WELCOME

INDIAN GST

AN INTRODUCTION

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Present Indirect Tax Structure

vis-à-vis

GST (In General)

Present Indirect Tax Structure

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INDIA

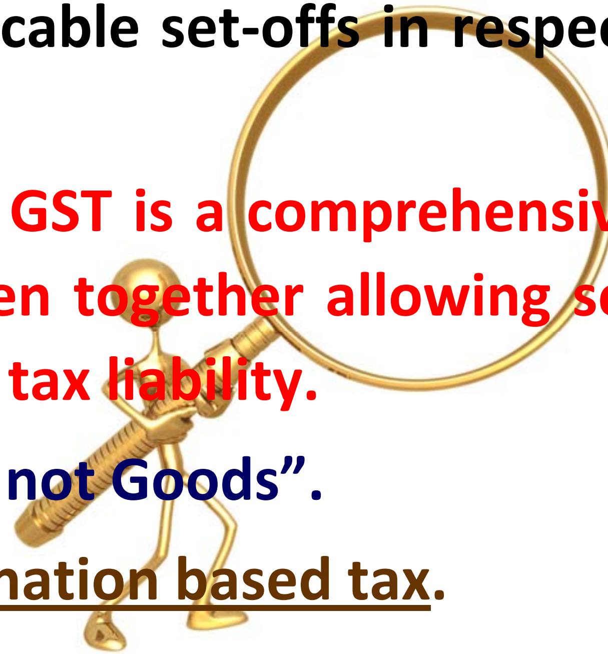
- **CENTRE**
  - **Taxes on Goods**
    - Excise Duty, Customs, CVD, SAD, CST
  - **Taxes on Services**
    - Service Tax
  - Set-Off of ED, CVD & ST

NO SET OFF

- **STATES**
  - **Taxes on Goods**
    - State VAT, Stamp Duty
  - **Taxes on Services**
    - Electricity, Luxury Tax, Entertainment
  - No Cross Set-Off whatsoever

What is GST

- **GST is multi-point indirect tax**
- **GST is levied at every stage of the production-distribution chain till retail level with applicable set-offs in respect of tax remitted at previous stages.**
- **To put at a single place, GST is a comprehensive multi-point tax on goods & services taken together allowing seamless input tax credit against the output tax liability.**
- **Service means : "What is not Goods".**
- **It is a consumption-destination based tax.**
- **Interesting phenomenon – Tax to be collected by State of origin, but to be earned by State of consumption. What would be the enthusiasm to collecting State ? Requires extensive automation**



Why do we need GST today

- In today's Indian economy, where service sector contributes over 55%, separate taxation of goods and services is neither viable nor desirable.
- Multiple levies – By Centre as well as States - Both the Governments are imposing taxes on goods as well as services
- Variation of Tax Rate, even for same commodity, from State to State - Need for harmonization and uniformity
- Varying provisions of State VAT Laws – Interpretation issues
- Cascading effect – No set off of cenvat credit against input tax credit; No set-off of central sales tax

Why do we need GST today

- Large number of compliances in every Statute
- Complexity in fixation of *situs* of sale
- Service Tax *vs.* VAT Confusion.
  - Software
  - Intellectual Property Rights
  - Works Contract & AMC Contracts
  - Leasing of Goods
  - Goods *vs*. Services
- Thus, to strike a good balance between fiscal autonomy of the Centre and States and transparency in taxation

Structure of GST in India

- A Dual GST structure with defined functions and responsibilities of the Centre as well as the States.
- The GST in India shall have two components:
  - One levied by Centre (hereinafter referred to as CGST), and
  - Other levied by States (hereinafter referred to as SGST).
- IGST on inter-State supply of goods and services
- Multiple Statutes (one for CGST and SGST Statute for every State).

Structure of GST in India

- However, basic features of law, e.g., chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification, etc. would be uniform.
- CGST & SGST to be applicable to all transactions of goods and services made for a consideration except -
  - Exempted Goods and Services – To be decided by GSTC
  - Goods outside the purview of GST, i.e. Petroleum & Liquor
  - Transactions below prescribed threshold limits – To be decided by GSTC

Structure of GST in India

- CGST and SGST will be treated separately.
- Input CGST could be utilized only against output CGST.
- The same principle will be applicable for SGST.
- Cross utilization of ITC between CGST and SGST will not be allowed except -
  - in inter-State supply of goods and services under the IGST model .
- It shall replace multiple taxes with a single tax operating at various levels of supply chain, thus, avoiding the cascading effect of multiple taxes.

Roadmap Towards GST

- **2004 :** Dr. Kelkar Task Force recommended the need of a National GST
- **Jan. 2007:** First GST study released by Dr. Shome.
- **2007 :** Consultation with stakeholders on GST Model.
- **1st April 2007 :** CST phase out started.
- **May 2007:** Joint Working Groups appointed by Empowered Committee.
- **Nov. 2007:** Joint Working Groups submitted reports.
- **Feb. 2008 :** F.M. Announced introduction of GST from 1 April 2010 in 2008-09 Budget Speech.
- **April 2008 :** Empowered Committee (EC) finalised views on GST Structure.

