CHALLENGES IN IMPLEMENTATION OF G.S.T.

❖ G.S.T. - A BRIEF INTRODUCTION

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A proposal to introduce a national level Goods and Services tax (GST) by April 1, 2010 was first mooted in the budget speech for the Financial Year 2006-2007. The then finance minister Mr. P. Chidambaram remarked that there is a large consensus that the country must move towards a national level GST that must be shared between the centre and the states.
The proposal stated GST as a comprehensive taxation scheme that will replace the existing multiple tax structures of Centre and State Taxes and will emerge as a single comprehensive and well designed Value Added Tax on "both Goods and Services" eliminating distortions and taxing consumption.
Goods & Service Tax (GST) as the name suggests, is a tax on supply of Goods or Services.
Similar to the present structure of VAT, Excise Duty & Service tax, any person, providing or supplying Goods or Services will be liable to charge GST. The person supplying the Goods or Services is allowed to take Credit for taxes paid on purchases, consequent to which, GST becomes a tax on the value added by the supplier.
Further GST would be levied by both the Central Government (CGST) and State Government (SGST) on the same transaction, making GST a dual transaction tax structure.

❖ GST REFORM: A BULLOCK CART STUCK IN THE MUD???

While the desirability of the reform is not in doubt, making a transition to GST involves not only considerable work but also formidable challenges.
The present situation on GST is no better than a bullock cart stuck in the mud!!!
The GST rollout has missed several deadlines because of lack of consensus among states over certain crucial issues on the new tax regime, which the present government wants to roll out from April 1, 2016.
But for an effective & successful implementation of GST under mentioned road blocks have to be crossed :-

1) <u>INCLUSION OF TAXES WITHIN THE AMBIT OF GST</u>

Due to the wide coverage of GST a large number of taxes has to be taken in the purview of GST. Thus such large coverage has complicated the situation and resulted as bone of contention in inclusion of various taxes.

TAXES TO BE CLUBBED IN GST

Central Taxes		State Taxes
# Excise duty	G	# VAT
# Additional Excise duty	S	# Entertainment tax levied by states
# Service Tax	T	# Luxury tax
# CVD, SAD		# Tax on Lottery
# Surcharge		# Entry tax other than for local Government

Some controversial inclusions are of purchase taxes on food grain, taxes on motor spirit and high-speed diesel (HSD), and octroi or entry tax in lieu thereof.

"Some states like Punjab and Haryana are opposing the inclusion of purchase tax on agricultural products as they are a major source of income for them while others like Maharashtra do not want to do away with octroi."
Similarly, the states are reluctant to bring motor spirit and high speed diesel within the ambit as presently the tax is levied at a floor rate of 20% and the states derive about 35% of their sales tax collections from these petroleum products.
Also states have been demanding that petroleum, alcohol and tobacco should be kept out of the purview of GST.
Thus inclusion of high revenue generating products in the purview of GST can significantly affect the revenue of various states, hence resulting in revolt by them.

2) INTER STATE TRANSACTIONS

Taxability of services with inter-state coverage is yet another a major area for negotiation. With respect to services such as transportation of passengers or goods in railways or telecom,

"the place of sale and payment and the place of consumption may not coincide"

and

"allocation of revenue will have to be negotiated and settled"

It is important to have clearly defined principles and rules for the allocation of revenue from transactions in such services. Though Central Government has put forward a tax revenue sharing program, but States aren't entirely convinced about it.

3) CONSTITUTIONAL AMMENDMENTS

PRESENT CONSTITUTIONAL STRUCTURE

TAXES UNDER CENTRAL LIST	TAXES UNDER STATE LIST
Income Tax (Entry No. 82 of List I in 7th schedule to Constitution) Custom Duties (83) Excise (84) Central Sales Tax (92B) Service Tax (92C)	Octroi (Entry No. 52 of List II in 7th schedule to Constitution) Tax (VAT) on Sale of Goods (54) Tax (VAT) on Purchase of Goods (54)

Now as both Centre & State would get power to tax on Goods & Services, a constitutional amendment is required. In order to enable the Centre and the State Governments to levy GST, the Constitution of India requires amendment to provide for powers to levy and collect GST both by the Union and the States.

