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Challenges in Implication of G.S.T. in India

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Abstract

At present in India, there are various type of taxes being levied differently by Central and state government like Central Excise Duty, Service Tax and Customs Duties at the Central level and VAT (value-added tax), Entertainment Tax, Luxury Tax or Lottery Taxes at state level. All these will be replaced by one single point of taxation i.e. GST. GST may usher in the possibility of a collective gain for industry, trade, agriculture and common consumers as well as for the Central Government and the State Government. The bill aims to eliminate the cascading effect of taxes on production and distribution prices on goods and services. Today it is highly relevant to achieve the high growth in the economy. It may also reduce corruption and bring more efficiency in running businesses. In this paper we have discussed the impact of GST on the society in the different angles and those challenges which will be faced on the implementation of GST in India.
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1. INTRODUCTION

One of the most important step for introduction of Goods and Service Tax (GST) i.e. the 122nd Constitutional Amendment Bill (CAB) for introduction of GST is taken up for discussion in Lok Sabha on 24.02.2015. In the past, to amend the Constitution, 115th CAB was introduced by the UPA Government in March 2011. However, this 115th CAB lapsed. The rationale for introduction of CAB is that, currently, the Constitution of India does not provide for a parallel levy of indirect taxes by Centre and State which is a pre-requisite for GST. To address this, CAB was introduced in the Lok Sabha. The CAB is a starter for the approaching GST regime.

The CAB enables the Centre and State Government (including Union Territories) to introduce law for levying GST on supply of goods or services or both. Thus, in GST regime, there will be one CGST law and one SGST law each for the States including Union Territories.

1.1 What is GST: The term GST is defined in Article 366 (12A) to mean "any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption". Thus, all supply of goods or services or both will attract CGST (to be levied by Centre) and SGST (to be levied by State) unless kept out of purview of GST. GST will be applicable even when the transaction involves supply of both (goods and services). In effect, woks contracts will also attract GST.

1.2 What are Services

It may be noted that earlier 115th CAB did not provide for definition of the term 'service'. Now, this 122nd CAB specifically provides that services means anything other than goods' [refer Article 366 (26A)]. This broad definition of the term 'service' will altogether remove the disputes on the aspect whether something is goods or services (unless Government proposes different rates for GST on goods or services or both).

1.3 IGST

At present inter-State supply of goods attract Central Sales Tax. Now, CAB provides that an inter-State supply of goods or services will attract IGST ((i.e. CGST plus SGST) [refer Article 269A]. It may be noted that IGST will be levied and collected by the Centre and proceeds of IGST will be shared amongst the Centre and the States.

1.4 Inter-State sale of goods to attract additional tax

CAB provides that an additional tax upto 1% will be levied by Centre on inter-State supply of goods (and not on services). This additional tax will be assigned to States from where the supply of goods originates. This additional tax seems be a new version of CST. This additional tax will be applicable for a period of two years and could be extended further by GST Council. However, CAB is silent on the aspect whether credit of this additional levy will be available or it will be a cost in the supply chain. If it will be a cost then it appears that the tax cascading will continue in the GST regime too.

1.5 Import of goods or services

At present, import of goods attracts Basic Customs duty (BCD), Additional Customs Duty (ACD) and Special Additional Customs Duty (SAD). As regards services, it attracts Service Tax (or Research and Development cess in few instances).

CAB provides that the import of goods or services will be deemed as supply of goods or services or both in the course of inter-State trade or commerce and, thus, it will attract IGST (i.e. CGST plus SGST). Thus, import of goods will attract BCD and IGST. It may be noted that import of services, as against service tax at present, in GST regime, will attract IGST.

2. ALCOHOL FOR HUMAN CONSUMPTION

It appears that alcohol for human consumption will be kept outside the GST regime. As only alcohol for human consumption is excluded as a corollary it can be stated that all other sectors / goods are intended to be included in GST. Exclusion of alcohol sector could mean that the companies manufacturing alcohol may not be in a position to avail credit of GST paid by them on their procurements.

2.1 Petroleum products and tobacco: Petroleum products and tobacco will continue to attract duty of excise. However, CAB specifically provides that the petroleum products may not attract GST, however, at a later stage, GST Council may decide to levy on petroleum products.

