GST – The Journey

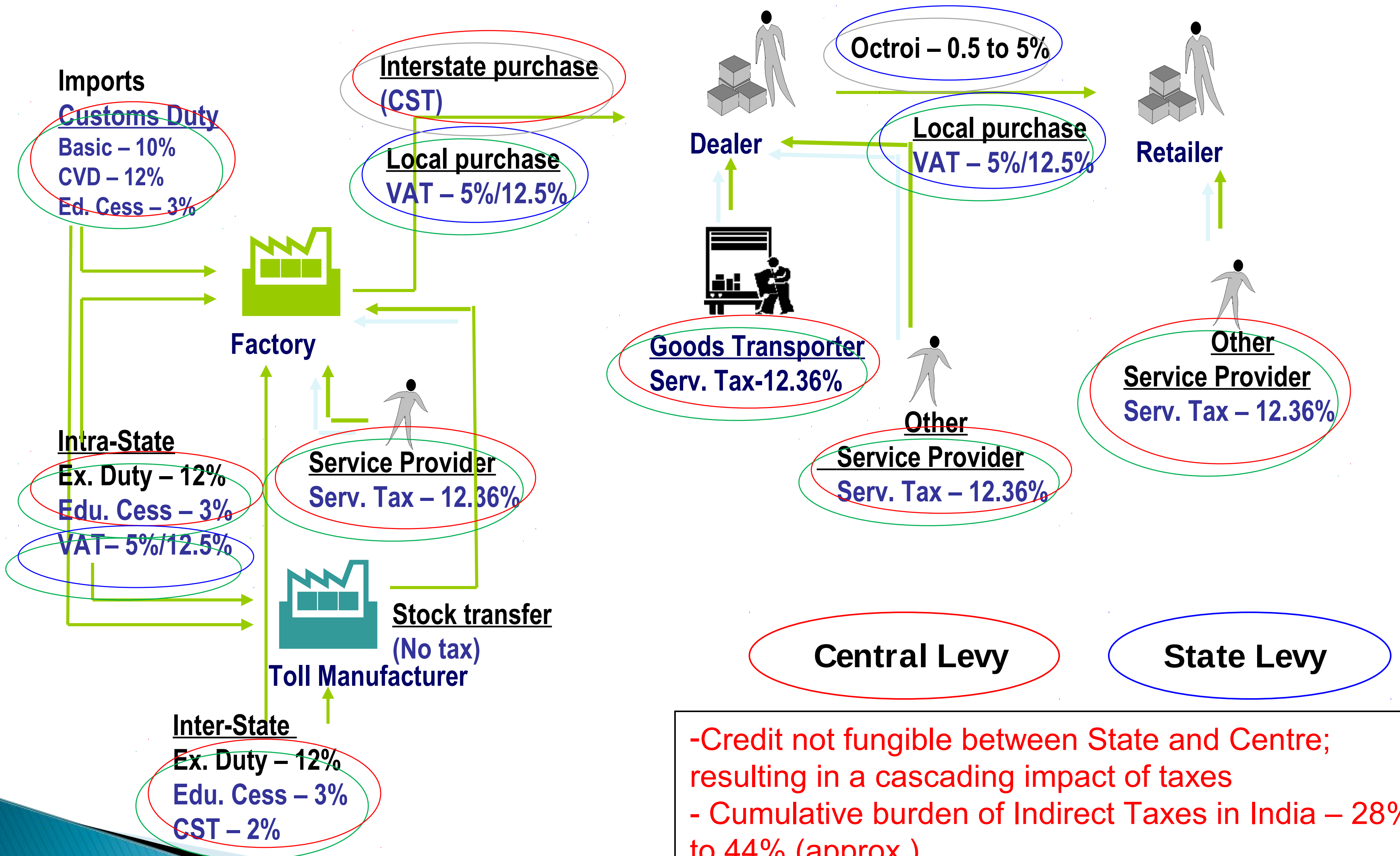
Past **Current**

National GST

Dual GST

??????

Current Tax Cost in India



-Credit not fungible between State and Centre; resulting in a cascading impact of taxes
- Cumulative burden of Indirect Taxes in India – 28% to 44% (approx.)

VAT rate may range from 12.5-15% depending on the State

TODAY in VAT…

- **Multiple rates**
- **Different rates in different states**
- **Different definitions**
- **Border controls**

TODAY in CST…

- **No credit on CST purchases leading to cascading effect**
- **Complex law on stock transfer and transit sales**

TODAY in ST…

- Negative List Regime started
- Concept of Declared List
- Cenvat credit disputes
- Valuation related issues
- Reverse charge

Constitutional Framework...

