News Flash : Key Highlights Of Discussion Paper On The Goods And Services Tax (GST)

Executive Summary

Post implementation of VAT , the Goods and Services Tax (GST) will be a significant improvement towards a comprehensive indirect tax reforms in the country. The Empowered Committee Of State Finance Ministers has released the First Discussion Paper On Goods and Services Tax In India on 10 November 2009. In this circular we have endeavored to summerise certain significant highlights of the said discussion paper

- The GST at the Central and at the State level will give more relief to industry, trade, agriculture and consumers through a more comprehensive and wider coverage of input tax set-off and service tax set--off, subsuming of several taxes in the GST and phasing out of CST.
- A dual GST structure shall have two components, Central GST (CSGT) and State GST (SGST) which would be implemented through multiple statutes.
- The CGST and the SGST would be applicable to all transactions of goods and services except the exempted goods / services, goods outside the purview of GST and the transactions below the prescribed threshold limits.
- The CGST and SGST are to be paid to the accounts of the Centre and the States separately.
- Taxes paid against CGST shall be allowed to be taken as Input Tax Credit (ITC) and could be utilized only against the payment of CGST. The same principle will be applicable to SGST. Cross utilization of ITC between the CGST and the SGST would not be allowed.
- Inter-State supply of goods and services would be covered under the Integrated GST (IGST) model which would be CSGT plus SGST. The selling dealer will charge IGST to the purchasing dealer and would be allowed to utilize CGST, SGST and IGST paid against its purchases. Purchasing dealer would be allowed to utilize IGST paid against its purchases towards CGST, SGST and IGST payable on its sales.
- The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of threshold limits for goods and services prescribed for the States and the Centre.
- Threshold limit of gross annual turnover of Rs.10 lakhs for SGST, both for goods and services will be prescribed across the States
- Threshold limit of gross annual turnover of Rs.1.5 crores for CGST for goods and appropriate high threshold limit for services may be prescribed.
- In case of small dealers and Small Scale Industries, gross annual turnover of Rs. 50 lakhs will be prescribed for availing compounding/composition scheme for payment of taxes. The rate of tax applicable on such scheme would be a floor rate of 0.5% across the States.

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- The taxpayer would need to submit periodical returns, in common format to both the authorities.
- Each taxpayer would be allotted a PAN-linked taxpayer identification number containing 13/15 digits.
- The following Central Taxes should be, to begin with, subsumed under GST:
  - i. Central Excise Duty
  - ii. Additional Excise Duties
  - iii. The Excise Duty levied under the Medicinal and Toiletries Preparation Act
  - iv. Service Tax
  - v. Additional Customs Duty, commonly known as Countervailing Duty (CVD)
  - vi. Special Additional Duty of Customs - 4% (SAD)
  - vii. Surcharges, and
  - viii. Cesses.
- Following State taxes and levies would be, to begin with, subsumed under GST:
  - i. VAT / Sales tax
  - ii. Entertainment tax (unless it is levied by the local bodies).
  - iii. Luxury tax
  - iv. Taxes on lottery, betting and gambling.
  - v. State Cesses and Surcharges in so far as they relate to supply of goods and services.
  - vi. Entry tax not in lieu of Octroi.
- The issues regarding Purchase Tax and inclusion of Natural Gas in GST are not yet resolved.
- Alcoholic beverages and Petroleum products would be kept out of the purview of GST.
- Tobacco products would be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC.
- Exports would be zero-rated. No benefit to the sales from an SEZ to Domestic Tariff Area (DTA) will be allowed.
- Both CGST and SGST will be levied on import of goods and services into the country and will be based on the destination principle. The tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.
- Special Industrial Area Scheme - any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed. In such cases, the Central and the State Governments could provide reimbursement after collecting GST.
- Constitutional Amendments, Legislations and Rules for administration of CGST and SGST will be carried out.
- **The implementation date of GST has not been finalized yet.**

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1.0 Introduction

Post VAT regime, the Goods and Services Tax (GST) will be a further significant breakthrough – the logical step towards a comprehensive indirect tax reform in the country. The implementation date has not been finalized so far. In addition to comprehensive indirect Central taxes, introduction of GST will not only integrate taxes on goods and services for set-off relief, but also capture certain value addition in the distribution chain.

With introduction of GST the cascading effect of CENVAT and service tax would be removed. Continuous chain of set-off from the point of origin upto the retailer's level would be established eliminating the burden of all cascading effects.

