1. INSERTION OF CLAUSE 246A – TO FACILITATE THE PARLIAMENT & STATES TO MAKE LAWS IN REGARD TO GOODS & SERVICE TAX IMPOSED BY UNION OR SUCH STATE

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Subject matter of laws made by Parliament and by the Legislatures of States

1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the Union List)

2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the Concurrent List).

3) Subject to clause (1) & (2), the legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in the Constitution referred to as the "State List").

4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included (in a State) notwithstanding that such matter is a matter enumerated in the State List

Analysis:-*Article 246 of Constitution of India establishes the law making jurisdiction of Central and State governments over Union List, State List and the concurrent list of Schedule VII to the Constitution.*

Article 246A:- The article 246A inserted in 115th Amendment Bill, 2011

1) Notwithstanding anything contained in articles 246 and 254, 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.

2) Provided that Parliament has exclusive power to make laws with respect to goods and services, or both takes place in the course of Inter-State trade or commerce.

Analysis:- *Article 246A(1) shall empower goods and service tax law framing with both the central and state government unlike in the current case where the service tax / excise was centre's domain in union list and sales tax on goods was state's domain except in case of interstate transactions. Article 246(2) re-establishes the centre's exclusive control on interstate supply of goods & services. Importantly interstate supply of services will mark its separate significance in the proposed GST regime.*

Article 254

Inconsistency between laws made by Parliament and laws made by the Legislatures of States

1) If any provision of a law made by the Legislature of a State is repugnant to(unacceptable) any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void

2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State: Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State

Analysis:- *Article 254 establishes that the law enacted by Central government shall prevail over the state government where the laws are conflicting on subject matter of concurrent list (except that the state law may prevail in that state subject to Hon'ble President Assent.*

Article:- 279A After article 279 of the Constitution, the following article shall be inserted, namely:—

1) The President shall, within sixty days from the date of commencement of the Constitution (One Hundred and Twenty-second Amendment) Act, 2014, by order, constitute a Council to be called the Goods and Services Tax Council.

2) The Goods and Services Tax Council shall consist of the following members, namely:—
   a) the Union Finance Minister........................ Chairperson;
   b) the Union Minister of State in charge of Revenue or Finance................ Member;
   c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government...................Members.

3) The Members of the Goods and Services Tax Council referred to in sub-clause (c) of clause (2) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.

4) The Goods and Services Tax Council shall make recommendations to the Union and the States on—

   a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
   b) the goods and services that may be subjected to, or exempted from the goods and services tax;
   c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;
   d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
   e) the rates including floor rates with bands of goods and services tax;
   f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
   g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
   h) any other matter relating to the goods and services tax, as the Council may decide.

5) The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

6) While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.

7) One half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.

8) The Goods and Services Tax Council shall determine the procedure in the performance of its functions.

Article 279(B):-

1) Parliament may, by law, provide for the establishment of a Goods and Service Tax Dispute Settlement Authority to adjudicate any dispute or complaint referred to it by a State Government or the Government of India arising out a deviation from any of the recommendations of Goods and Service Tax Council constituted under article 279A that results in a loss of revenue to a State Government or the Government of India or affects the harmonised structure of the goods and service tax.

2) The Goods and Service Tax Dispute Settlement Authority shall consist of a Chairperson and two other members.

3) The Chairperson of the Goods and Service Tax Dispute Settlement Authority shall a be a person who has been a Judge of Supreme Court or Chief Justice of a High Court to be appointed by the President on the recommendation of the Chief Justice of India.

4) The Two other members of the Goods and Services Tax Dispute Settlement Authority shall be persons of proven capacity and expertise in the field of law, economics or public affairs to be appointed by the President on the recommendation of the Goods and Service Tax Council.

5) The Goods and Service Tax Dispute Settlement Authority shall pass suitable orders including interim orders.

6) A law made under clause (1) may specify the powers which may be exercised by the Goods and Services Tax Dispute Settlement Authority and provide for the procedure to be followed by it.

7) Notwithstanding anything in this Constitution, Parliament may by law provide that no Court other than the Supreme Court shall exercise jurisdiction in respect of any such adjudication or dispute or complaint as is referred to in clause (1).

