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GST in India: Impact and emerging challenges

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Objective of Study

1.To grasp the concept of GST

2.To study and understand the features of GST

3. To assess the advantages and challenges in implementation of GST

An explanatory research is studied based on secondary data collected from various journals, books, government reports, articles and newspapers which focus on different aspects of Goods and Services Tax.

Concept of GST

GST or Goods and Services Tax, the greatest tax reform in India since Independence which has been long pending. GST is meant to simplify the indirect tax regime of India by replacing a host of taxes by a single unified tax. GST is acomprehensive, multi-stage, destination -based tax that is levied on every value addition. GST will bring a new dimension to the Indian economy by making a common market and reducing the cascading effect of tax on the cost of goods and services. It will affect the entire indirect tax system the tax structure, tax incidence, taxcomputation, compliance, input credit utilization and reporting procedures. India had adopted the dual system of GST as CGST and SGST. The need for a concurrent dual

GST model is basedon the following:

1.As per constitution of India concurrent power to levy tax on domestic goods and

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servicesis provided to both central and state government

2. As per the dual GST model tax can be levied independently by the central and state government but both will operate in common platform for imposition of taxes, liabilities would be identical.

Silent features of GST

1.All transactions on goods and services will be covered up except exempted goods and services

2.There are two segments of GST, one is central GST and other is state GST. Central GST will be paid to central government and state GST will be paid to respective state government

3.Meaning of taxable person, taxable events, chargeability, measure to levy tax, etc would be same in CGST and SGST

4. Administration of CGST will be controlled by central government and administration of SGST will be controlled by respective state government. The power of making law on taxation of goods and services lies with both central and state government. A law imposed by central government on GST will not overrule state GST law.

5. Pan card based identification number would be allotted to the taxpayer tofacilitate tax payment and return

6.Tax return to be filled separately to central government for CGST and state government for SGST

7.Input credit can be claimed from respective department where GST paid, i.e. central GST paid on inputs can be claimed against central GST only and same for state

8.GST would be applicable if there is an import of goods and services

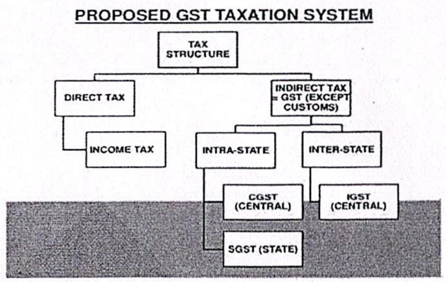
9.The GST slabs have been set at 0%,5%,12%,18% and 28% for different goods and services

10.Integrated goods and services tax(IGST) also known as interstate goods and services tax is a component of GST which is charged on supply of goods and services in the course of interstate trade which is collected by central government and distributed to imported states as destination based tax. Additional 1% tax on interstate supply of goods which is levied by central government and directly apportion to the exporter state. This tax will be charged for a period of two years or more as per the recommendation of GST council

11.The union government will compensate the states for a period of 5 years or more on recommendation of GST council for the loss of revenue arising out of GST implementation

12.GST council had been set up president and chaired by union finance minister. It will constitute of union minister of state in charge of revenue and minister in charge of finance or any other field nominated by state.

GST Taxation System:



Emerging Challenges in GST

GST law is evolving day by day with the Government issuing notifications and clarifications from time to time. It is imperative for the Government to adopt a structured approach in policy-related related issues, while industry needs to keep pace with the changes. Initial structural issues are gradually getting resolved with industry players learning with the passage of time. As a natural progression in the life of a tax law, in coming months and years, several policy-level, jurisdictional, inter pretational and operational issues are likely to emerge, some of which (discussed below in this section) are already being witnessed.