3 ROLE OF GST COUNCIL

The CAB is silent on the key aspects of GST such as -

- How the model GST law would be?
- Which taxes, cesses, surcharges will be subsumed in GST?
- Which goods and services are subject to or exempt from GST?
- What will be the rate of GST including floor rates?
- What will be the threshold limit of GST?

However, to address the aforesaid issues, CAB provides that ‗ GST Council' will be formulated. The GST Council will consist of Union Finance Minister, Union Minister of State and State Finance Minister. On the aforesaid issues, GST Council will have the power to make recommendations to Centre and States.

It may be recalled that earlier 115th CAB also provided for a Dispute Settlement Authority to settle disputes between States or between States and Centre with regard to GST. However, in this CAB the GST Council has been given the authority to determine the modalities to resolve disputes arising out of its recommendations.

3.1 Compensation to States

It may be noted that earlier 115th CAB did not provide for compensation to States. However, this CAB specifically provides that Parliament by law, on recommendation of GST Council, provide for compensation to the Sates for loss of revenue arising out of implementation of GST upto 5 years. By providing for compensation in the Constitution itself, the Centre seems to have addressed the concerns raised by the State regarding fear of loss of revenue.

3.2 Impact of GST on Operations

GST may provide opportunities but at the same time it could bring threats. Given this, an organisation may consider carrying out an exercise to identify how its operations will get impacted because of GST. For GST Impact Analysis exercise, the respective department heads such as finance, supply chain, product pricing, human resource etc should be involved to ensure that they provide their inputs and suggestions. Going one step forward, organisations can also identify possible cost savings which key suppliers / vendors could be entitled to in the proposed GST regime. Based on the possible cost savings to suppliers / vendors, the organisations can have discussion with its vendors for passing of benefits by way of cost reduction in the coming years (i.e. after GST is introduced). Early discussion and engaging with vendors for GST will ensure maximum possible benefit to be passed on to the organisation.

Organisations will also have to take into consideration the increase (most likely!) or decrease (least likely!) in tax compliances. For most of the organisations, in GST regime, compliances are expected to increase dramatically. Take example of a service tax assessee, who currently files 2 returns on an annual basis. Now, in GST regime, Service tax assessee could be required to file as many as 61 returns (5 returns per month plus 1 annual return)! Thus, the human resource department will have to be informed about the GST regime so that they can anticipate the increase (and decrease in certain cases) in the manpower.

3.3 Salient Features of the Proposed Indian GST System

- The power to make laws in respect of supplies in the course of inter-state trade or commerce will be vested only in the Union Government. States will have the right to levy GST on intra-state transactions, including on services.
- The Centre will levy IGST on inter-state supply of goods and services. Import of goods will be subject to basic customs duty and IGST.
- GST is defined as any tax on supply of goods and services other than on alcohol for human consumption.
- Central taxes such as Central Excise duty, Additional Excise duty, Service tax, Additional Custom duty and Special Additional duty as well as state-level taxes such as VAT or sales tax, Central Sales tax, Entertainment tax, Entry tax, Purchase tax, Luxury tax and Octroi will subsume in GST.
- Petroleum and petroleum products, i.e., crude, high speed diesel, motor spirit, aviation turbine fuel and natural gas, shall be subject to GST - date to be notified by the GST Council.
- Provision will be made for removing imposition of entry tax /Octroi across India.
- Entertainment tax,, imposed by states on movie, theatre, etc., will be subsumed in GST, but taxes on entertainment at panchayat, municipality or district level will continue.
- GST may be levied on the sale of newspapers and advertisements. This would mean substantial incremental revenues for the Government.
- Stamp duties, typically imposed on legal agreements by states, will continue to be levied.
- Administration of GST will be the responsibility of the GST Council, which will be the apex policy making body for GST. Members of GST Council comprise Central and State ministers in charge of the finance portfolio.

4. OBJECTIVES OF THE STUDY

The objective of the research paper is to find out the meaning of new indirect tax GST and find out the reasons for which this new tax is introduced. What are the effects and impacts of GST on public life in India? And to find out the answer the questions what type of challenges will be faced after the implementation of GST in the India.