Roadmap Towards GST

- **July 2009:** F.M. Announced Dual GST from 1 April 2010 in Budget Speech 2009-10.
- **Nov. 2009:** Release of First Discussion Paper by Emp. Committee
- **Dec. 2009:** Task Force of 13th Finance Commission to submit its Report.
- **22nd March 2011:** Introduction of 115th Constitutional Amendment Bill in the Lok Sabha; which got lapsed
- **19th Dec. 2014:** Introduction of the 122nd Constitutional Amendment Bill in the Lok Sabha
- Consultation on model of inter-State transactions, drafting of Legislations, RNR and other issues - In progress.
- **1st April 2016** : Implementation of GST.

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122nd Constitutional Amendment Bill on GST introduced on 19.12.2014

GST–122nd Constitutional Amendment

- The Amendment Bill shall come into effect from the date appointed through Notification by the Central Govt. after the enactment of Bill.
- It would require 2/3 majority of members present and voted (and majority of total membership of that house) by each house of Lok Sabha and Rajya Sabha. Thereafter, Bill would need to be ratified at least by 50% of the States (presently 15 States) in their respective State Assemblies – After that President's assent
- Once it comes into effect from the appointed date – States would have to enact GST within one year – They would not have any other option since entry 54/II would be scrapped

GST–122nd Constitutional Amendment

- GST is a destination-based tax. SGST on the final product will ordinarily accrue to the consuming State.
- GST would eliminate the concept of 'declared goods of special importance' under the Constitution.
- Insertion of new Article 246A conferring simultaneous power to the Union and the State legislatures to legislate on GST. Both Centre and States will simultaneously levy GST across the value chain.
- Centre would levy and collect Central Goods & Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) on all transactions within a State

GST–122nd Constitutional Amendment

Article 269A - Integrated Goods and Services Tax (IGST)

- Centre would levy and collect Integrated Goods and Services Tax (IGST) on all inter-State supply of Goods and Services.
- Import of goods & Services shall be considered as inter-State supply of goods and services – Would be subject to IGST
- Parliament would have absolute powers to legislate law in respect of IGST
- Proceeds of IGST will be apportioned among the States on the basis of recommendations of GST Council
- Seamless flow of input tax credit from one State to another.

Distribution of CGST (Art.270): GST levied and collected by Govt. of India (other than IGST) shall also be distributed between Union and States in the manner provided in Art. 270 (2) .

GST–122nd Constitutional Amendment

GST RATES

- GST rates will generally be uniform- As recommended by GSTC
- However, to give some fiscal autonomy to the Centre and States, there will a provision of a narrow tax band over and above the floor rates of CGST and SGST.
- Levy a non-vatable Additional Tax of not more than 1% on inter-State Supply of goods for a period up to 2 years, or further such period as recommended by the GST Council.
- This Additional Tax on supply of goods shall be assigned to the States from where such supplies originate.
- The Centre will compensate States for loss of revenue arising on account of implementation of the GST for a period up to five years (100% for first three years, 75% in the fourth year and 50% in the fifth year)

GST–122nd Constitutional Amendment

GST COUNCIL (GSTC) – Article 279A

- Creation of a Goods & Services Tax Council, which will be a joint forum of the Centre and the States.
- To be constituted within 60 days of commencement of 122nd Constitutional Amendment
- This GSTC would function under the Chairmanship of the Union Finance Minister.
- 50% of the members of GSTC shall constitute the quorum
- The GSTC will have 1/3 representation from the centre and 2/3 from the states
- Its decisions will need to be approved by a 3/4 majority
- Shall recommend the date from when Petroleum Products shall be part of GST

GST–122nd Constitutional Amendment

GST COUNCIL – Article 279A – FUNCTIONS – To Decide :

- Taxes, cesses and surcharges levied by the Centre, the States and local bodies which may be subsumed in GST
- Goods and services that may be subjected to or exempted from the GST
- Model GST Law, Principle of Levy, Place of Supply and apportionment of IGST
- Threshold limit below which GST may be exempted
- Rates including Floor Rate of GST
- Special provisions with respect to Eight North-East States including Assam, J&K, Himachal Pradesh, Uttarakhand
- Decide modalities of resolving disputes arising from its recommendations
- Any other matter relating to GST, as GSTC may decide

GST–122nd Constitutional Amendment

- Proposed Article 366(12A) – GST means any tax on supply of goods or services except tax on supply of Alcoholic Liquor for Human Consumption
- Proposed Article 366(26A) - Service means : "What is not Goods".
- Existing Article 366(12) - Goods means : "goods" includes all materials, commodities, and articles

Intangible goods – Whether would be treated as "goods" or "services" ??????

Works Contracts might be considered as services??????

Whether Immovable Goods and Lottery Tickets would be treated as "service"??????