- Taxes levied by Central / State / Municipality

- Authority to levy a tax is derived from the *Constitution of India*
  - Article 265 – "No tax shall be levied or collected except by the authority of law"

- Article 246 – Distribution of legislative powers including taxation, between the Parliament of India and the State Legislature

Schedule VII – Three Lists

Union List	State List	Concurrent List
• Income Tax • Custom Duty • Excise Duty • Corporation Tax • Service tax • Central Sales Tax • Stamp duty in respect of bills of exchange, cheques, promissory notes, etc	• Taxes on lands and buildings • Excise duty on alcoholic liquor etc • Entry tax • Sales Tax • Tolls • Luxury Tax • Stamp duty in respect of documents other than those specified in the provisions of List I	• Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty

Encroachment of each other's jurisdiction by state & centre

Constitutional Amendment Bill

Introduction of Article 246A in the Constitution:

"Parliament and the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by that State respectively.

Provided that Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce."

Constitutional Amendments…

- Entry 84 of Union List to amend to empower Centre to levy tax on SALE of goods.
- Entry 54 of State List to amend to empower State to levy tax on SERVICES.
- Entry 92A of Union List to amend to empower Centre to levy tax on inter – state SERVICES.
- 3/4th majority in Parliament & 50% collegium of State Assembly ratification.

Duality of charge – pre negative list

- Goods Vs. Services
  - Lines between the taxation of Goods & Services is constantly blurring
  - Duality of Charge

Sr. No.	Activity	Customs duty	Central / State Excise duty	Service tax	VAT / CST
1.	Intellectual Property Services	✓	✓	✓	✓
2.	Import of Designs, Technical Know etc..	✓		✓	
3.	Works Contract			✓	✓
4.	Construction Services			✓	✓
5.	Manufacture of Products liable to State Excise		✓	✓	

Other pain points in the current system

- Discrimination – Mfg / SP / Traders
- Non-uniform application of exemptions, credit provisions, etc.
- Cascading impact of taxes
  - Non-transferability – lack of fungibility
  - Inverted duty structures
- Rate structure – no uniformity
  - no clear basis on which effective rates determined
  - Non availability of cross credits leading to accumulation
- Basis of levy of Service Tax was uncertain and variable
  - Rendition / performance
  - Consumption / use
  - Receipt

GST – Framework

Are we going to have a single rate structure ?

GST : Proposed Key Features

- Dual GST : Central GST & State GST
- Destination based State GST
- Common Base
- Uniform Classification
- Uniform Forms – Returns, Challans (in electronic mode)
- No cascading of Central and State taxes
- Tax levied from production to consumption

