

GOODS AND SERVICE TAX IN INDIA: ISSUES AND CHALLENGES

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ABSTRACT

GST is one of the biggest as well as historical tax reforms in India which replaced all different indirect taxes of the central and state governments. GST has unified the Indian economy into a seamless national market. In April 2010, the ruling government of that regime also proposed to implement GST but due to political issues and conflicting interests of various stakeholders, the government failed to implement the same. On 1st July 2017 the Government of India enforced GST law which extended to whole of India. The main objective of this law is to remove all the draw backs of the previous indirect tax system and provide transparency in the tax implementation. In the previous indirect tax regime the tax rates were vary from state to state but after the implementation of GST there is a uniform rate of tax throughout the country. Previously various indirect tax laws had no provisions for input tax credit and large numbers of tax payers were not eligible for input tax credit even after paying a large amount of taxes on the inputs. But now all the tax payers are eligible to avail input tax credit. This paper presents an overview of GST concept, explains its features along with its advantages over previous indirect tax laws. The paper is more focused on advantages of GST and challenges faced by India in its execution.

1. INTRODUCTION

In the budget session of 2006-07 Mr. P. Chidambaram, the finance minister of previous government made first reference of GST as a single centralized Indirect tax and accordingly the Bill was introduced in the Lok Sabha on 19th December 2014 and passed on 6th May 2015. Then the Bill was passed in Rajya Sabha in August 2016 by Constitutional(One Hundred and First Amendment) Act, of 2016. The Government wants to implement GST Law from 1st April, 2017. But due to some political reasons it was enforced on 1st July 2017. The Constitution Bill of 2016 defines GST as “goods and services tax” which means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.¹GST is a comprehensive tax levy on manufacture, sale and consumption of goods and services at a national level as well as state level. By the introduction of GST the Indian economy has entered

¹Clause 366(12A) of Constitution One Hundred and Twenty Second Amendment Bill of 2016.

into a new system of indirect taxation. Implementation of comprehensive GST in India is expected to provide new sources of production which lead to economic gains, increase exports, enhanced economic welfare and returns.²GST is also expected to eliminate the cascading effect of taxes.³ Through the proper implementation of GST India is likely to play an important role in the world economy in future. GST is divided into three categories i.e. CGST (Central Goods and Services Tax) levied by central government in case of intra state trade, SGST (State Goods and Services Tax) levied by state government in case of intra state trade and IGST (Integrated Goods and Services Tax) levied and collected by central government in case of interstate trade. Before implementation of GST law tax payers were eligible for input tax credit only under VAT (Value Added Tax Act, 2005) but not in CST (Central Sales Tax Act, 1956). Now they are eligible for input tax credit in case of intra state trade as well as interstate trade. Previously taxpayers were liable to pay number of taxes such as value added tax, central sales tax, service tax, octroi duty, excise duty etc but after the implementation of GST taxpayers are liable to pay only one tax that is goods and services tax. GST is a destination based tax and levied at a single point at the time of consumption of goods or services by the ultimate consumer. GST is levied on all the goods and the services except the goods outside the purview of GST, exempted goods & services and transactions below threshold limit. Government of India referred to GST as a good and simple tax. The meaning and features of GST are discussed under the below.

2. MEANING AND DEFINITION OF GST

GST is an Indirect Tax. Before discussing the meaning of GST it is necessary to define indirect tax. Indirect tax is a tax which is not imposed directly on income of individuals. Unlike Income tax (that is imposed on the income of the taxable person) the indirect tax is imposed on goods and services which in turn increase the cost of Goods and Services. Unlike direct tax, indirect tax should be borne by the end customer whether rich or poor. There are many indirect taxes. Some of these are levied by the Central Government whereas some are levied by the State Government. Therefore goods and service tax is an indirect tax. Goods & Services Tax Law is a comprehensive multi-stage destination-based tax that is levied on every value addition. In simple words, Goods and Services tax (GST) is an indirect tax levied on the supply of goods and services. This law has replaced many indirect tax laws that previously existed in India. GST is one indirect tax for the entire country. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017. The Act came into effect on 1st July 2017. Goods and

²Dr.Balwinder Bedi, Mr. Kavish Sharma, "*MOVING TO GOODS AND SERVICE TAX IN INDIA:IMPACT ON INDIA'S GROWTH*" International Journal of Engineering Research & Management Technology May-2017 Volume-4, Issue-3.