Analysis- *Article 279A is proposed for setup of GST Council within 60 days of commencement of this Act, 2014. The items proposed in article 279A (5) includes petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel. The date on which GST is to be levied on these items is to be recommended by GST council.*

2. FACILITATIVE AMENDMENTS IN ARTICLE 248(1), 249(1), 250(1), 268(1), 269(1), 270(1), 286. OMITTING ARTICLE 268A.

Article 248 before 122nd, 2014 amendment

Residuary powers of legislation

1) ~~Parliament~~ has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List

2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists

Amendment made in 122nd 2014, Bill "In article 248 of the Constitution, in clause (1), for the word "Parliament", the words, figures and letter "***Subject to article 246A, Parliament***" shall be substituted."

Analysis:- *Article 248(1) empowers the parliament to make laws on any matters not covered in state list and concurrent list. Hence in a sense this article is giving powers on residual matters to parliament. Now, this has been made subject to 246A since GST shall be both centre's and state's domain.*

Article-249:-

Power of Parliament to legislate with respect to a matter in the State List in the national interest

1) Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two thirds of the members present and voting that it is necessary or expedient in national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to goods and services tax provided under article 246A or that matter while the resolution remains in force.

2) A resolution passed under clause (1) shall remain in force for such period not exceeding one year as may be specified therein: Provided that, if and so often as a resolution approving the continuance in force of any such resolution is passed in the manner provided in clause (1), such resolution shall continue in force for a further period of one year from the date on which under this clause it would otherwise have ceased to be in force.

3) A law made by Parliament which Parliament would not but for the passing of a resolution under clause (1) have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the resolution has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period

   Amendment in 122nd, 2014 Bill In article 249 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted.

   Analysis:-*Article 249(1) empowers the parliament to make laws even of state list where it is in national interest and the council of states have passed a resolution to this effect of 2/3rd members or more. Now, GST has been also covered in this provision.*

Article 250.

Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

1) Notwithstanding anything in this Chapter, Parliament shall, while a Proclamation (official announcement of important matter) of Emergency is in operation, have, power to make laws for the whole or any part of the territory of India with respect to goods and services tax provided under article 246A or any of the matters enumerated in the State List

2) A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period

Amendment- In article 250 of the Constitution, in clause (1), after the words "with respect to", the words, figures and letter "goods and services tax provided under article 246A or" shall be inserted

Analysis:- *Article 250(1) empowers the parliament to make laws even of state list in pursuance to proclamation of emergency being in operation. Now, GST has been also covered in this provision.*

Article-268.

Duties levied by the Union but collected and appropriated by the States

1) Such stamp duties ~~and such duties of excise on medicinal and toilet preparations~~ as are mentioned in the Union List shall be levied by the Government of India but shall be collected

   a) in the case where such duties are leviable within any Union territory, by the Government of India, and

   b) in other cases, by the States within which such duties are respectively leviable

2) The proceeds in any financial year of any such duty leviable within any State shall not form part of the Consolidated Fund of India, but shall be assigned to that State

Amendment- In article 268 of the Constitution, in clause (1), the words "and such duties of excise on medicinal and toilet preparations" shall be omitted.

Analysis:- *Article 268(1) governs levy of duties of excise on medicinal and toilet preparations as mentioned in union list but are collected by state. Now, the duties of excise on medicinal and toilet preparations are being omitted. Apportioning of taxes between centre and state is facilitated by Article 268A (Services) will be dispensed away.*

Article-269:- Taxes levied and collected by the union but assigned to the States

1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely:
    a) duties in respect of succession to property other than agricultural land;
    b) estate duty in respect of property other than agricultural land;
    c) terminal taxes on goods or passengers carried by railway, sea or air;
    d) taxes on railway fares and freights;
    e) taxes other than stamp duties on transactions in stock exchanges and futures markets;
    f) taxes on the sale or purchase of newspapers and on advertisements published therein;
    g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter State trade or commerce;
    h) taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter State trade or commerce

2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law

3) Parliament may by law formulate principles for determining when a sale or purchase of or consignment of goods takes place in the course of inter State or commerce 270 Taxes levied and collected by the Union and distributed between the Union and the States

4) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2)

5) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and form such tie as may be prescribed

6) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to Union territories

7) In this article

    a) taxes on income does not include a corporation tax;
    b) prescribed means
        i. until a Finance Commission has been constituted, prescribed by the President by order, and
        ii. after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;
        iii. Union emoluments includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income tax is chargeable

Analysis:-*Article 269 facilitates levy and collection of interstate tax on sale of goods (not services) or consignment of goods but the same to be assigned to states. Now, the interstate supply of goods and services has been made an exception to this pure assignment to states since service now covered.*

Article-269A-Provides that GST on supplies of the good and services taking place in the course of inter-state trade will be levied and collected by the Union and apportioned between the Union and the States in the manner provided by the Parliament by law on the recommendations of the GST Council.

Analysis:-*A separate article 269A has been inserted to apportionate the taxes. With the beginning of GST, now taxes on supply of goods and service in course of interstate trade or commerce would also required to be made a commodity of due apportionment between union and states instead of pure assignment as in cases of goods. This article 269A is inserted precisely to mitigate this aspect. The apportionment shall be undertaken pursuant to GST Council's recommendation.*

To understand what transaction would constitute interstate trade, the rules of supply, origin and point of incidence would be required to be framed. The same would be in parliament's domain

Article-270.

Taxes levied and collected by the Union and distributed between the Union and the States

1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2)

2) Such percentage, as may be prescribed 3, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed

3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to Union territories

4) In this article

   a) taxes on income does not include a corporation tax;
   b) prescribed means
      i. until a Finance Commission has been constituted, prescribed by the President by order, and
      ii. after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;
   c) Union emoluments includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income tax is chargeable

Analysis:-*Article 270 provides for apportionment of taxes and duties between Union and State. The Interstate GST has been kept out of this by inserting necessary exception. The reason for this exception is since the apportionment in interstate's case is not to be undertaken as per Article 270 laid mechanism but on recommendations of GST council as facilitated under Article 269A. In other cases of GST levied by government of India, a new clause 270(1A) is inserted and apportionment to be in accordance with normal provisions of Article 270 only.*

Article-286. Restrictions as to imposition of tax on the sale or purchase of goods

1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place

   a) outside the State; or
   b) in the course of the import of the goods into, or export of the goods out of, the territory of India

2) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in any of the ways mentioned in clause (1)

3) Any law of a State shall, in so far as it imposes, or authorises the imposition of,

a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter State trade or commerce; or
b) a tax on the sale or purchase of goods, being a tax of the nature referred to in sub clause (b), sub clause (c) or sub clause (d) of clause 29 A of Article 366, be subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as Parliament may by law specify

Analysis*-Article 286 imposes restrictions for imposition of taxes on sale or purchases of goods in case of interstate trade, imports or exports or trade outside the state. It empowers the parliament for the same. Now, this is extended to GST. C*

3. SURCHARGE BY PARTICULAR NOT TO APPLY TO GST

Article-271.

Surcharge on certain duties and taxes for purposes of the Union Notwithstanding anything in Articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred in those articles 'except the goods and services tax under article 246A,' by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part the Consolidated Fund of India

Analysis*-Article 271 empowers the parliament to increase taxes and duties on articles. The GST has been made an exception to power of parliament. Hence, the parliament cannot impose surcharge on GST.*

4. NEW DEFINITIONS-Article-366

12A)) "goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption

26A) "Services" means anything other than goods

The definition of services being other than goods raises the concern of whether it would also cover Immovable property transactions.

5. AMENDMENTS IN UNION, STATE LIST OF SCHEDULE VII OF CONSTITUTION. ALSO, AMENDMENT IN SIXTH SCHEDULE.

Schedule VI Para 8(3) of Schedule VI empowers the district councils to levy and collect taxes on certain items. One insertion in further proposed in the same i.e. “Taxes on entertainment and amusements”

Schedule VII – Union List a) Duties of excise on goods manufactured in India done away except petroleum, High speed diesel, petrol, natural gas, aviation turbine fuel and tobacco or tobacco products. (No. 84) b) Taxes on the sale or purchase of newspapers and on advertisements published therein – Done Away (No. 92) c) Entry related to interstate purchase and sale of goods (92C) – Done Away

Schedule VII – State List a) Entry Tax – Done Away (No. 52) b) Taxes on advertisements – Done away (No. 55) c) Taxes on entertainment and amusements (Entry No. 62) – Applicable to the extent levied and collected by district / regional councils. d) Entry No. 54 on sale of goods, now scope reduced to petroleum, High speed diesel, petrol, natural gas, aviation turbine fuel and tobacco or tobacco products except in case of interstate trade or international trade or commerce.