to be contd

GST : Proposed Key Features

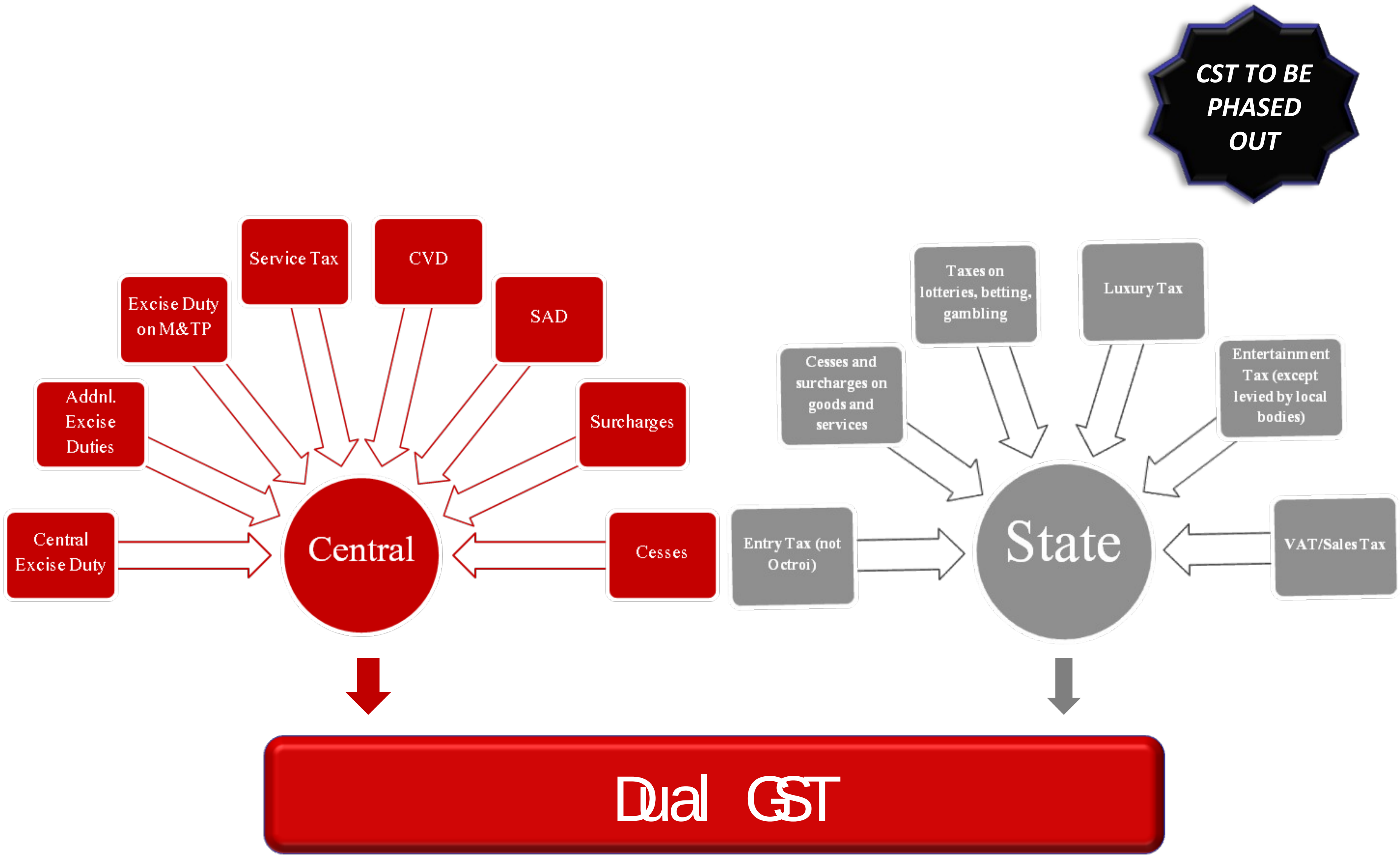
- HSN to be applied for goods
- One Common return for both Central and State GST
- Uniform collection procedure for central and state GST
- 13 digit PAN based Common TIN registration
- TINXSYS (Tax Information Exchange System) to track transactions
- States to collect CGST for SSI < 150 L and transfer to Centr Government
- Balance of Fiscal Autonomy to Center and States and need f Harmonization

- Supply of Goods/Services
- Taxable Person
- Business
- Place of supply of goods/Services
- Consideration
- Value

(Critical to determine the State which gets the revenue)

- Unlikely to be common in first phase

Key taxes subsumed



Central GST (CGST)

- To be levied by the Centre through a separate statute on all transactions of goods and services made for a consideration

- To cover end – 2 end transactions across value chain

- Exempted goods and services, non - GST goods and transactions within threshold limits are to be out of CGST

State GST (SGST)

- To be levied by the State through a separate statute on all transactions of goods and services made for a consideration

- To cover end 2 end transactions across value chain

- Exempted goods and services (uniform across all States!), non - GST goods and transactions within threshold limits are to be out of SGST

SGST …

- Each State to have a separate statute
- Uniformity on basic features.
- Would be paid to the accounts of respective States

What will be out of GST?

- petroleum products
- alcoholic products
- lottery and betting
- Basic customs duty and safeguard duties on import of goods into India
- Entry taxes levied by municipalities or panchayats
- Entertainment and Luxury taxes
- Electricity duties/ taxes
- Stamp duties on immovable properties
- Taxes on vehicles

Integrated GST (IGST)

- For inter-state transactions
- Centre to levy IGST which would be CGST + SGST
- Appropriate provision for consignment sale/stock transfer
- Inter-state dealer will pay IGST after adjusting IGST, CGST and SGST credit on purchase

IGST …

- The seller in State X will pay the IGST to the Centre
- While paying IGST, seller will adjust his lying IGST/CGST/SGST credit
- State X will have to transfer the credit of SGST used by the seller for payment of IGST to the Centre