A. Fate of matching concept

At the time the GST was introduced, the Government also rolled out a matching concept for claiming input tax credit, which formed the backbone of online tax compliance. This concept is unique to India, compared to other countries that have implemented the GST. The matching concept requires a buyer to reconcile its tax payments with the tax collected, deposited and reported by the supplier on the government portal (against its outward supplies) on a month-onmonth basis in order to claim credits. Any incorrect or unmatched transactions filed by the supplier leads to denial of credit to the buyer. The concept has twin objectives–first, to integrate tax payments and credits seamlessly to ensure minimal discrepancies, and second, to ensure proper management of vendors. However, due to IT-related glitches, the facility of online matching has never taken off since GST was implemented. Consequently, in November 2017, the Government decided to defer its requirement of the matching concept till necessary technological upgrades were carried out to cater to such a huge flow of information. It is not clear what will happen to past-period credits that have been claimed without a matching concept. The moot point here is whether the Government will ask taxpayers to repay such tax credits (along with interest and penalties), which have been rightly paid to suppliers who has either failed to deposit this to the Government treasury or report it on the online portal. In a recent GST Council meeting held in May 2018, the Government decided to formally put on hold the matching concept. There is now a proposal to allow credit to buyers on the basis of information uploaded by their suppliers on the GST portal. The Government is finalising the methodology for this and is expected to issue detailed guidelines shortly. It will be interesting to see whether this change will affect credits claimed by dealers till date (i.e., the retrospective impact) or the credits claimed by them henceforth (i.e., the prospective impact). It is imperative for the Government to clarify this aspect, since it will result in large-scale implications for India Inc. Apart from the financial burden, companies will need to modify their IT software to cater to the new requirements and take another look at vendors' or customers' contracts, to safeguard their interest. The internal processes set up by companies for tracking credits will undergo a change. Any significant changes in reporting requirements are bound to lead to customisation of IT systems. Businesses will need to be prepared for this in terms of the cost and disruption of business.

B. Past-period payments–no provision for availing credits

To pave the way for the new taxation system, the Central Government and state governments have issued directives to their tax departments to conclude pending tax investigations and disputes quickly. This has naturally led to a surge in the number of pending matters before the various forums, especially at the Appellate level. Moreover, GST laws do not provide specific transitional provisions on several relevant aspects, for instance, enabling a recipient to avail credit of a tax demand on a transaction for which a supplier did not pay tax because of a bona-fide mistake or belief, or allowing payment of a demand because of denial of CENVAT credit through reversal of CGST credit. Industry is hopeful that the Government will roll out a mechanism to address such situations at the earliest, in order to avoid unnecessary confusion and address the challenges faced by taxpayers due to this momentous change in tax law.

C) Refunds under the GST

Enabling ease of doing business through uniform tax laws across India with simpler compliance-related processes and rapid processing of tax refunds have been the key drivers behind implementation of the GST in

India. Before it was introduced, the refund procedure (especially for the Service sector) was cumbersome and would take months and sometimes years for refunds to be processed. Under the GST regime, tax refunds could be due to many factors—one of these being exports. According to GST provisions, an exporter is to be sanctioned 90% of the refund amount provisionally within seven days of a refund application being filed. This came as huge relief to industry, especially to exporters, whose working capital was earlier blocked due to the cumbersome refund process. However, because of technical glitches on the GSTN portal, many exporters were unable to file for refund of Input Tax. As a result, there was a backlog of a huge amount of funds in the initial months. It is necessary to process tax refund claims quickly to facilitate trade under the GST regime. The Government has undertaken several initiatives to expedite this process. This is evident from the fact that refunds amounting to more than INR40,000 crores have been sanctioned till June 2018. This includes INR16,000 crore of IGST refunds and INR14,000 crore of ITC including refunds sanctioned by the Central and State Govt., The most recent initiative in this regard is the 'Special Refund Fortnight' organised by the Government in March and June 2018, when Central and state GST officers have been instructed to expedite clearance of pending applications for GST refunds. The Government's commitment to clearing pending refund-related applications are undeniably praiseworthy. However, certain scenarios that merit refund-related claims remain unattended under the current GST law, e.g., claims of unutilised credits on closure of a business, refunds in the case of inverted GST structures due to the increased GST rate levied on input services earlier and refunds in the case of international tourists. The momentum set in process by the Government on ensuring quick processing of refund-related applications and its specific statutory provisions for cases that merit refund claims (e.g., the ones mentioned above) will help industry release blocked working capital. It may also explore the option of minimising accumulation of credits in the first place. These measures are expected to play a vital role in achieving the Government's stated objective of improving ease of doing business in India.