6. Other Modalities

a) An additional tax on supply of goods, not exceeding one per cent. in the course of inter-State trade or commerce shall, notwithstanding anything contained in clause (I) of Article 269A, be levied and collected by the Government of India for a period of two years or such other period as the Goods and Services Tax Council may recommend and such tax shall be assigned to the states in manner as provided hereunder in (b) b) The net proceeds of additional tax on supply of goods in any financial year, except the proceeds attributable to the Union territories, shall not form part of the Consolidated Fund of India and be deemed to have been assigned to the States from where the supply originates. c) The Government of India may, where it considers necessary in the public interest, exempt such goods from the levy of tax under clause (1). This is exemption pertaining to the additional tax as referred above. d) Parliament may, by law, formulate the principles for determining the place of origin from where supply of goods take place in the course of inter-State trade or commerce. e) Parliament may, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for such period which may extend to five years. f) Necessary provisions for transition and power of president to remove difficulties incorporated.

7. QUESTION ANSWERS

1) What is GST?

GST stands for Goods and Service Tax. It is a comprehensive value added tax. Through a tax credit mechanism, GST is collected on value added goods and services at each stage of sale or purchase in the supply chain. GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. But being the last person in the supply chain, the end consumer has to bear this tax and so, in many respects, GST is like a last-point retain tax.

2) Why constitutional amendment is necessary to introduce GST?

Our constitution does not prove for any concurrent taxing powers to the Union as well as the States. To introduce GST, amendment of constitution is necessary conferring simultaneous powers on Parliament as well as the State Legislatures to make laws levying goods and services tax on every transaction of supply of goods or services or both.

3) How GST will have its impact on revenue for the producing states?

GST is a consumption based tax and not origin based. Under GST structure, the tax would be collected by the states where the goods or services are actually consumed i.e. where the goods are actually sold and not the goods where it is actually originated. Hence, losses could be heavy for producing states. In view of the above, the Centre is considering a proposal to compensate states for any revenue loss that they might suffer on implementation of the Goods and Services Tax. The move is expected to encourage the producing states to adopt the new tax structure scheduled to be implemented from April 1, 2016

4) Which country introduced GST first?

France was the first country to introduce this system in 1954. Today it has spread to over 140 countries.

5) Will prices go up after the implementation of GST?

In fact, the prices of commodities are expected to come down in the long run as dealers pass on the benefits of reduced tax incidence to consumers by slashing the prices of goods. So far services are concerned, the prices could increase in the short term in view of the increase of tax rate from the present 12% to approximately to 18-20% (final rate is yet to be finalized). However, at this point we pay approx 28-30% indirect taxes on goods (Excise duty 12%, VAT 14.5% on goods and excise duty plus cess etc.

6) Which are the goods not to be covered under GST?

Crude petroleum, diesel, petrol, aviation turbine fuel, natural gas, alcohol for human consumptions may not to be covered under GST at the first stage although it may appear under GST list with NIL rate. At present various states have serious apprehensions towards losing of revenue if it is covered under GST since more than 1/3rd of the state revenues (Sales Tax)comes from petroleum products. However, in due course, it has to come under GST net otherwise the basic purpose of GST will be lost to a great extent. Many companies use petroleum products as inputs and they will lose input tax credit if it does not come under GST.

7) Which are the Central Taxes to be subsumed under GST?

Subsuming of various Central and State Indirect taxes and levies like Central Excise duty, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Custom Duty commonly known as countervailing duty (CVD), Special Additional Duty of Customs (SAD), Central surcharges and Cesses (excluding those applicable to income tax, customs duties and to excise duties in so far as they relate to goods outside the purview of the goods and services tax); (b) Subsuming of State VAT/Sales Tax, Entry Tax, Entertainment tax (unless it is levied by the local bodies), Luxury Tax, Taxes on lottery, betting and gambling, tax on advertisements, State Cesses and Surcharges in so far as they relate to supply of goods and services and Entry Tax, not levied by the local bodies.