IGST …

- **Buyer in State Y can avail credit of IGST**
- **Buyer in State Y can use the IGST to discharge his output tax liability**
- **Centre has to transfer credit of IGST used for payment of SGST to State Y**
- **A clearing house has to be formed for facilitating IGST**

Set - off …

- CGST against CGST
- SGST against SGST
- No Cross sectoral set-off between CGST & SGST
- IGST for CGST/SGST & vice versa

Number of Rates

- Lower rate for necessary items and goods of basic importance
- Standard rates for goods in general
- Special rates for precious metals
- Exports/clearances to SEZ would be zero rated
- No benefits to sales from SEZ to DTA

GST on Imports…

- Both CGST and SGST would be levied on import of goods and services
- Tax would be based on destination principle
- Tax revenue of SGST would accrue to the State where the imported goods / services are consumed
- Full set-off of GST on imports available

Compounding …

- Interest of small traders and SSI to be protected
- Upper ceiling on gross annual turnover and a floor tax rate to be prescribed
- Compounding cut off at Rs. 50 lakhs with a floor rate of 0.5% across the States

Threshold exemptions…

- 10 lakhs limit for goods and services across all States / UT for SGST
- 1.5 crore for SSI manufacturers on CGST
- CGST exemption limit on services to be increased (presently at 10 lakhs)

Imports should be taxed?

- Dual GST should be levied on imports also with facility of credit for the tax paid
- Exports must be zero rated i.e. there should be no tax element in the price of goods exported

Tax Exemptions

- **Area Based**

  To be discontinued after current eligibility period
- **Product Based**

  To be converted in to refund route
- **Limited Flexibility**

  To Centre & States barring few exceptions

Issues Yet To Be Decided

- Constitutional amendment authorizing state to collect and retain tax on services.
- Integration of certain Central & State taxes (Various Cess, Electricity duty, Entertainment tax etc)
- Stock transfers
- Road permits and check posts

Issues Yet To Be Decided

- Taxation of inter-state services and their method of taxation
  - Difficulties in defining Place of supply, place of delivery
    - Group Health Insurance
    - Consulting services
    - However most of the B2B services not a problem because of availability of credit
  - Disputes even with regard to classification of goods
  - Jurisdictional Issues with regard to registration and SCN / Assessments

Rate of Tax

- Two-rate structure –
  - Lower rate for necessary items and items of basic importance
  - Standard rate for goods in general.
  - Special rate for precious metals and a list of exempted items.
- taxation of services – may be a single rate for both CGST and SGST.
- It will be total of the rate as applicable under CGST & SGST.

RNR

- Between 18% to 22%.
- Government is yet to indicate whether the revenue neutral rate of tax on goods and services would be the same.

- **Composite Supplies –**

- Different Elements with Different Tax Rates

International Practice in developed countries–

- Remain Silent in Law
- Answers from Judicial Pronouncement

- Identity –
  - Single supply Vs. Multiple Supplies

Single Supply Elements

- Single price irrespective of quantum of use
- Advertisement as a package
- Different elements not separately available
- Physically packed together
- Perception of Customer – Single Supply
- Different supply are aspects of quality
- Separate supply integral to one overall supply
- Incidental to main supply
- Separation on the basis of Invoice is artificial

Multiple Supplies

- Separate pricing or Invoicing
- Elements are available separately
- Supply is made at different points of time
- Elements are not interdependent/connected

- Concept of principal supply Vs. Ancillary supply

  (Example – Oil Consumption in car repair)

- Discussion paper proposes government to clarify if a transaction –

  a) is to be treated as supply and not service of goods

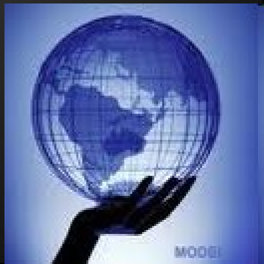
  b) is to be treated as supply of service and not goods

  c) is to be treated neither as supply of goods nor services

GST- RATES WORLD WIDE

Country	GST Rates
China	- 17%
Indonesia	- 10%
Philippines	- 10%
Taiwan (Chinese Taipei)	- 5%
Australia	- 10%
Germany	- 16%
Denmark	- 25%
Japan & Singapore	- 5%
UK	- 17.5%
France	- 19.6%
New Zealand	- 12.5%

to be contd…..



Latest updates on GST

Parliament panel might propose optional GST for states

- Constitution (115th Amendment) Bill on the GST
- Automatic compensation mechanism
- Concept of GST Council
- Dispute Settlement Authority ?

Thank You