

GST in India – Is it really a “One Nation One Tax”

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1. Structure of GST in India

The term “GST” stands for “**Goods and Services Tax**”, and would be a comprehensive indirect tax levy in India on manufacture, sale and consumption of goods as well as services at the national level. Its main objectives are to cover most of the indirect tax levies into a single tax, replacing multiple tax levies, facilitating seamless credit across the entire supply chain, overcoming the limitation of current indirect tax structure, and creating efficiencies in the tax administration.

Its first target is to eliminate number of taxes and duties presently levied and imposed under the category ‘indirect taxes’ in India; and to achieve the same, it will subsume Central Excise Duty, CVD, SAD, Service Tax, Central Sales Tax, VAT, Entry Tax, Entertainment tax, Luxury tax, various Cesses relating to supply of goods or services, etc. All services and goods, except alcoholic liquor for human consumption and five specified petroleum goods, will be within the purview of the Indian GST.

In India, GST will be a “Dual GST” with both Central GST and State GST components levied on the same base. If supply takes place within the State, Central GST + State GST will be charged; and if supply takes place from one State to another, IGST will be charged. To maintain the uniformity across India, GST Council has been created. In spite of there being almost 33 statutes, including one each for every State/UT, there will be, to maintain uniformity, same provisions and charging sections, same set of rates of tax, same procedure and manner of compliance and same penal actions, in all the States.

2. Is it “One Nation One Tax”

We are certainly anxiously waiting for the GST, which would boost the growth of our economy and make it more transparent, disciplined and self monitored. Yet looking at the number of the compliances and procedures as contemplated, it gives the fear that the basic intent of the Government, which is “ease of doing business”, has been diluted. It is often stated that the taxpayer shall file almost 37 returns per year under the GST. Let us understand various compliances through an illustration:

To illustrate: If ABC Ltd. have its Head Office at Delhi, Factory at U.P., and Warehouse cum Office at Haryana, HP and Punjab (Total 5 offices), it would have to make at least following compliances:

- 1) ABC will have GST registrations in all the 5 states in CGST, IGST and respective State GST.
- 2) It will be treated as distinct person for every State even for the purposes of CGST and IGST.
- 3) Therefore, ABC would have 15 registrations on PAN India basis (CGST, IGST & SGST for each and every State).
- 4) We understand that it would be treated separately in all the State GST Act. But, even for the purposes of CGST and IGST, even if governed by the same statute in every state, it would be considered as distinct person. Therefore, it would have 5 registrations in the CGST Act and 5 in IGST Act because it is having its places of business in 5 States.

For example, Delhi IGST/CGST TIN would be [Delhi State Code + PAN]; Haryana IGST/ CGST TIN would be [Haryana State Code + PAN]; and so on.

- 5) There is no cross set-off in CGST Input tax credit in one State from output tax in another State. That is, input tax credit in CGST in Delhi cannot be adjusted against the output tax in CGST in UP.

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- 6) Moreover, no cross set-off between CGST and State GST is permitted even within one State.
- 7) If ABC transfers goods from one branch to another, it would charge GST at open market value.
- 8) ABC will determine the tax liability for every tax period for all the 15 registrations separately. Input tax credit cannot be transferred from one TIN/State to another.
- 9) While determining its liability in every State, ABC has to be very careful and will take a note of place of supply provisions as per the IGST Act for every supply. If it is local supply, say in Delhi, charge CGST + Delhi GST; and if inter-State supply, charge IGST. Even for B2C transaction of more than specified value, it might have to ascertain the address of the customer, and charge tax accordingly. Since GST is a destination based tax, if a customer comes to Delhi from UP for making purchases, tax must go to UP.
- 10) ABC would maintain following ledgers for all 15 registrations separately: -
 - a. Electronic Credit Ledger;
 - b. Electronic Cash Ledger;
 - c. Electronic liability Ledger.These ledgers are State-specific: Amount cannot be transferred from one state to another.
- 11) It will pay tax very carefully for all the 15 GSTINs separately. If the IGST of, say, Delhi is wrongly paid as CGST of Delhi: then it shall first pay the IGST not paid, and then claim refund of CGST wrongly paid.
- 12) ABC will file separate returns for every tax period for all the 5 States. In every State, effectively there would be 3 returns (GSTR-1/2/3) for every tax period comprising three Statutes (SGST/CGST/IGST) in every return: thus, effectively 9 returns per tax period per State. Of course, a single form/portal is used for all the three statutes for one State.
- 13) It will maintain separate accounts including trial balance for every State separately; and that too, at place of business in every state. Even though its Balance Sheet is consolidated for all the 5 States, yet for GST purposes, branch accounting is essential. If there is any survey or inspection at any place of business, it will have to show the books of accounts of that State.
- 14) ABC will get its accounts audited under the GST for every such State where turnover exceeds the specified limit.
- 15) In case of similar default in all the 5 States, ABC would be served 15 separate demand notices; and if it wants to agitate the matter, it would file 15 appeals.
- 16) It would be monitored by 5 State authorities plus 5 different offices of one Central authority.
- 17) Looking at the provisions of the CGST Bill, 2017, it would certainly be liable to pay GST on reverse charges basis, which would further add to its compliance list of all 15 registrations.
- 18) If ABC wants to transfer its GST credit rating to input services from one unit to another, it would require separate registration as Input Service Distributor.
- 19) ABC might have to deduct TDS on certain supplies; if yes, then separate TAN for deduction of TDS.
- 20) If ABC transfers its office from Delhi to Mumbai, it will get cancel its registration in Delhi, and obtain new registration in Maharashtra.

The list does not end here, and 5 to 6 points can easily be added looking at the nature of business. Above list certainly gives the apprehension whether GST is really a “One Nation One Tax”. Certainly, the Governments would not have intended the same; and therefore, the Governments and GST Council must come forward, study the GST legislations, rules and procedures deeper and between the lines, and make all the efforts to make it simpler, and easy to comply; otherwise, it would be a hard time in GST, particularly for medium and small sized industries, traders, and service providers having limited human resources and IT facilities. A good gesture can be inverted if it is done in a wrongful manner. In spite of so many duties, taxes and cesses being subsumed in the GST; tomorrow, one should not have the feeling, “old was gold”.

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