8) Who would be impacted by the implementation of GST?

All businesses, whether engaged in sales or supply of services would be impacted by GST. The impact would be on supply chains, ERP, product pricing, dealer margins etc. Even pure service providers would be required to charge GST.

9) Whether the existing check post at the state borders will be withdrawn after implementation of GST?

It may difficult to eliminate check posts given the concerns of state governments which may extend beyond collection of taxes and movement of goods to vehicle fitness examination, prevention of trafficking, collection of local cesses, octroi etc.

10) What are the various types of GST?

GST is of two types- (a) Single or Unified GST and (b) Dual GST. Many countries have a unified GST system. However, countries like Brazil and Canada follow a dual system wherein GST is levied by both federal and state or provincial governments.

11) What type of GST is expected to be applied in India?

In India, a dual GST is being proposed wherein a central goods and services tax and state goods and services tax will be levied on the taxable value of a transaction. In India, due to federal structure, there is a proposal to introduce dual GST system.

12) What is dual GST?

Under Dual GST system, GST is levied by both the federal and state of provincial governments. In India, a dual GST is proposed whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of every transaction of supply of goods and services.

13) What are the benefits of shifting to a dual GST system?

Dual GST is expected to be a simple and transparent tax structure with limited number of rates of tax.. The result would be a reduction in the number of taxes at the Central and state levels, cut in effective tax rate for many goods, removal of current cascading effect of taxes, reduction of transaction costs for tax payers through simplified tax compliance, and increased tax collections due to wider tax base and better compliance.

14) How will dual GST affect the fiscal health of states?

Being a consumption based tax, dual GST will result in better revenue collection for states with higher consumption of goods and services. The backward and less developed states would see fall in collections. The Centre is expected to put in place a mechanism to compensate states for any revenue loss due to GST.

15) Will dual GST be levied in addition to the existing taxes?

No. It is proposed that the Central GST will subsume central excise duty (Cenvat), service tax, and additional duties of customs at the Central level; and value-added tax, central sales tax, entertainment tax, luxury tax, entry tax , lottery taxes, state surcharges related to supply of goods and services and purchase tax at the state level. Octroi may continue to be charged since it is levied by the Municipal/Local bodies.

16) What will be the expected rate of GST?

The combined GST rate is currently being discussed by the Centre and the Empowered Committee. The rate is expected to be in the range of 18-20%. Once the total GST rate is determined, the states and the Centre have to agree on Central GST and State GST rates. Today, services are taxed at 12% and the combined incidence of indirect taxes on most goods is around 28-30%.

17) Will there be different rates for Goods and for Services?

The matter is under the discussion stage. If there are two rates for Goods and Services separately, there will be a same problem as to what comes under Goods and what comes under Services. For example, software- in some cases it is considered as Goods and in some cases it is considered as Services (custom made software). In GST such complications are not expected to be there. Hence, it is expected that there will be one rate which will apply for both Goods and Services.

18) What will be the taxable event under GST system?

The taxable event will be the "supply of goods" and the "supply of services". The current taxable event such as "manufacture", "sale of goods" "render of services" will not be relevant under GST system. Further it is a destination based tax.

19) Will there be uniform classification of goods (like Central Excise) under GST system?

It is expected that there would be an uniformity in the classification of goods under GST system.

20) Will the Central GST and State GST would apply on all the transactions?

Yes. In every transaction (whether goods or services) both Central GST and State GST would apply at a predetermined rates. In case of inter-state transactions, IGST (Integrated GST) will apply. It will apply also on inter-state branch transfer. IGST will be available as input tax credit and hence it is not a cost to the company.

21) What will be the rate of taxation in case of interstate trade of goods?

At present inter-state trade of goods is subject to payment of Central Sales Tax which is origin based. However, GST is a consumption based or destination based tax system. With the implementation of GST, CST is expected to be phased out. As a result, there would be IGST when goods are sold/transferred on inter-state basis.

22) Whether GST would apply to stock transfers?

In GST, taxable event will be the "supply of goods" and the "supply of services" at the destination state. Therefore, stock transfers will be subject to GST .

23) Whether inter-state supply of services will be subject to GST?