Subsumation of various existing taxes at both Central and State level will reduce multiplicity of taxes and thus compliance cost will come down.

1.1 Value Added Tax (VAT) at the State Level and Sales Tax at the Central Level

The unhealthy sales tax "rate war" among the States which existed before the introduction of State-level VAT had to end. This objective of harmonization of sales tax structure was achieved by the Empowered Committee through implementation of uniform floor rates of sales tax. Various necessary steps were taken for implementation of VAT which includes providing Central financial support to the States in the event of loss of revenue in transitional years of implementation of VAT.

However, it was necessary to phase out the CST as there was a distortion in the VAT regime due to export of tax from one State to other State and it is not available for ITC.

1.2 Rationale of GST

The shortcoming in CENVAT of the Government of India lies in non-inclusion of several Central taxes such as additional customs duty, surcharges, etc., in the overall framework of CENVAT. Thus the benefits of comprehensive input tax and service tax set-off were out of reach for manufacturers/ dealers.

After introduction of GST, all central taxes would be subsumed in CSGT and all State taxes would be subsumed in SGST. The GST paid on purchases of goods would be available as ITC to erstwhile service provider and similarly GST paid on services would be available as ITC to erstwhile dealer of goods. This way, the cascading effect is reduced and continuous chain of set-off from the original producer's point and service provider's point upto retailer's level would be established.

For GST to be introduced at the State-level, the States should be given the power of levy of taxation of all services. A Constitutional Amendment will be made for giving this power to the States.

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Implementation of GST primarily through widening of tax base and possibility of a significant improvement in tax compliance may result in a collective gain for industry, trade, agriculture and common consumers as well as for the Central Government and the State Governments.

2.0 Goods and Services Tax Model for India

It is important to design an effective GST model in a federal system with the objective of having an overall harmonious structure of rates. There is also the need to propose a model that would be easily implementable, while being generally acceptable to stakeholders.

2.1 Salient features of the GST model

- **Components:** The GST shall have two components: one levied by the Centre (hereinafter referred to as CGST), and the other levied by the States (hereinafter referred to as SGST). This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State). However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.
- **Applicability:** The CGST and the SGST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services, goods outside the purview of GST and the transactions below the prescribed threshold limits.

  IGST would be applicable in case of inter-State transactions of goods and services and whereas for the transactions within the States as well as Imports will be covered by CGST and SGST.
- **Payment of GST:** The CGST and SGST are to be paid to the accounts of the Centre and the States separately. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to CGST or SGST (with identification of the State to whom the tax is to be credited).
- **Input Tax Credit (ITC):** Taxes paid against the CGST shall be allowed to be taken as ITC for the CGST and could be utilized only against the payment of CGST. The same principle will be applicable for the SGST. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit. Cross utilization of ITC between the CGST and the SGST would not be allowed except in the case of inter-State supply of goods and services under the IGST model. A transparent and complete chain of set-off will be established under GST.

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- **Refund:** Credit accumulation on account of refund of GST would be permissible only in case of exports, purchase of capital goods, input tax at higher rate than output tax etc. where, again refund/adjustment ould be completed in a time bound manner.
- **Uniform Procedure:** Uniform procedure for collection of both CGST and SGST would be prescribed in the respective legislation for CGST and SGST.
- **Administration:** The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of threshold limits for goods and services prescribed for the States and the Centre.
- **Threshold Limits:** A uniform SGST threshold limit across States is desirable and it is considered that a threshold limit of gross annual turnover of Rs.10 lakhs 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). The threshold limits for CGST for goods may be kept at Rs.1.5 crores and for services; it is also recommended to be appropriately high.
- **Composition Scheme:** There would be a compounding cut-off at Rs. 50 lakhs of gross annual turn over and a floor rate of 0.5% across the States. The scheme would also allow option for GST registration for dealers with turnover below the compounding cut-off.
- **Periodical Returns:** The taxpayer would need to submit periodical returns, in common format as far as possible, to both the CGST authority and to the concerned SGST authorities.
- **TIN:** Each taxpayer would be allotted a PAN-linked taxpayer identification number (TIN) with a total of 13/15 digits.

2.2 Central and State Taxes to be subsumed under GST

- Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services. Such taxes or levies should also be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- The subsumation should result in free flow of tax credit in intra and inter-State levels.
- The taxes, levies and fees that are not specifically related to supply of goods and services should not be subsumed under GST.
- The issue regarding Purchase Tax and taxability of Natural gas is unresolved.

