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GST: AN OUT LOOK

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Abstract:

India is on the brink of a 'Game Changer' reform, most awaited and needed by its financial and economic sector. Widely hailed as the dawn of a new era by the elite of the business world, Goods and Services Tax (GST) is set to be implemented from the 1st July, 2017. Despite the continuing resistance of States, based on their fears of revenue loss, the Centre is making all-out efforts to make it a reality. GST shall be implemented in three tiers as CGST, IGST and SGST or UTGST, thereby segregating the tax revenue between the Centre and States clearly. As the most significant event in the fiscal history of the nation, GST is expected to usher in an efficient and effective tax system. Abolition of double taxation, transparency in administration and strengthened monitoring which will entail this new system, is expected to go a long way in curbing tax evasion. Yet, despite the exemplary benefits that GST is sure to provide, there are several pitfalls and challenges that are to be overcome. It will affect every industry, irrespective of the sector, and have impact on the entire value chain of operations. Hence, it is imperative that the shortcomings and lacunae be carefully pondered on, and resolved. This research paper highlights the same, emphasizing every aspect of Goods and Services Tax (GST), which is set to revolutionize the current archaic tax structure of India.

Introduction:

A tax trigger to simplify the current complex structure of multiple indirect taxes is to become a reality soon. Aiming to eradicate the cascading effect i.e. double taxation, the Finance Ministry is laying down a clear road map to implement a comprehensive Goods and Services Tax Model. The Government seems on course to fast track the entire process to achieve GST implementation effective from 1st July, 2017.

However, the procedure of introducing GST has not been an easy one. Although the tax was first suggested in 2003 by the Kelkar Task Force, lack of consensus between Centre and State, and few other practical difficulties caused a delay of 14 years in its implementation. Even now as India is on the cusp of one of the most crucial taxation reforms, States continue to protest it, fearing a loss in revenue. Yet, undeterred by the resistance, the Central Government is set to make Goods and Services Tax a reality.

GST is set to replace the numerous taxes levied by the Center and the State Governments. It is expected to be a destination based tax that would subsume duties and taxes such as Central Excise Duty, Central Sales Tax, VAT, Food Tax, Central Entertainment Tax, Commercial Tax, Octroi, Purchase Tax, Luxury Tax, Advertisement Tax, Taxes applicable on lotteries etc. It would be a dual levy with State/ Union Territory GST and Central GST. Furthermore, inter-state supplies would attract an Integrated GST which would be the sum total of CGST and SGST.

As a major step towards reformation of Indirect Tax system in India, it is not only expected to mitigate double taxation, but also to defoliate a common national market. Needless to say, GST is going to be the most significant step in the fiscal history of the nation.

Components of Taxation in GST:

i) **Integrated Goods and Services Tax (IGST) :**

IGST shall be levied by the Central Government on inter-state supply of goods & services.

ii) **Central Goods and Services Tax (CGST) :**

CGST shall be levied by the Central Government on intra-state supply of goods and services.

iii) **State Goods and Services Tax (SGST) –**

SGST shall be levied by the State Governments on intra-state supply of goods and services

Purpose:

The new tax system is felt to be the turning point in the fiscal federalism in India. GST will free the nation from the shackles of archaic taw laws and usher in a new era of growth and prosperity. The currents tax structure of India harbours many lacunae which result in substantial double taxation and inefficient production and consumption structure, thus hindering the economic growth significantly.

GST will bring in a modern tax system to ensure effective and efficient tax administration. It will facilitate compliance for parties that are willing to pay taxes and will also ensure strict enforcements for those who are not. Most importantly, GST signifies the dawn of cooperative federalism, where the Centre and States will design the new tax in a harmonized and cooperative manner, rather than working on it in an isolated manner.

