

INDIAN GST FROM 2016! IS IT ALL SET..

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The Monsoon Session 2015 of the Parliament is over; the Central Government has not yet given up its efforts, and hope is given to the industry that GST could still be implemented with effect from 1st April 2016. Hence, the moot question is, “whether GST is ready to move on by April 2016?” This paper enumerates various step-wise actions to be taken by the Government (*though might have been taken, but are not in public domain*) before making the dream comes true,-

1. ✓ To pass the 122nd Constitution Amendment Bill, 2014 in the Lok Sabha. ✓
2. To pass the 122nd Constitution Amendment Bill, 2014 in the Rajya Sabha {requires at least 2/3 majority of members present and voting (and also majority of total membership of the house)}.
3. Ratification of the Bill by at least 50% of the State Assembly (that is, ratification by 15 States).
4. Assent by the President of India.
5. Notification in the Official Gazette by the Central Government appointing the date of commencement of the 122nd Constitution Amendment Act.
6. Constitution of the GST Council by the President within 60 days from the date of commencement of the 122nd Constitution Amendment Act.
7. Discussion by the GST Council and the Governments with the Industry and Trade including Professionals and various Government Authorities relating to matters listed in next Para.
8. As per the Article 279A(4) of the 122nd Amendment, the GST Council shall make recommendations to the Union and the States on, -
 - (a) Taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the GST;
 - (b) Goods and services that may be subjected to, or exempted from the GST;
 - (c) Model GST Laws, principles of levy, apportionment of Integrated GST and the principles that govern the place of supply;
 - (d) Threshold limit of turnover below which goods and services may be exempted from GST;
 - (e) Rates including floor rates with bands of GST;
 - (f) Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;

- (g) Special provisions with respect to the States of Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
 - (h) Any other matter relating to GST, as the GST Council may decide.
9. The GST Council will also recommend the fate of existing area-based and activity-based exemptions under the VAT, Excise Duty and Service Tax.
 10. Discussion with Stake Holders and professionals regarding the GST Model, Rates and Exemptions. Further, the Law, Business Rules and Policies to be adopted by each State will and must be put in public domain before bringing this biggest indirect tax reform in India.
 11. After formulation of the modalities by the GST Council and the Government, GST Act shall be passed by the Central Government in the Parliament and all the 32 States (including Union Territories with Legislation) in their respective State Legislative Assemblies, which might be described as "Indian GST Act", "Delhi GST Act", "U.P. GST Act", "Haryana GST Act", and so on.

Mechanism for claiming input tax credit will also be laid in a manner so that seamless credit is available across the States. Under the State VAT, tax credit is claimed with reference to purchases made within the State only; whereas in GST, it would be available from across the States also.

Various Transitional Issues, such as, registration, unavailed credits of VAT and Cenvat, stocks in hand, goods lying with the agents/job-workers, disputes, etc. would need to be properly addressed to in these Laws. Likewise, Revenue Sharing issues, Dispute Settlement mechanism, Compensation to the State Govt. are other major issues which need to be addressed.
 12. Thereafter, the Central Government and all the 32 States (including Union Territories with Legislation) will frame Rules and Forms, which might be described as "Indian GST Rules", "Delhi GST Rules", "U.P. GST Rules", "Haryana GST Rules", and so on.
 13. Simultaneously, GST Network (or some other similar agency authorized by the Government) will prepare extensive software for online application of registration by the dealers, filing of online returns, other information and inter-face.
 14. GSTIN (Registration No. under the GST) would be based upon PAN; therefore, all the anomalies in respect of PAN, such as, multiple PAN, address of the persons, would need to be resolved.
 15. Installation of Computer hardware in all the States since GST would not be possible without computerization. For instance, where a sale is effected by, say a Dealer in Manipur or Bihar or any other State, to a Dealer in Delhi: a mechanism would be needed enabling the Delhi Dealer to avail the seamless credit of tax paid by the said selling dealer.
 16. Need to formulate precise "Place of Supply Rules" and strong computerized clearing house and network whereby the destination-State (or any other appropriate State as per the Rules) could get its share of GST easily and expeditiously. At present, the scope of Place of Provision Rules in the Service Tax is applicable, generally, for services rendered or received outside India. However, Place of Supply Rules in the GST would be applicable even to the sub-national supply of services.

17. Discussion with Stake Holders including Professionals and the Government Authorities and formulate procedures to take care of all situations.
18. Training by the Government to the Stake-holders and its Staff to acquaint them with new law and procedure.
19. Reconsolidation of several Central Government Departments, such as, Excise Duty, Service Tax, etc. which would be subsumed in the Central GST.
20. Reconsolidation of several State Government Departments, such as, VAT, Entertainment Tax, Luxury Tax, etc. which would be subsumed in the State GST.
21. Decision about the abolition or continuation of check-posts: In case it decides to continue, then to establish check-posts wherever it has not already been established, e.g., Delhi, etc.
22. In-house training to the Staff by the Stake-holders and professionals; discussion amongst various industries and facilitators; and to work-out the exact impact of GST on individual industry, trader and the service provider.
23. Government needs to ensure that GST is implemented in all the States in one go. Missing of the date of implementation by any State, might cut-off the economy of that State from rest of India. For example, State ABC does not implement GST from 1st April 2016: transition provisions allow one year for commencement. In such a case, dealers located in State ABC would continue to charge VAT on local sales and CST on inter-State sales; and its inter-State purchases from a GST-State would be subjected to full GST for which he would not be able to issue Form C : thereby leading to double taxation.
24. Computerization at the dealer's level since it is learnt that every sale and purchase would be entered and furnished in the Department's software.
25. Upgradation of Accounting Software of the stake-holders, such as, SAP, Tally, Busy etc., so that desired information is obtained accurately and expeditiously. It must be noted that on the date of commencement of GST, say 1st April 2016, the industry must have the accounting software at its place to determine GST (CGST, SGST, and IGST), right from 12.01 hrs. in the midnight.
26. Adequate infrastructure and uninterrupted electricity supply across India for non-stop functioning of the Computers.

Though the list does not end here yet I would like to take a break. The above issues are on surface; and there would be many more hidden issues that the Centre and the States might have to deal with. In my view, all the issues must be debated in public domain for successful implementation of GST in India.

Surprisingly, the efforts and the preparations of the State Governments do not appear that GST would be implemented just after six months from today. The Delhi Government is busy in introducing Sugam Form for recording of all inbound entry of goods in Delhi; the U.P. Government is busy in meeting out the revenue targets by increasing the general rate of tax by 0.5%, and so on.

One point is very clear: “*Waqt hai bahut he kam, aur bada kaam hai*”

(21st September 2015)