Yes. However, detailed "place of supply "rules is to be framed for such transactions. It is a major challenge to the policy makers.

24) What are the major challenges with regard to implementation of GST?

The introduction of the GST system is by far the most important tax reform in India. Consensus and coordination among states is required for it to succeed. Before it can be introduced, the Centre and states have to sort out issues like agreement on GST rates, constitutional amendments empowering states to tax services, taxation on inter-state transactions of goods and services, place of supply rules, drafting of Central GST and State GST legislation, consultation with all stakeholders including trade and industry associations before finalisation, administrative preparedness to implement the new tax regime and resolution of all other issues under discussion. This is a formidable challenge given that we have only limited time left.

25) What are the implications of GST on imports and exports?

Basic Custom Duty will continue to be there under GST system. However, the additional custom duty in lieu of CVD /Excise and the Special Additional Duty (SAD) in lieu of sales tax/VAT will be subsumed in the import GST. The import of services will be subject to Central GST and State GST on a reverse charge mechanism. In other words, the GST will be payable by the Importer on a self declaration basis. Place of supply rules will determine which state will have the authority to get the tax. However, the taxes so paid will be available as Input Tax Credit and therefore it would be a revenue neutral. Exports, however, will be zero rated, meaning exporters of goods and services need not pay GST on their exports. GST paid by them on the procurement of goods and services will be refunded.

26) Whether Cross utilization of credits between Goods and services be allowed under GST system?

Yes. Under GST system cross utilization of credit is allowed between goods and services. In other words, input tax credit received on purchase of goods can be adjusted against supply services and vice versa.

27) Will the Input Tax Credit (ITC) and Cenvat Credit (CC) accumulated on the day of implementation of GST (expected date, 1st April, 2016) be allowed to be carried forward?

Most likely "Yes". It is expected that both ITC and CC will be allowed to be carried forward under GST regime subject to fulfilment of certain conditions. The exact procedure and conditions will be specifically mentioned in the GST legislature.

28) Will there be any threshold limits for the levy of GST?

It is expected that there will be uniform threshold limit and will be based on cumulative turnover of goods and services. Dealers with turnover below the threshold limit would not be covered under GST. Proposed threshold limit is Rs. 10 lacs as announced by the States. However, Central Government want to increase it to Rs. 25 lacs. However, the matter is still under negotiation.

29) Will exemptions from GST will be available ? What will happen to the area based exemptions already granted to the investors?

Under GST regime, there will be a common list of exemptions for both the Central and State GST. The tax benefits already enjoying by the EOU, SEZ, Soft ware Technology Park would continue to be available in the GST regime as well. All area based exemptions schemes already in force are expected to be converted to post-tax cash refund schemes.

30) Will there be a process of assessment under dual GST?

The dual GST is expected to be self assessed tax like existing VAT/CENVAT. However the authorities would have the power to audit and re-assess on a selective bases. The detailed procedural guidelines in this regard would be stated in the GST legislature.

31) Whether there would be separate legislation for the Central and State GST.

Yes. The Central GST law will be uniform and applicable throughout India. However, each state will legislate its own enactment to levy and collect the State GST based on common guidelines to be issued by the Empowered Committee of State Finance Ministers.

32) The Central Government is trying to set up GST Council in the Centre through Constitutional Amendment Bill. What would be the major functions of the GST Council?

GST Council will be in the advisory position and shall make recommendations to the Union and States on (a) the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the goods and services tax; (b) the goods and services that be subjected to or exempted from the goods and services tax; (c) the threshold limit of turnover below which goods and services tax may be exempted; (d) the rates of goods and services tax; and (e) any other matter relating to the goods and services tax, as the Council may decide.

33) What happens if the GST's council's recommendations are not accepted by the Union or State Government ?

Any dispute arising out of deviation from any of the recommendations of the Goods and Services Tax Council constituted under article 279A that results in a loss of revenue to a State Government or the Government of India or affects the harmonized structure of the goods and services tax to be referred to the Goods and Service Tax Dispute Settlement Authority (GSTDSA) for adjudication. Parliament may be law provide that no Court other than the Supreme Court shall exercise jurisdiction in respect of any such adjudication or dispute or complaint referred to the GSTDSA. Exact position will be known once GST laws are published.