proposed Return related compliances
- Refund Mechanism.

The researcher has attempted to provide you with the brief background of all the four reports issued by the Joint Committee, as hereunder:

Registration process under GST

- Persons with All-India Gross Turnover more than a threshold limit(will be specified in due course), Persons making inter-state supplies, Casual and Non-resident Suppliers would be requisite to obtain registration under GST;
- Suppliers with turnover below a particular threshold limit would be eligible for composition scheme who will pay tax on turnover with no input tax credit;
- Taxpayers will have to obtain State-wise registration and within a State, the taxpayer may either opt for a single registration or multiple registrations for different business verticals;
- Government has planned that a system would be designed to transfer cleaned and verified data from the existing database(s) (i.e. State VAT(s), Central Excise and Service Tax database) to the GST Common Portal and a Goods and Service Tax Identification Number ("GSTIN") shall be generated. All assesses would be required to file fresh registration form under GST



Common Portal GSTN

Payment procedure under GST

There will be a single challan for all 4 types of Taxes i.e.

(1) Central GST (CGST),

(2) Integrated GST (IGST),

(3) 1% Additional Tax and

(4) State GST (SGST) will be generated;

Three Modes of Payment have been proposed-

(1) Electronic including CC/DC (Mode I),

(2) Over the Counter Payment (for Payments up to Rs. 10,000/-) (Mode II)

(3) Payment through RTGS/NEFT (Mode III);

Workflow for payment has been provided under the payment procedure; the question regarding utilization of existing Input Tax credit of VAT and Cenvat under Cenvat Credit Rules 2004, still needs to be answered.

Proposed Return related compliances under GST

- The tax payer has to make Self-assessment of his tax liability;
- Common e-return for CGST, SGST, IGST and 1% Additional Tax;
- Following are the proposed returns to be filed:

Form Number	**Assesse Type**	**Details to be filed**	**Due date for filing**
GSTR-1	Normal/Regular assesse	Details regarding export, local sale, inter-state sales and debit/ credit note.	10th day of succeeding month
GSTR-2	Normal/Regular assesse	Details to be Auto-generated from GSTR-1 of counterparty supplier and other invoices not declared by the Counterpart. Details regarding import, local purchase, inter-state purchase and debit/ credit note.	15th day of succeeding month
GSTR-3	Normal/Regular assesse	Details to be auto-generated from GSTR-1 & GSTR-2. Further, ITC (Input Tax Credit) availed, ITC utilized, credit reversible on account of invoice mismatch and other adjustments, details of gross & net tax liability.	20th day of succeeding month

GSTR-4	Compounding Tax payer/ Composite tax payer	Details regarding import, inter-state-purchase/sale, export along with Tax paid etc.	18th day of succeeding month of the Quarter
GSTR-5	Return by Non-resident Foreign Tax Payers (at the time of closure of business)	Details regarding imports with HSN, outward Supplies, ITC availed, tax paid and closing stock	within 7 days after expiry of registration
GSTR-6	Input Service Distributor	Details to be Auto-generated from GSTR-1 of counter-party supplier, Information about ITC available in the month for distribution, etc.	15th day of succeeding month
GSTR-7	Tax Deducted at Source return	Details of Tax deducted, GSTIN of supplier, Invoice details, Payment details, Amount of TDS on account of CGST, SGST & IGST, Details of payments of any other amount	by 10th of succeeding month
GSTR-8	Annual Return	Details of all expenditure, details of all income, details of all other tax liability, other reconciliation statements	31st December following the end of the financial year
Reconciliation Statement	Reconciliation statement to be filed by taxpayers who are required to get accounts audited under Section 44AB of the Income Tax Act, 1961	Annual Return to be accompanied with a statement showing reconciliation of information as per Returns and as per annual audited accounts	31st December following the end of the financial year

Refund Mechanism under GST

Any excess payment may be on account of, wrong mention of nature of tax (CGST / SGST / IGST), wrong mention of GSTIN, or wrong mention (deposit) of tax amount shall be at the option of the assesse, would either be automatically carried forward for adjustment against future tax liabilities or be refunded;

Different situations where refund would arise have been discussed in detail and the simplified mechanism thereof is also provided under the said report.

7. INPUT TAX CREDIT MECHANISM

Regarding input tax credit, the CGST and SGST are to be treated separately. In general, taxes paid against the input CGST shall be allowed as input tax credit to be utilized only against the payment of output CGST. The same principle will be applicable for SGST. As per researcher understanding, cross utilization of input tax credit between the CGST and the SGST would, in general, not be allowed. This proposed mechanism is very much similar to the present system of CENVAT and input tax credit of VAT. Though, the cross utilization of credit of CGST between goods and services would be allowed. Similarly, the said practice would be applicable in case of SGST also.

Further, an IGST will be applicable on inter-state trade and commerce. 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 with appropriate provision for consignment or stock transfer of goods and services. The utilization of credit of CGST and SGST would be permitted for the payment of IGST and the credit of IGST can be utilized for the payment of IGST, CGST and SGST.

For your ease, the researcher has tabulated different scenarios of input tax credit utilization under GST as

Credit of	**To be adjusted with**
IGST	IGST, CGST, SGST
CGST	CGST, IGST
SGST	SGST, IGST

The abovementioned arrangement is being made for the purpose of maintaining the credit chain and to avoid the cascading effect in the entire supply chain. Periodically, the accounts will be settled between the Centre and the State in order to ensure that the SGST component is transferred to the destination State(s) where the goods and services are ultimately consumed. The said model would be self monitoring model and is likely to lessen the existing compliances.