Salient features of GST model:

Salient features of the proposed model are as follows:

1. Aligned with the federal structure of the Indian government, GST model is proposed to be a dual structure (like in Canada) to be levied and collected by the Union government [referred to as Central GST (CGST)] and respective State governments [referred to as State GST (SGST)]. This dual GST model would be implemented and governed by one CGST/IGST statute applicable across the country, SGST statutes for each State, common rules determining valuation, place of supply, place of origin etc. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and the basic principles of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification, etc. shall be uniform across State statutes.
2. CGST and SGST would be comprehensively applicable to all goods and services upto the final consumer (retail level), reflecting the tax base of a typical consumption VAT. Thus,

CGST and SGST would be applicable to all transactions involving supply of goods and services made for a consideration (except alcoholic liquor for human consumption) and the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits. Based on recommendations of both the 13th Finance Commission and Empowered Committee, GST on following products shall be levied from a date to be notified by the GST Council:

a. Petroleum Crude
b. High Speed Diesel
c. Motor Spirit (commonly known as Petrol)
d. Natural Gas
e. Aviation Turbine Fuel

3. GST is to be structured on the destination principle so that the tax base shifts from production to consumption whereby imports will be liable to tax and exports will be relieved of the burden of GST. Consequently, revenues will accrue to the State in which the consumption takes place or is deemed to take place.
4. Taxes paid on input goods/services against CGST shall be allowed to be utilized as input tax credit (ITC) against output tax liabilities under CGST. The same principle applies to SGST. Cross utilization of input tax credit between the Central GST and the State GST would not be allowed except in case of inter-state supply of goods and services. Therefore, a taxpayer or exporter shall be required to maintain separate details in books of account for utilization or refund of credit.
5. In order to maintain uninterrupted credit chain, CST would be phased out in case of inter-state transactions of taxable goods. On such transactions, Centre would levy Integrated GST (referred to as IGST which would be CGST plus SGST) with appropriate provision for consignment or stock transfer of goods and services. The inter-state seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The relevant information will also be submitted to the Central Agency which will

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act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

6. An uniform threshold across all States and Union territories is being considered with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime.

Impact of GST in India:

- As part of GST implementation, service tax is expected to go up from the current levels of 14.5 per cent, which will be negative for service companies in airlines, telecom, insurance, etc., in terms of demand impact.

  An important fallout of GST could be shift from unorganized to organized segment. The unorganized sector will come into the tax net and will lose the benefits arising from non-payment of taxes and levies. Thus, companies which are operating in sectors with high unorganized component will benefit in terms of increased demand. Companies in sectors like plywood, ceramic tiles, batteries, etc. will stand to benefit.

- The sectors which have long value chain from basic goods to final consumption stage with operations spread in multiple states such as FMCG, pharmaceuticals, consumer durables, etc should benefit. FMCG companies could generate substantial savings in logistics and distribution costs as the need for multiple sales depots will be eliminated. FMCG companies pay nearly 24-25 per cent including excise duty, VAT and entry tax and a lower rate of 18 per cent could yield significant reduction in taxes. But a higher GST rate of 28 per cent for consumer durables and some FMCG products may disappoint the market. Warehouse rationalization and reduction of overall tax rates, is expected to generate savings.
- Some automobile companies could gain from GST implementation if the GST rate on their products is 18 per cent and they are able to retain the benefits of lower rates. However, the higher rate of 28 per cent would be negative versus expectations.
- Services sector, like telecom could face marginally negative impact from the higher service tax rate of 18 per cent (likely) versus 15 per cent currently.

- However macro benefits emanating from implementing GST far outreach the negatives, it is also a significant change communicating to the world at large that we are focused on one path for economic progress.

Advantages of GST:

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

1. Wider tax base, necessary for lowering the tax rates and eliminating classification disputes.
2. Elimination of multiplicity of taxes and their cascading effect.
3. Rationalization of tax structure and simplification of compliance procedure.
4. Harmonization of Central and State Tax administrations, which would reduce duplication and compliance cost.
5. Automation of compliance procedures to reduce errors and increase efficiency.
6. GST will provide comprehensive and wider coverage of input credit set-off, enabling the use of service tax credit for the payment of tax on sale of goods etc.
7. By reducing the tax burden the competitiveness of Indian products in international market is expected to increase, and thereby development of the nation.

Challenges For Implementation of GST:

GST is meant to simplify the Indian indirect tax regime by replacing a host of taxes by a single unified tax, thereby subsuming central excise, service tax, VAT, entry tax, etc. However, there is a plethora of challenges before the government for its successful implementation. Some of these are highlighted below:

1. Multiple tax rates:

When the GST was conceived it was supposed to be a single uniform rate across all product categories, but the shape that the GST has taken is far removed from the actual concept of one country-one tax. What instead we have got is a multi-tiered tax structure with

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4 different tax rates -5, 12, 18 and 28 per cent. Besides, there would be exempted and zero-rated goods, which means there would be at least six different categories of products under GST.