5. METHODOLOGY OF THE STUDY

The research methods used for the completion of the paper were the content analysis and comparative analysis. These methods will include through investigation of the experience in this field through the suggested materials and materials from journals, news-papers and internet.

5.1 Merits of GST

GST has been envisaged as an efficient tax system, neutral in its application and distributionally attractive. The advantages of GST are:

- There will be a wider tax base, tax rates will be lower and eliminating classification disputes.
- Elimination of multiplicity of taxes and their cascading effects will be abolished.
- On the implementation of GST, Rationalization of tax structure and simplification of compliance procedures will appear.
- Harmonization of centers and state tax administrations, which would reduce duplication and compliance costs
- There will be automation of compliance procedures to reduce errors which will increase efficiency in administration.

5.2 Demerits of GST

- Small companies with turnover less than 10 lacs, will not fall in the ambit of GST. So, these companies will continue to pay excise or value added tax. Hence, big companies will get benefit of deductions paid as taxes by their small suppliers.
- The key beneficiaries will be big companies from the organised sector, as their overall tax liability will reduce. However, the small players, mostly from the unorganised sector will perhaps be affected adversely. In needs to be seen that unorganised sector in India constitutes 30% to 75% of the market size.
- Since, Unorganised sector will get adversely affected and lose its competitiveness, there is a fear of higher attrition rate of workers or layoffs by such small companies to cut cost.
- Since, small companies to remain profitable will have to boost sales to cross the 10 lacs threshold; there may be a short-term increase of prices of products.
- Once GST kick-starts, taxation on all goods and services will be equitable, i.e. tax for having dinner at a 5 star hotel and ordinary hotel will be the same; another example, tax on a luxury car and a non-luxury car will be similar.
- This would mean that the rich who buy luxury goods may pay less tax due to reduced taxation and the poor, apparently more than they should.
- The GST may be fundamentally considered as anti-federal, as the States will be unable to increase or reduce taxation, as hither-to-fore to suit the socio-political specific requirements during certain special and unforeseen circumstances.

6. IMPACT OF GST ON IMPLICATIONS

1. **Price Reduction**: Unification of different indirect taxes under GST will give boost to the existing tax-credit system, which will drive tax efficiency for manufacturers, wholesalers and also for consumers of goods. This will decrease the overall cost incurred by manufacturing sector which will reflect in various inflation indices in long-term. GST could have a negative

impact on service sector, which contributes over 50% of Indian GDP. The existing Service Tax of 15% would surge to Goods and Service Tax rate which is anticipated at 18-20%. But at the same time, in current tax framework service sector is unable to enjoy tax-credit on VAT and Sales Tax, which is likely to change in favor of service providers after GST implementation. However, this might be lost if the GST rate is higher than anticipated.

2. **Less Compliance and Procedural Cost:** The cost of collecting various taxes, maintaining big records and their respective reports by the government bodies would see a definite decrease as these taxes would come under one big umbrella of GST.
3. **Pricing and Profitability:** The resultant tax expenditure after GST bill being passed would have a direct impact on pricing and profitability of different goods and services which will vary across different sectors. Given that Margin and Price Bands would also be re-examined, decline in prices is probable, which will have direct impact on consumer demand.
4. **Government Revenue:** Despite the expected change in pricing, the government is expected to set GST @ revenue neutral rate, so there might be no significant change in Government Revenue.
5. **Cash Flow:** Goods and Service Tax is set to boost cash flows through the removal of concept of excise duty. Being a consumption-based tax, GST would now be collected at the time of sale/supply over current tax predicament of tax being collected at the production/removal of goods.
6. **Redress Location Bias:** This would enable uniformity through states and would not let investors discriminate states on basis of tax advantage. The only thing that would drive investor's capital will be profitability, cash flows, and performances promoting smaller businesses and entrepreneurship without location bias.
7. **Uniform Per Capita Taxation:** As mentioned above, Goods and Service Tax being destination-based consumption tax would allow poverty stricken states like Bihar to increase its tax revenue. As GST would be paid to states where the consumption of goods takes place, the states' tax revenue would be driven by population (more the population, more the consumption) rather than number of businesses/industries. This would ultimately even out the tax per capita of each state.
8. **Fight Tax Evasion:** Another perk of being destination based system, Goods and Service Tax Framework would ideally reduce tax evasion by large extent and promote use of bills and invoices.