Central Taxes to be Subsumed in GST

CENTRAL TAXES/DUTIES –

- **YES:**
  - Excise Duty, Additional Excise Duty and Excise Duty under Medicinal & Toilet Preparation – Entry 84/I
  - Additional Customs Duty (CVD) and Special Additional Duty of Customs (SAD) – Entry 83/I
  - Service Tax – Entry 92C /97/I;
  - Sale of newspapers & advertisements therein – Entry 92/I
  - Surcharge & cess relatable to supply of goods & services
- **NO:**
  - Basic Customs Duty – Entry 83/I
  - Specific Cess
  - Excise Duty on Petroleum & Tobacco Products –Entry 84/I

State Taxes to be Subsumed in GST

STATE TAXES/DUTIES –

- **YES:**
  - State VAT and Purchase Tax (other than on Petroleum Products & Alcohol) – Entry 54/II
  - Central Sales Tax (except Additional Tax upto 1%)–Entry 92A/I
  - Entertainment Tax unless levied by Local Bodies –Entry 62/II
  - Luxury Tax & Tax on Lottery, betting & gambling –Entry 62/II
  - Octroi and Entry Tax –Entry 52/II
  - Cess/Surcharge relating to supply of goods/services
- **NO:**
  - Entertainment Tax (local Bodies) –Entry 62/II
  - Electricity Duty and Cess –Entry 53/II
  - Stamp Duty on immovable property–Entry 63/II
  - Alcoholic liquor for Human Consumption –Entry 51/II

Taxes/Duties Outside GST

Alcoholic Liquor for human con.	Out of GST; State Excise Duty/VAT/CST continue to be levied. Would require another COI amendment whenever brought within ambit.
Petroleum products	To be brought within the GST ambit from a later date. Union Excise Duty/VAT will continue to be levied. However, it is stated that it would also be subject to GST but at zero rate.
Tobacco & its products	Would be subject to GST. Also, Centre would continue to levy Union Excise Duty.

- **Electricity (subject to Electricity Tax) – Impact on Power Sector**
- **Stamp Duty on transfer of Immovable Property – Impact on Real Estate Sector (Other than Works Contractors)**

GST–122nd Constitutional Amendment

Issues need to be addressed / Critical Analysis

- Date of commencement would be decided by Central Govt. It should have been based upon recommendations of GSTC
- Date of commencement should be notified at least six months in advance – so as to prepare and gear up by the Industry.
- Whether J&K would be within the ambit of GST
- No definition of supply; which is backbone of GST. It should be defined in COI, since GST would be imposed on supply from one entity to its branch/agent within India itself
- Recommendations made by the GSTC should be mandatorily binding upon States.
- Local Bodies would have powers to levy Entertainment Tax. Chances of levying similar tax by these Bodies in GST ??????

GST–122nd Constitutional Amendment

Issues need to be addressed / Critical Analysis

- **1% additional tax would be imposed on inter-State supply; that is, might be applicable to transfer of goods to branch/agents also**
- **What would happen to deemed sale falling under article 366(29A)? Would these be taxed under GST as goods or services**
- **Fate of intangible goods is not clear – Would these be treated as "goods" or as "services"**
- **Central Advance Ruling Authority for Interpretation matters should have been created**
- **Dispute Settlement Mechanism for *situs* issues *qua* dealer**

Transitional Issues And Challenges

Challenges before the Govt.

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- Constitutional Amendments
- Enactment of Legislatures by the States and Centre
- Operating a seamless input credit system – So that there is no cascading.
- Rationalisation of thresholds and exemption limits.
- Integrating the origin based tax with destination based GST.
- Standardisation of systems and procedures.
- Treatment of existing Tax Holidays, Incentives and Exemptions in Central Excise, VAT, etc.
- Treatment of chargeability of Alcohol, petroleum products which are likely to be out of the GST regime.

Challenges before the Govt.

- Various other issues like inter state transfer of goods, cross border taxation of services, place of taxation, timing of taxations, etc.
- Dispute settlement procedure and machinery.
- Protecting and balancing the present and future revenues of the Centre and the States.
- Safeguarding the interests of less developed States with lower revenue potential.
- Efficacy and integration of broad based computerizations across the Nation.
- Developing the comprehensive IT software.
- Training of tax administrators and assessee.

Impact on Industry – Determinant Factors

- Existing Rate of VAT & Excise Duty, AND Tax Rates under GST
- Cenvat / Input credit presently available AND Availability of Input GST credit
- Non-creditable list in the GST
- Impact on input suppliers and output procurers of the entity
- Taxes/activities to be kept outside the scope of GST like stamp duty, alcohol, petroleum.
- Capacity of the supplier to pass on the additional GST burden to its customers.

Transitional Issues for Industry

- To understand the concept
- Evaluate the impact on concerned industry, its input suppliers and output procurers
- Tax Credit of stock on the date of transition
- Tax credit on the cenvat on service tax paid
- Contracts already entered and partly executed
- Existing Tax Holidays and Tax Incentive Schemes
- Registration – Consolidation or New Registration in the respective State
- Pending Assessments and Refunds
- Adequate Training to Staff
- Updating the Accounting Software

THANK YOU

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