³ Ibid.

services Tax Act 2017 has not defined GST. But it defines goods and services. According to CGST Act, 2017⁴ goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply and services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.⁵Therefore Goods and Services Tax (GST) is an indirect tax (or consumption tax) imposed in India on the supply of goods and services. GST is imposed at every step in the production process, but it is refunded to all the taxpayers who have previously paid the same as a tax on the inputs in the various stages of production other than the final consumer. There are number of features of GST. The various features of GST are discussed under the below:

2.1 FEATURES OF GST

The Goods and Services Tax, or GST is a major indirect tax reform introduced in India by merging the major indirect taxes of the centre and states. It is a comprehensive tax levied on the manufacture, sale, and consumption of goods and services. The GST is a destination based consumption tax made on value addition. It is “collected on value-added goods and services” at each transactional stage of the supply chain or process. Following are the various features of GST:

1. Taxes merged with GST: Most of the important indirect taxes of the centre and states are integrated under the GST. The most important taxes of the central government such as the Central Value Added Tax (or Union Excise Duty), Additional Customs Duty (CVD), Special Additional Duty of Customs (SAD), Central Sales Tax (levied by the Centre and collected by the States, the Service Tax. The most important tax revenue of the states is the state VAT (Sales tax). These taxes now merged into a single tax that is Goods and Service Tax.

A. Central taxes that are merged with the GST:⁶

- a. Union Excise duties
- b. Services tax

⁴ Section 2 (52) of Central Goods and Services Tax, Act, 2017.

⁵ Section 2 (102) of Central Goods and Services Tax, Act, 2017.

⁶<https://www.indianeconomy.net/splclassroom/features-of-the-new-goods-and-service-tax-gst-system/> retrieved on 26/03/2019 at 11.00pm

- c. Duties of Excise (Medicinal and Toilet Preparations)
- d. Additional Duties of Excise (Textiles and Textile Products)
- e. Additional Duties of Excise (Goods of Special Importance)
- f. Additional Duties of Customs (commonly known as CVD)
- g. Special Additional Duty of Customs (SAD)
- h. Cesses and surcharges

B. State taxes that are subsumed under the GST are:⁷

- a. State VAT
- b. Central Sales Tax
- c. Entertainment Tax (not levied by the local bodies)
- d. Entry Tax (other than those in lieu of octroi)
- e. Luxury Tax
- f. Taxes on advertisements
- g. Taxes on lotteries, betting and gambling
- h. State cesses and surcharges insofar as they relate to supply of goods or services.

C. Taxes not covered under the GST:

Some notable taxes are not covered under GST and these includes: leveis on petroleum products, tax on alcoholic products, electricity duteis/taxes, stamp duteis on immovabel properties and vehicle taxes.

2. Unified tax regime: The GST integrates Goods and Service Taxes into one unified tax regime. Previously, the goods and services were imposed and administered differently.

3. Rate structure of tax under GST: GST tax structure is divided into four tax slabs which are fixed at 5%, 12%, 18% and 28% besides the 0% tax on essentials. Gold is taxed at 3%.

⁷ Ibid.

4. Service tax rate under GST: Under the GST common services are charged at 12% and some commercial services are chargeable to tax at 18%. Luxury services are taxable at the rate of 28%. Several services like education provided by an educational institution, Post Offices, RBI etc. are exempted from service tax.

5. Turnover limit for registration: Persons whose annual turnover is less than rupees 20 lakhs are exempted from payment of GST and they are not liable to registered themselves under GST. But whose turnover exceeded the amount of rupees 20 lakhs are liable to pay GST as well as are liable registered themselves under GST. But the turnover limit for north-eastern states is rupees 10 lakhs.⁸

6. Appropriation of tax revenue between the Union and states: The Union and states will share GST tax revenues at 50:50 ratio (except the IGST). For example if tax is imposed on the service is 18% then 9% will go to the centre and 9% will go to the concerned state.

7. Components of GST: There are three components of GST namely CGST, SGST AND IGST. CGST and SGST are levied in case of intra state trade i.e. within state and IGST is levied in case of interstate trade i.e. between two or more states. These three components are discussed below:

a. CGST AND SGST: There is sharing of GST by the centre and the tax accruing state at 50:50 ratios. The GST goes to the Centre is called as Central GST (CGST) and that goes to the States is known as State GST (SGST). Here, the centre and the concerned state will equally share GST on goods and services. Basically, GST is a destination based or consumption tax. Meaning of a destination based tax is that tax revenue (SGST) will go to the consuming state and not to the producing state.

b. Integrated GST (IGST): The IGST shall be levied in case where the commodity is produced in one state and is transported / traded to another state (interstate trade). In this case, the share of SGST should go to the consuming state (as the GST is a destination based tax). As a consumption based tax i.e. the tax SGST share should be received by the state in which the goods or service are consumed and not by the state in which such goods are manufactured. As per the GST law⁹ an Integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. This tax will be collected by the Centre to ensure that the supply chain or interstate trade is not disrupted.

8. Composition scheme: Under GST law persons whose turnover is 1.5 crores or less are eligible to be registered under composition scheme. Such persons have to pay tax at the marginal

⁸ Section 22 of CGST, Act, 2017.