6.1 Impact of GST on Inflation Management and GDP

The GST with its uniform taxation structure can be one of the most important steps towards achieving the task of inflation management and GDP growth. The current indirect tax regime suffers from significant cascading which leads to higher cost of goods and services consumed in the country. There are also numerous examples where the tax payers or consumers have to pay both Centre and State taxes on a single sale which adds to increased tax costs for business and consumers. Such increase costs add to the inflationary pressure in the economy. In the GST regime, a free flow of credits across transactions decrease the tax cost for businesses. Given that both Centre and State taxes would be levied simultaneously on all supplies, the issue relating to dual taxation on certain products would also come to rest. The decrease in tax costs would boost the exports in the country. The reduction of costs in India would make our products more competitive in the international market thereby not only increasing the GDP of the country but also inflow of foreign currency. There are also estimates that GST can add 2% to GDP.

6.2 Impact of GST on Indian Economy

The benefits of GST will start to come in India in another three to four years. Till then the central government will compensate the state governments for any discrepancies in the tax collection. It is expected that in short run there will be a slightly high inflation which will be ironed out in long run. SME supply necessarily raw materials to the large scale industries to keep their wheels in motion and provide a huge employment to unemployed youth. Margin of profit of these industries will increase in long run due to asymmetric tax structure. Red tapism will be cut down by GST. Dual control of the centre and the state will be abolished.

6.3 Impact of GST on Real Estate of India

The implementation of GST can be a significant step in reforming indirect taxation in India. Chances of double taxation will be diminished, as some of the Central and State Government taxes will be amalgamated into one tax. This will ease the process of taxation considerably, making its enforcement and administration easier and simpler. In the current situation, a builder or a real estate developer incurs various kinds of expenses during the construction phase of a project. Different kinds of taxes are involved with these expenses, such as VAT/CST, customs duties, service tax, excise duty and so on. Majority of these taxes are expenses included in the system because they are not creditable to the developer or to the end customer. These non-creditable expenses lead to tax inefficiency. One positive impact that might result from GST is doing away of restrictions on credit utilization. This will definitely help in strengthening the credit chain in the entire system. If property developers and builders can properly manage this aspect, they will see some profit. The proposed GST structure is expected to have a progressive and streamlined approach. Tax compliance rules should not have any serious impact on real estate builders and developers. In present conditions, builders running projects in different states have to comply with State-specific VAT laws, as well as other kinds of service taxes. Bringing in GST will, therefore, not bring any additional compliance burden on real estate builders in the country.

6.4 Issues regarding GST which Affect Real Estate Builders

Real estate developers need to seek a few clarifications for GST taxation. For instance, the definition of a real estate developer varies from one state to another in India. The composition scheme varies as per the State, in which VAT rates vary between 1 – 5%. In some states, there are differences between real estate contractors and real estate developers. If the terms have different meanings, the industry needs to understand implications of GST.

There might be some confusion regarding GST implementations on residential property, as well. In the present scenario, there is no service tax applicable on renting immovable property, particularly for residential purposes. But service tax and VAT is implemented on construction work. The question arises whether the proposed GST will offer differential tax for residential properties?

As of now, it does not look like completed residential projects will be affected by GST, as buyers into completed projects have already paid statutory charges such as stamp duty and registration charges on the transaction. The segments to watch on the GST front are under-construction flats and rental flats, which are expected to come under the ambit of GST. GST will apply to the materials that a developer procures for building a residential project, so there is a direct correlation to overall cost of construction.

Much depends on what rate of GST will finally be confirmed. If it is more than the existing cumulative taxes currently in force, it means that the overall cost to consumers of buying an under-construction flat will increase along with the added cost of stamp duty and registration. At the same time, developers have to keep an eye on costing, as price competitiveness is very important in the current real estate market scenario.