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- Alcoholic beverages and Petroleum products such as crude, motor spirit (including ATF) and HSD would be kept out of purview of GST.
- Tobacco products would be subjected to GST with ITC. Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC.
- **Following Central Taxes should be, to begin with, subsumed under the GST:**

  i. Central Excise Duty

  ii. Additional Excise Duties

  iii. The Excise Duty levied under the Medicinal and Toiletries Preparation Act

  iv. Service Tax

  v. Additional Customs Duty, commonly known as Countervailing Duty (CVD)

  vi. Special Additional Duty of Customs - 4% (SAD)

  vii. Surcharges and

  viii. Cesses
- **Following State taxes and levies would be, to begin with, subsumed under GST:**

  i. VAT / Sales tax

  ii. Entertainment tax (unless it is levied by the local bodies).

  iii. Luxury tax

  iv. Taxes on lottery, betting and gambling.

  v. State Cesses and Surcharges in so far as they relate to supply of goods and services.

  vi. Entry tax not in lieu of Octroi.
- **Inter-State Transactions of Goods and Services**

  The Empowered Committee has proposed an innovative model of Integrated GST (IGST) for taxation of inter-State transaction of Goods and Services, by appropriately aligning and integrating CGST and SGST. 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 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

- **The major advantages of IGST Model are:**
  - i. Maintenance of uninterrupted ITC chain on inter-State transactions.
  - ii. No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.
  - iii. No refund claim in exporting State, as ITC is used up while paying the tax.
  - iv. Self monitoring model.
  - v. Level of computerization is limited to inter-State dealers and Central and State Governments should be able to computerize their processes expeditiously.
  - vi. As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
  - vii. Model can take 'Business to Business' as well as 'Business to Consumer' transactions into account.

2.3 GST Rate Structure

The Empowered Committee has decided to adopt a two-rate structure, a lower rate for necessary items and goods of basic importance and a standard rate for goods in general. There will also be a special rate for precious metals and a list of exempted items. Services may be taxed at a single rate for both CGST and SGST.

The exact value of the SGST and CGST rates, including the rate for services, will be made known duly in course of appropriate legislative actions.

2.4 Zero Rating of Exports

Exports would be zero-rated. Similar benefits may be given to the processing zones of Special Economic Zones (SEZs). No benefit to the sales from an SEZ to Domestic Tariff Area (DTA) will be allowed. GST will reduce the cost of locally manufactured goods and services which will in turn increase the competitiveness of Indian goods and services in the international market and will boost Indian exports.

2.5 GST on Imports

The GST will be levied on imports with necessary Constitutional Amendments. Both CGST and SGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import on goods and services.

2.6 Special Industrial Area Scheme

After the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives should be converted, if at all needed, into cash refund schemes after collection of tax, so that the GST scheme on the basis of a continuous chain of set-offs is not disturbed. Such exemptions, remissions etc. would continue up to legitimate expiry time both for the Centre and the States. Any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed.

In such cases, the Central and the State Governments could provide reimbursement after collecting GST.

2.7 Constitutional Amendments, Legislations and Rules

Constitutional Amendments for empowering the States for levy of service tax, GST on imports and consequential issues as well as corresponding Central and State legislations with associated rules and procedures are necessary. Specific provisions would also be made for dispute resolution and advance ruling under GST at both Central and State level.

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INPUT AND OUTPUT LEVY AND INPUT TAX CREDIT IN NUTSELL

Dealer of Goods and Services (Domestic Tariff Area)

Purchases

Nature of Transaction	Input Tax
Imports	CGST + SGST
Local Purchase	CGST + SGST
Inter state Purchase	IGST (CGST + SGST)
Purchases from SEZ	CGST + SGST

Note: Input tax adjustments:
CGST against CGST
SGST against SGST
IGST against CGST, SGST & IGST

Sales

Output Tax	Nature of Transaction
CGST + SGST	Local sales
IGST (CGST + SGST)	Inter-State sales
No Tax	Export
The paper is silent on the issue of taxability.	Sales to SEZ
The paper is silent on the issue of taxability.	Sale to Exclusive Economic Zone (e.g. Rigs on Bombay High)/ Continental Shelf

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Scope and Limitations

This above circular is general in nature. In this circular we have summarized certain significant aspects of the draft discussion paper on the GST, released by the empowered committee on 10 November 2009. It may be noted that nothing contained in this circular should be regarded as our opinion. We are not responsible for any liability arising from any statements or error contained in this circular.

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