D) Anti-profiteering

The Government has taken a bold decision to reduce tax rates (from 28% to 18%) on a large number of products with the hope that this measure will increase demand from the public, enhance consumers' confidence in the Government's trade-friendly policies and ultimately give that much-needed boost to the Indian economy. However, these measures require industry to consider reducing prices and passing on the net benefits arising from implementation of the GST to end consumers to keep inflation under control. To enforce this, the anti-profiteering provisions introduced by the Government (in line with those implemented in countries such as Australia) play a significant role. Anti-profiteering provisions in the Central GST legislation mandate that any reduction in the tax rate on supply of goods or services, or the benefit of input tax credit should be passed on to recipients by a commensurate reduction in prices. The Central Government has constituted the National Anti-Profiteering Authority (NAPA) to examine whether credits availed by registered persons or the reduction in the tax rate have actually resulted in a commensurate decrease in the prices of goods or services (or both) supplied by them. The NAPA is to function for a period of two years from the date on which the Chairman of the Authority takes over office (unless the Council recommends otherwise). As is evident, these regulations prevent entities from making excessive profits due to the GST. The thumb rule is 'profit is fine, profiteering is not'. However, despite sound international experience, implementation of these regulations have been facing significant challenges in India. The Government is of the view that in addition to the legal requirement, passing on of GST benefits to end consumers by way of a reduction in prices, in compliance with anti-profiteering measures, is also a social obligation for businesses. On the other hand, critics maintain that these provisions are an attempt to regulate prices—a practice that has no place in a free economy. In their opinion, market forces will ensure that prices remain competitive.

According to industry, while the Government's intention cannot be questioned, it is difficult for businesses to implement complex pricing decisions immediately after there is a change in tax rates. Moreover, lack of clear instructions on how reduced prices are to be decided is leading to doubts and apprehension among industry players. While the Government has, in principle, been encouraging a trust-based approach to implementation of most tax- and regulatory-related procedures, an overarching anti-profiteering provision under the GST law without a clear notification on corresponding explicit rules for its rollout could lead to lack of trust between the Government and businesses at this point. The Government is issuing notices to a wide range of industries, including Real Estate, Pharma and FMCG companies, asking for details of benefits passed on by them due to rate cuts in the GST in the recent past. Some key concern areas for industry: • There is lack of clarity on the granularity required for anti-profiteering analyses being conducted, i.e., at the aggregate company level, the product family or SKU levels. To elaborate on this, it is not clear whether a company can choose not to reduce the price of a particular product (for business reasons) and instead offer an increased quantity or freebies, or reduce the prices of select products, so long as the overall benefit is passed on to consumers. • In the absence of any prescribed procedures, can a company resort to methods prescribed under the GST laws of foreign countries such as Australia? And if it can, to what extent will these computations be acceptable to the Indian tax authorities? • While transitioning to the GST regime, various costs have been incurred by companies to build or modify their IT backbone. There is still no clarity on whether such costs can be taken into account or need to be absorbed while computing a revised, anti-profiteering and tax-compliant product or service rate. • Another ambiguity is about the date on which such price reductions are to be made effective. All these questions remain unanswered till date. Moreover, perusal of the notices issued to taxpayers does not provide clear insight into the anti-profiteering mechanism, but could give rise to additional complications. For instance, if a complaint is received against a particular product, entity-related details are sought from the company. In one case, in a notice issued against a food chain store, the authorities asked for company-related details, while the complaint against it was for not reducing the price of a specific product! Recently, the NAPA has issued two orders—one for a company dealing in automobiles and another for one engaged in the rice business. The moot questions for the authority were: i. Is the reduction in the tax rate, if any, passed on to the recipient? ii. Has any benefit of credit been passed on to the applicant by the respondent? In both these cases, the authority ruled in favour of the companies and held that the benefit (if any) has been appropriately passed on to the recipients. Interestingly, while passing the order for the company dealing in rice, the authority also considered the increase in the price of input for computation of benefits earned under the GST. Listed below are some queries on which industry hopes for clarification from the Government: • What are the cost components to be considered to arrive at reduced prices in order to comply with anti-profiteering provisions? • What are the documents that need to be maintained to demonstrate due compliance with the anti-profiteering mandate? • Does industry need to revisit prices every time there is a change, either in the tax rate or in the business structure, leading to enhanced efficiency in operating costs? Moreover, there is no indication whether a 'true-up' exercise is to be conducted at the end of a period, to ascertain that the price has been determined on the basis of accurate assumptions? •

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