6.5 Impact of GST on Consumers and Businesses

The several types of taxes that currently exist such as excise, octroi, sales tax, CENVAT, Service tax, turnover tax etc. would come under the GST umbrella. Since this would eliminate double taxation, it might result into fall of prices; thus relieving consumers. This is also because the GST provides tax credit at every stage of taxation from manufacturing to consumption. Currently, margin is added at every stage and tax is paid on the amount including margins. These taxes on profit and taxes on tax add to the cost of goods and services whose burden is to be borne by the final consumer. GST would provide a continuous chain of set- off from the producer's point to the retailer's point and would result in fall in prices. The chain of set offs would also result in better tax compliance of industry, trades and businessmen. For businesses, the GST would make life easy because of easier compliance (due to absence of multiple taxes) and easier return filing, tax payment and refund process due to robust IT infrastructure. This can be understood with an example easily, suppose you have a manufacturing unit in Mumbai for producing boxes, for which you have to pay excise duty to the Central Government and also need to file a separate tax return. The moment you supply your product to other retailers, you are liable to pay VAT and file its return. Also, the moment you expand to other markets, say Madhya Pradesh, you will be liable to pay Central Sales Tax because it involves multiple states.

The entire process involves multiple transactions and compliances, which will be removed, or I would say come down, to a much lower level after the introduction of GST. This will be a big help to all businesses - big or small - in bringing down their compliances.

6.6 Impact of GST on Make-in-India

The 'Make in India' campaign is proposes to make India a world-class manufacturing hub. The tax reforms through GST will play a crucial role to attract large scale investment. The impending Goods and Service Tax (GST) promises a progressive tax system which avoids tax cascades and helps establish India as a true common market. GST will reduce the cost of production and allows the hassle free supply of goods. This can increase the ease of doing business India

7. CHALLENGES IN IMPLEMENTATION

There will be some challenges on the implementation of GST in India which them we have to face. Some of them are given below:

1. **Change in Law and procedures:** It's a major indirect tax reform in the country. The entire indirect tax code will be a new set. Any comparison with the present laws will be inappropriate. Lot of time will be devoted in understanding new concepts and procedures.
2. **Change in Tax rates:** Standard rate of 12% for CENVAT, 14.5% for Service tax, residuary rate of VAT at 12.5 % brings overall rate to 28%. But post GST, tax rate is likely to be between 18-20%, gain of 8-10%. A detailed analysis is required to understand the impact of changes in tax rates.
3. **Change in Tax Credit system:** Currently, limited inter levy credits are allowed between excise duty and service tax. No cross credits are available across these taxes. When GST is introduced, it will facilitate seamless cross credit across the entire supply chain and across all states with a common tax base.
4. **Stock Transfers from one state to another:** Presently, it is free of tax against Form F. But under GST, it will be taxable even though the stock is transferred to one's branch or consignment agent in another state.
5. **Stock Transfers to branches/consignment agents within the state:** Presently, treatment varies from state to state. But under GST, exemption will be given only when BIN of transferor and transferee is the same. For example, when a dealer of ABC is transferring goods from Branch1 to Branch4 in Rajasthan having same Business Identification Number (BIN), no GST is required to be paid.
6. **Sale/Service:** Presently, there are a number of cases where double taxation is in force. The most common example is transfer of intangible goods where VAT and Service tax both are levied, thus, causing double taxation. Under GST, since there is no distinction between sale and service as far as levy of GST is concerned. Only one tax will be levied. So the issue will no more be there.
7. **Based on HSN:** When GST will be based on HSN, then interpretational issues will be reduced in respect of class of commodities.
8. **Software Upgradation:** Continuous Upgradation of software is a big challenge for the software companies as well. Dealers and service providers will have to upgrade their respective accounting and tax software.
9. **Training:** Not only staff of the business world, but marketing personnel and common man need to be made aware of the basic working of GST for successful implementation.
10. **Professionals:** Single consultant will be required in place of different consultants for Excise Duty, Service Tax and VAT. No more hassles in running across various departments of tax. Only one common tax code will prevail.

8. Conclusion

The current GST is an improvement over the current scenario but it is not perfect. We still won't see a 100% free flow of credits due to the Dual-GST structure. Further, all goods need to be brought under GST, to reap full benefits, and one expects that after GST rolls out and stabilises, states will agree to bring in goods like Alcohol and Petrol. At the end, we must realise that although GST is a huge reform, the current version is an incremental reform, which shows us the path to the ultimate destination of having a perfect GST. It is hard to say whether Indian can achieve a perfect GST, given the inherent complexities of our structure, but going forward we must hope that we move closer and closer to the target.

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