2. **Fear of high tax rates:**

One of the earlier expectations from GST was moderate tax rates on goods and services. However, with a peak rate of 28 per cent and a cess of 15 per cent over and above the peak rate for demerit goods, have dashed all the hopes of a moderate tax regime at least in the near future.

The 15 per cent cess would be levied at least for the first five years during which the central government would compensate the states for any revenue loss due to implementation of GST. The proposed higher rates have already made the industry a little jittery.

"It is important for the Government to ensure that 18 per cent is a general rate and exceptions, particularly those falling under 28 per cent category are minimized," says Pratik Jain, Partner and National Leader - Indirect Tax at PwC India.

3. **Anti-profiteering measures:**

The government is planning to set up an authority to see if any reduction in tax rates after GST is passed on to the consumer by companies or not. The industry and businesses are not taking this idea kindly and they see it as a backdoor entry of inspector raj. Experts say that prices should be market determined and no government authority has the business of deciding prices for goods and services.

4. **Taxation of free supplies between related parties:**

The GST law proposes to tax any free supplies between two related parties. The problem arises especially in case of related parties located in different states. Such transactions between related parties in different states mean each party would have to generate invoice, maintain documents, etc. There is no centralized registration under GST and therefore, this would create compliance issue for companies.

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"The bigger issue in this is valuation. If stage one of a good is manufactured in Delhi, stage two in Noida and stage three in Faridabad, how would a company value the goods at different stages. The GST law does not give a formula for valuation and this could create dispute between manufacturer of goods and services and the tax department," says Rajat Mohan, director, indirect taxation, Nangia and Co.

5. **<u>Controls conundrum</u>:**

To avoid dual control, the GST council has reached a compromised formula -90 per cent of tax assessees with an annual turnover of Rs 1.5 crore or less, will be assessed by states and the rest by the Centre. For those with turnover of over Rs 1.5 crore, the states and the Centre will share it equally.

However, this 'solution' has its own set of issues. For example, if an entity with a turnover of less than Rs 1.5 crore in one year, posts turnover of Rs 1.5 crore in the following financial year, who would be the new authority to take over the assessment? And, how will the existing investigations, if any, against the entity be addressed, and by whom?

6. **<u>Issue of casual taxable person</u>:**

If a person registered in one state moves to another state for a short period for some business transaction- say to participate in a fair or exhibition, then that person would have to get himself registered in that state for that period.

The GST law says in case of casual taxable person, he/she would have to pay taxes in advance by making an estimate of the sales. This is another bone of contention as the sales can be lower than the estimate, and the person may be paying higher advance taxes. Though the higher taxes paid would be refunded, it would take time in many cases and may create working capital issues for such businesses.

<u>Conclusion</u>:

GST will be a turning point in the fiscal federalism in India. Understandably, State governments are concerned about how the new GST model will unfold. Their resistance to GST is reflected in their demand for exclusions or continuation of certain taxes to compensate them for hypothetical loses. Therefore, the success of GST critically depends on the trust between the Centre and State governments.

Despite all the misgivings of States, the Centre has made considerable progress in building a consensus on GST framework, as reflected in the Constitution (Amendment) Bill tabled in the Parliament. While the proposed framework falls short of the ideal, it retains its character of a significant turning point in the history of taxation in India. If implemented properly, even within the constraints of the Constitution, it can bring about tremendous stimulus, simplify compliances and contribute to the Prime Minister's mission of "Make in India". GST would also bring in a modern tax system to ensure efficient and effective tax administration. The new system would facilitate compliance for parties that are willing to pay taxes and ensure strict enforcement for others that are not. It will bring in greater transparency and strengthen monitoring, thus making tax evasion difficult.

It is the truth that there are many significant challenges for the implementation of GST, which are essential to overcome for achieving desired goals. Yet, despite them, surprisingly, the proposal to introduce GST received unanimous endorsement by all stakeholders including industry, business community, professionals and even consumers. However, their endorsement is not for a half-baked GST but for a truly flawless model that applies to the widest possible base at low rate. It would indeed be noteworthy to see, how this monumental change alters the Indian economy.

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