It can be said that IGST would be a replacement for existing Central Sales Tax ("CST"). However, the differences and similarities among both can be better understood with the aid of the following table:

Particulars	**CST**	**IGST**
Differences	CST is being levied on all inter-state sale transactions.	IGST would be levied on all inter-state sales and **service** transactions.
	Input credit of CST is not available against payment of output VAT of the importing state. This leads to increase in the cost of product.	Input credit of IGST would be available against payment of output SGST tax of the importing state. This would lead to neutralization of cascading effect and cost optimization.
Similarities	Input credit of VAT can be utilized for payment of CST.	Input credit of SGST would be utilized for payment of IGST.

8. GST ON IMPORT AND EXPORT TRANSACTIONS

- Regarding import of goods and services, IGST tends to include into itself, the Countervailing Duty (CVD), Special Additional Duty of Customs (SAD 4%) and Service Tax.
- The differences and similarities among the two regimes are depicted in the following table:

Particulars	**Present system (BCD + Import CVD / SAD/ST)**	**Proposed system (BCD + IGST)**
Differences	Levy of Basic Customs Duty, CVD & SAD on import of goods and Service Tax on import of service under reverse charge mechanism.	Levy of Basic Customs Duty and IGST [CGST & SGST] on goods and IGST on services.
	Input credit of CVD and SAD is available in case the imported goods are used in manufacturing activity subject to the conditions, if any and refund of SAD is also available in case of trading of imported goods subject to conditions laid down.	Complete input credit of duties would be available under GST for all commercial transactions whether manufacture, trading or output services.
Similarities	Incidence of tax based on principle of destination i.e. where the goods and services are consumed	Incidence of tax based on principle of destination i.e. where the goods and services are consumed

9. RECENT DEVELOPMENTS

It is relevant to mention here that the Select Committee constituted to examine the Constitution (122nd Amendment) Bill, 2014 submitted its report to Rajya Sabha (Upper House of Indian Parliament) on July 22, 2015 and suggested certain changes in the clauses of Constitutional Amendment. However, the Rajya Sabha adjourned and the Centre's most vital reform Bill remained in the Upper House without being passed and the monsoon session of the Parliament had been a complete failure. The winter session was however a better note than the previous monsoon session. It is essential to note that the Lok Sabha will have to again pass the amended bill once the Rajya Sabha clears it.

After continual deliberations, the opposition (UPA) has finally agreed to provide its support to the proposed GST Bill subject to three amendments in the original GST Bill, which are summarized as under:

- A constitutional cap of 18 per cent on GST;
- A Dispute Resolution Authority for resolving all the disputes which may arise between Central Government and State Government(s);

- Dropping of 1 per cent Additional Tax which is proposed on inter-state movement of goods.

The ruling NDA has shown green signal for dropping of 1 per cent additional tax, which is not eligible for input credit, since the purpose of the GST bill is to remove the cascading effect and this additional 1% deviates from the objective of GST. However, NDA is opposing the first two suggestions (mentioned above) which were recommended by UPA, on the ground that the constitutional cap will make the GST levy inflexible and any further change will require another amendment in the Constitution. Further, the NDA and the parliamentary standing committee didn't favour the idea of Dispute Resolution Authority by saying that the Dispute Resolution Authority would then have overriding powers over the Parliament and the State legislatures which is not correct per se.

10. FINDINGS

In the present taxation system there is a long list of exemptions in the Excise as well as in the State VAT laws which needs to be pruned to avoid the cascading effect in the GST Law. Lower exemptions in the proposed system would increase the tax base and would culminate the lower rate of taxes to cope up with the new system easily. All these moves are going to be in vain, if the GST Law does not come into force.

Nonetheless, all the stakeholders are very keen to opt with this new law as this would remove the overabundance of taxes prevailing in the current system. It will render India into a one big market, make tax evasion difficult and ensure flawless movement of goods and services. GST has been implemented in over 160 nations and in many cases revenues have increased dramatically along with the GDP. It has been estimated by the economists that the implementation of GST will boost India's GDP also by 1 to 2%. It would draw the foreign investment to fulfill 'Make in India' prospect.

In the last Union Budget, the Hon'ble Finance Minister Arun Jaitley told the Lok Sabha, that much awaited GST will be introduced on 1st April, 2016. "We are committed to implementing a State of the art indirect tax system, the Goods and Services Tax, from April 1, 2016″. But the Statement has been changed now and the government has been tentatively eyeing a mid-year rollout of the tax, either June 1 or October 1 of this year.

The rollout of the country's most important reform may be delayed further, as lot of ground work is still remains to be done. There is a ring that the implementation of the GST may be pushed back by a year to April 2017, so be prepared for the further delay if the same gets true.

With the introduction of GST the taxpayers will have a sigh of relief as they are likely to get free from the obligation of multiple compliances under various statutes, as the proposed GST system provides for a single registration and a single return. However, a roadmap towards the stronger nation is stalled in the political walls of Rajya Sabha.

The confrontation between the ruling NDA and the opposition UPA w.r.t Constitutional Cap of 18% GST and establishment of a Dispute Resolution Authority is delaying the GST in India. The Centre (NDA) eagerly wants to pass the said Bill in the upper house of the Parliament (Rajya Sabha) as soon as the next session starts. In researcher's opinion, Opposition is right on the stand of establishing a Dispute Resolution Authority since always a neutral authority is a necessity to solve dispute between two aggrieved parties.

Let's hope the GST eventually sees the light at the end of a long and tiresome tunnel and the political forbearances i.e. both the Government as well as the Opposition are able to jointly work in the interest of the Country.

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