GOODS AND SERVICE TAX LEGISLATION

1. INTRODUCTION :

Tax base of Goods and service Tax (GST) would be very wide and would comprehensively extend over all goods and services up To The final consumer point. The GST would have two components:

1. Central Goods and service Tax (CGST) – IT would be levied by The Centre; and
2. State Goods and service Tax (SGST) – IT would be levied by a state.

The basic features of law, e.g. chargeability, definition of taxable event, taxable person, taxable transaction, basis of classification, etc., would be uniform for both the CGST and the SGST, i.e. the basis of taxability would be same for both the CGST and the SGST, thereby wiping out all the disputes currently taken up by VAT/ sales tax authorities and service tax authorities to tax a single transaction.

2. Taxes That Would Be Foregone :

The GST would take place of all the major indirect taxes currently applicable in India. Central taxes that would be subsumed under the GST

a) Central excise Duty – Levied under excise Act,1944;
b) Additional excise Duties – Levied under excise Act,1944;
c) excise Duty levied under the medicinal and toiletries preparation Act – Levied under medicinal and toiletries preparation Act,1955;
d) Service Tax – Levied under Chapter V of Finance Act,1994;
e) Additional Customs Duty commonly known as Countervailing Duty –Levied under Customs Act,1962;
f) Special Additional Duty of Customs – 4 per cent – Levied under Customs Act,1962;
g) Surcharge – Levied under on any of above taxes or any other surcharges; and
h) Cess – Levied under on any of above taxes or any other surcharges.

Following state taxes and levies would be subsumed under the GST

a) VAT – Levied by any state in India;
b) sales tax – Levied under Central sales Tax Act, 1956;
c) entertainment tax (unless it is levied by the local bodies) – Levied by any state in India;
d) Luxury tax – Levied by any state in India;
e) Taxes on lottery, betting and gambling – Levied by any state in India;
f) state Cesses and surcharges as far as they relate to supply of goods and services – Levied under on any of above taxes or any other cesses and surcharges; and
g) entry tax not in lieu of Octroi – Levied by any state in India.

All the taxes listed above would be consolidated under the new GST regime thereby reducing compliance costs of taxpayers and administrative costs of the government. However, there are few other indirect taxes that may or may not be summed under the GST regime as there is no consensus among states themselves or between the Centre and the states:

1) **Purchase TAX**: states themselves are of the opinion that purchase tax should be subsumed within the GST framework and no exception should be given to any state to continue the levy of purchase tax. However, few states are getting substantial revenue from the purchase tax and, therefore, they are of the view that it should not be subsumed under the GST there is intra-state dispute on this issue. even the Centre is of the opinion that purchase tax is to be subsumed under GST regime.
2) **STAMP DUTY**: It is recommended that the stamp duty would be phased out over a period of 3 years. Initially rate of stamp duty in all states should be restricted to 4 per cent. In year 2, stamp duty is to be reduced to 2 per cent and, finally, in the year 3, stamp duty should be completely wiped out and subsumed under the Gst regime.
3) **Vehicle tax**: The empowered Committee of the state Finance ministers is silent on the issue of inclusion or exclusion of the vehicle taxes levied by the state. However, the tax on vehicles levied by the state Governments could be subsumed in the GST as recommended in the report of thirteenth Finance Commission.
4) **ELECTRICITY DUTY**: The empowered Committee is silent over the issue of inclusion or exclusion of the electricity duty. However, electricity duty levied by the state Governments could be subsumed in the GST as recommended in the report of thirteenth Finance Commission.

3. Tax Rates

Until now, there has been no official announcement regarding the GST rate for India. there are disputes among the state heads and Central Government regarding fixation of the GST rate.

Proposed rates of GST in various reports and news items

Particulars	CGS	SGST	GST
Working Paper No.1/2009-DEA	12%	8%	20%
State Minister(mass goods)	-	8% - 9%	
Task force implementation report (Non-SIN Goods)	5%	7%	12%
RNR	5%	6%	11%
News update	8%	8%	16%

4. Valuation:

The GST would be levied on the value of goods and services transacted. Valuation provision would be common for both the CGST as well as the SGST there is no specific information on this issue in any of the reports except that provisions would be simpler and more transparent.

5.Inter-State T ransactions :

The Centre would levy Inter-state Goods and service tax (IGst), which would be the CGST plus the SGSTon all inter-state transactions of taxable goods and services. the inter-state sellers will pay the IGST on value addition after adjusting available credit of the IGST the CGST and the SGST on their purchases.

6. Tax Credit :

Credit would be admissible in respect of both the components of the GST i.e. the CGST and the SGST. the CGST and the SGST are to be treated separately for the purpose of tax credit. the scheme of tax credit would be:
(a) taxes paid against the CGST shall be allowed to be taken as input tax credit for the CGST and could be utilized only against the payment of the CGst.
(b) taxes paid against the SGST shall be allowed to be taken as input tax credit for the sGst and could be utilized only against the payment of the SGST
Cross utilization of input tax credit between the CGSTand the SGST would not be allowed except under the IGST model.

7. Conclusion:

The problem of the present distorted indirect tax system can be effectively addressed by shifting the tax burden from production and trade to final consumption. the introduction of Gst will bring about a macroeconomic dividend by reducing what have been called the *negative grey area dynamic effects* of cascading taxation. the flawless Gst subsumes all indirect taxes on goods and services, which is the most elegant method of taxing consumption. Under this structure, all different stages of production and distribution can be interpreted as a mere tax pass-through, and the tax essentially sticks on final consumption within the taxing jurisdiction. so, following are the benefits of the Gst over the present Indirect tax system:

1. economic Growth
2. Uniform tax structure
3. Lower and Combined single tax rate
4. Gain's in GDp
5. benefits to manufacturing sectors
6. rise in exports
7. poverty reduction
8. better employment Opportunities
9. reduced Cost of Housing

To conclude, the implications of a switch over to the flawless GSTas recommended by us are indeed far- reaching. every stakeholder stands to gain. the GST has the potential to transform not only the tax system in the country but it also shows the way we organize and do business.

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