For this purpose, a new Fourth List is proposed to be created in the Seventh schedule of the Constitution to enable states to have the same powers as the Centre in administering the proposed Goods and Services Tax (GST).
In the current scenario it is difficult to visualise constitutional amendments of such far reaching implications as the law also requires a two-thirds majority in Parliament for the constitutional amendment and that may attract politics which will act as a road block in the way of GST.

4) TRANSITIONAL ARRANGEMENTS

States are feared about the revenue losses in the first few years of implementation of GST.
The states have been clamouring for compensation for any CST losses that they might incur in the first few years of GST implementation and want the Centre to compensate them for initial five years.
The Finance Ministry has proposed to compensate states for three years for losses they may incur on account of switching to a nationwide Goods and Services Tax (GST) regime but the comments from the states are yet to be heard.

5) "32 ACTORS" IN NEGOTIOTION

"29STATES + 2 UNION TERRITORIES + LEGISLATURE"

GST has to be implemented simultaneously by the Central & State Government. And, here Central Government can only provide the proverbial carrot but doesn't have the stick since it doesn't have constitutional authority to levy the tax without States acceptance, and hence it is pretty much at the "individual State's mercy to implement". And, forming a consensus between all 29 states having different political parties & their own agendas isn't that easy.
Given the sharp differences in the structure of the economy and sales tax revenue across states, the interests of the states do not always coincide and considerable effort is needed to persuade them to adopt a uniform or even a broadly harmonised structure and administrative system for the tax.

6) Dispute Resolution Mechanism

Tax litigation policies and procedures have to be unified and an effective litigation system has to be evolved before implementation of GST on a national level.
Few questions must be answered for clarification of legal implications such as:-

- Whether two appeals have to be filed (i.e. one for State GST & other for central GST for a dispute over a transaction???
- Is case of dispute over Inter-state transaction, in which state appeal is to be filed???
- Will GST be having a separate Tribunal for dispute resolution???
- How will the pending indirect cases be continued???

The number of cases pending in front of the Bombay bench of the Indirect Tax Tribunal (CESTAT) is almost 18,000. Imagine the extent of litigation once GST replaces previous taxation statutes. The precedent nature of the existing judicial case laws may also be challenged under the new legislation which will lead to even more litigation.

7. IT INFRASTRUCTURE

A high end, technically capable, error free, effective and efficient IT Infrastructure is key component for success of GST.
The system should be capable of

- ✓ Centralised/ Integrated and dedicated software
- ✓ Revenue Collection Mechanism
- ✓ Refund Generation Mechanism
- ✓ Tracking of inter-state movement of goods & services
- ✓ Effective collection and interpretation of 8 million monthly returns.
- ✓ Generation of Exception reports (eg. list of payment defaulters)

Thus a proficient IT Infrastructure is required for the national level coverage of GST.

8) THE NEVER ENDING LIST........

The magnitude of challenges of GST are beyond imagination and most of the challenges are yet to be availed, though few more are highlighted below :-

- Effective Credit Mechanism - No Cascading
- Administration
- Tax Administrator and Staff Training
- Revolt by various suppliers and business associations
- Finalisation of GST Rates
- Improvement in banking System
- Safeguarding the interests of less developed States with lower revenue potential
- Huge Implementation Cost
- Red-Tapism and bureaucracy
- Rationalisation of thresholds and exemption limits
- Protecting and balancing the present and future revenues of the Centre and the States, etc.

❖ WAY FORWARD

The challenges posed by GST are no different from what other countries have faced while implementing major tax reforms. Despite the various impediments to the proposed transition, once implemented GST is likely to usher in a more taxpayer friendly regime that could help make various business decisions 'tax neutral'.
GST once applicable will simplify the tax laws , will reduce time consuming reporting compliances and will reduce overall tax rate by eliminating the "Cascading Effect". We are required to take well thought and planned steps in implementation of GST with clear guidelines about the final approach of dual GST and need to take all the stakeholders into confidence such as State governments, trade & industry, service providers & service recipients, consumers and professionals, etc. for purposeful implementation of GST
As soon as the challenges are eliminated India is all set to have the most awaited and its biggest ever tax reform - "THE GOOODS AND SERVICE TAX ACT, 20XX"
So all eyes on our current Finance Minister, Sh. Arun Jaitley for early and successful implementation of GST.