⁹ Article 269 A of Indian Constitution.

rates such as 0.5 %, 2 % etc and they are not liable to pay tax at full rate. But such persons are not eligible for input tax credit.¹⁰

9. Filing of returns: Under GST registered persons are required to file returns on monthly, quarterly and on annually basis. There are also other features of GST such as compliance rate, reverse charge mechanism, input tax credit system, concept of mixed supply, GST council etc.¹¹

3. BENEFITS OF GST OVER PREVIOUS INDIRECT TAXES

1. Broad scheme

Previously, there were separate laws for separate levy of taxes. For example Central Excise Act, 1944, State VAT laws, Service tax laws, Central Sales Tax law etc. With the implementation of GST there is only one law for levy of different taxes.

2. Tax Rates

The previous tax regime had separate rates, such as, Excise @ 12.36 % and Service Tax @ 14%. With GST, there is only one CGST rate and a uniform rate of SGST across all states.

3. Cascading Effect

Credit of CST and various other indirect taxes isn't allowed in the previous tax structure, whereas under GST the entire concept of CST has been eliminated with introduction of IGST. Now taxpayers carrying interstate trade can avail input tax credit.

4. Tax burden on Tax Payer

Previously the tax burden on tax payer was considerably high. With the implementation of GST tax burden has reduced because all the taxes are merged into GST and the burden is split equitably between manufacturing and services.

5. Cost Burden on Consumers

Certain taxes became part of cost due to presence of cascading effect. But, with the simple mechanism of GST, cost burden has reduced by removing such effect and providing credit.

6. Concurrent Power

¹⁰ Section 10 of CGST, Act, 2017.

¹¹ Section 37 of CGST, Act, 2017.

Pre-GST, there was no such power to both Centre and State on same subject tax matter. With the implementation of GST both Centre and State are vested with the concurrent power to make laws with respect to goods and services tax, as proposed in Article 246A of the Constitution. The intra-state trade now comes under the jurisdiction of both centre and state; while inter-state trade and commerce is “exclusively” under central government jurisdiction.

7. Compliance

Previously, tax compliance was complicated owing to the multiplicity of laws and their provisions have to be followed by the taxpayers. With the implementation of GST, tax compliance has become much easier because all the taxes have merged into one law.

8. Transparent Tax Administration

Previously, tax was levied at two stages in broad manner production and consumption, i.e., when product moves out of factory and also at retail outlet. GST is to be levied only at final destination of consumption and not at various points. This brings more transparency and corruption free tax administration.

4. CHALLENGES TO GST IN INDIA: Implementation of GST is facing various issues as well as challenges in India. These issues and challenges are discussed under the below:

1. Poor availability of the GSTN system: Various complaints have filed with respect to improper working of Goods and services network system.
2. Non-availability of certain forms and formats (Letter of Undertaking and Bank Guarantees for exporters),
3. The threshold limit under GST is very low. Low threshold limit will decrease the revenue to the government.
4. Various indirect taxes are outside the purview of GST.
5. Delay in refunds of GST paid.
6. Monthly filing of tax returns is a difficult task for the taxpayers
7. Trained and skilled man power with updated GST subject knowledge are not easily available, this had created an additional work load on professionals across industry.
8. Petroleum products kept outside the ambit of GST, but petroleum products are the major contributor of inflation in India.

9. Small traders are confused with the GST tax rate application and increasing cost of operations, as they are unable to afford the cost of computer and accounting staff for maintenance of record and filling of returns under GST.
10. Lack of clarity on the GST provisions: -Few of the provisions of GST are still ambiguous. Categorization of the goods and services is not very clear. The government has also made the rules related to assessment and audit public, but the absence of actual forms in the public domain challenges the effectiveness of the rule.

5. CONCLUSION AND SUGGESTIONS

Therefore from the above it has been observed that GST is the greatest tax reform in India since independence. The main objective of the GST is to simplify the indirect tax regime of India by replacing a number of taxes through a single unified tax. GST is the only indirect tax that directly connects all the sector of Indian economy and enhancing the economic growth of the country by creating a single unified market. More than 160 countries of the world have implemented GST followed by France. Before the enforcement of GST law, our country had a very complex indirect tax system with multiple taxes imposed by union and state separately, with the introduction of GST all the indirect taxes have merged into one tax and it ensures a smooth national market with high economic growth rate. So there is a great need to aware the public about the benefits as well as working of GST. Therefore further reforms are needed to make GST successful in India. Following are the various suggestions to tackle with the issues and challenges faced by GST:

1. GSTN system should be properly maintained and updated so that taxpayers can easily files their returns and avail input tax credit.
2. Threshold limit should be enhanced so that government can increase its revenue.
3. Petroleum products and liquor should be kept under the ambit of GST. Because they are major contributors of inflation in India.
4. Returns should be filed on quarterly basis instead of monthly basis.
5. Cost of operations should be decreased so that the small traders will be able to afford the cost of computer and accounting staff for maintenance of record and filling of returns under GST.
6. Goods and services should be categorized clearly, so that confusion with respect to categorization of goods and services can be removed.

7. Training and skills should be provided to GST experts with updated GST Knowledge.
8. Refunds of GST should be paid in time, so that taxpayers could not be harassed.
9. Various forms and format should be made easily available for the proper functioning of GST.

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