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TITLE: GST LAW: AN EXECUTIVE SUMMARY

1. At present we have a tax regime for Goods and Services with the following complexities:-

i. The taxing event for taxes levied by Centre and taxes levied by States are different, for example taxing event for Excise is manufacture, whereas taxing event for VAT is sale.

ii. The value on which these taxes are levied is also different.

iii. There is a barrier for Inter-State Trade in the form of CST which is non Creditable.

iv. The VAT laws of different states and the requirement of various forms for movement of goods under these laws is also different.

v. A person doing business all over India needs to understand the laws of Centre and the laws of different states.

vi. Taxpayer has to deal with multiple departments which increases cost of compliance for tax payer.

vii. Cost of collection and administration of justice is also higher for government agencies on account of multiplicity of agencies/tribunals and multiple laws.

2. All these taxes whether levied by the Centre or the states are ultimately loaded on the product and recovered from the ultimate consumer. Taxes levied by states are retained by the states completely whereas taxes levied and collected by the Centre are again shared between the Centre and the states as per the Finance Commission Report. The burden of all these taxes is passed on to ultimate consumer consuming the goods and services.
3. All these complexities can be addressed by introducing an Ideal GST which will be a single tax collected by a single agency on the single concept of Supply and post collection it can be shared between the Centre and the states or even local bodies. Further if it is going to be a single GST, it has to be a tax levied and collected by the Centre. However on account of Federal characteristics of India, single GST cannot be introduced as taxing powers of states cannot be taken away completely.
4. Therefore India is geared up to introduce a dual GST on a common taxing event of supply by central as well as state government. The Basic framework of the proposed GST is as under:-
    i. For supplies within the state, that is intra-state supply there shall be a CGST levied and collected by the Centre and an SGST levied and collected by the state. The taxing event for CGST & SGST, valuation provisions, persons liable to pay, point of collection etc is going to be the same. Therefore if there is a liability of CGST for a particular transaction, definitely there will be a liability of SGST as well and vice-versa. This is going to be achieved by enacting identically worded CGST Act to be passed by the Union Parliament and SGST Act to be passed by the State Legislatures of all the states. This is becoming possible because through Constitutional Amendment a GST

Council has been created which will recommend the draft law for passing by Union Parliament as well as State Legislatures.

ii. For Inter-state sales a tax known as IGST which shall be equal to the sum total of CGST & SGST shall be levied by the Central Government where again the taxing event, valuation provisions, persons liable to pay, point of collection etc will be the same as that of CGST/SGST collection.

iii. All the major decisions regarding levy shall be taken by GST Council comprising of representative of Centre and states. The rate applicable, exemptions, threshold limit for exemption, principle of levying special rates for any specified period or any specified area, etc has to come from the GST Council and thus whatever it recommends, that will be uniform throughout India. States are not getting liberty to decide these issues unilaterally.

iv. The GST council will have one-third of votes of the Central Government and two-third for states and every decision of the council must be approved by not less than three-fourth of the weighted votes of the members present and voting.

v. The rate of duty on a Particular Commodity and the law applicable for any kind of Business Model shall be the same throughout India, because effectively states are not getting freedom to change the law unilaterally.

vi. The GST is going to be rolled out through an IT enabled platform being developed by GSTN, a non-profit company incorporated for this purpose. The invoice level transactions are going to be integrated with GSTN module & filing of return and payment of taxes has to be online. The claiming of credit on input supplies for the purpose of making output supplies are also going to be based on GSTN module where, the moment an invoice is reflected in the output supply return of a particular assessee, it will auto populate the credit records of his buyer.

vii. Following taxes are going to be merged in the proposed GST:-

- Central Excise duty & Service Tax
- CST, State VAT & Entry Tax
- Luxury Tax, Entertainment and Amusement Tax (except when levied by the local bodies), Taxes on advertisements
- Purchase Tax, Taxes on lotteries, betting and gambling

viii. The following taxes shall however continue to operate independent of GST and are not getting merged:-

- Basic Customs Duty,
- The Additional duty of Customs (popularly known as CVD) and SAD shall be replaced by Additional duty of Customs equivalent to IGST.
- Anti Dumping Duty/Safeguards Duty/Countervailing Duty (Anti subsidy Duty)
- Though tobacco as a commodity is getting covered in GST, the Central Excise duty on tobacco is being retained, because this being a sin good, the Government wants to generate extra revenue.
- For a temporary period, the Central Excise duty and VAT on the petroleum products are being kept out of GST.
- State Excise and VAT on alcoholic beverages for human consumption are being kept out on a permanent basis.

ix. All the taxes whether it is CGST/SGST or IGST suffered on input supplies for the purposes of making output supplies are **creditable** and thus the barriers for inter-state trade shall be removed. The requirements of having a depot in many states for the purposes of avoiding CST at present will not be required under the GST law. Since all the supplies whether by way of sale or simple transfer are becoming taxable, the requirement of multiple forms under the current VAT laws shall not be there. The liability to pay tax in general shall be on a supplier of Goods and Services, however in few cases it shall be on the recipient as well on the concept of Reverse Charge mechanism.

x. This is going to be a **destination/consumption based tax** meaning thereby that SGST(as well as SGST portion of IGST in the case of interstate supplies) will ultimately go to the exchequer of the state where the Goods & Services are ultimately consumed and from where no further credit is passed onto anybody else. This will be ensured through an IT enabled technology and the assessee paying the tax may not worry about it. This is the reason that populous states like Bihar are very happy, who are basically consumer states and producer states like Maharashtra and Gujarat have raised apprehension of loss of revenue because they would not be getting any revenue similar to the current CST being retained by the producer states.

xi. All the officers of the Central Excise and Service tax department shall become officers of CGST/IGST and all officers of the state VAT department would become officers of SGST.

xii. The threshold limit for liability under GST laws for mainland states is contemplated at Rs 20 lakhs worth of supplies per year and for hill states it is being contemplated at Rs 10 Lakhs per annum.

xiii. Though there is an apprehension of revenue loss by the producer states, in my opinion there will be no loss to revenue, in fact revenue will go up in view of the following:-

a) Centre is going to get CGST on retail sale value of goods in contrast to Central Excise duties being collected at factory gate value. Thus there would be huge value expansion for the centre when it comes to taxation of goods.

b) The threshold limit of Rs 20 Lakhs/10 Lakhs would enable the Centre to collect taxes from altogether new assesses who were not in the tax net on account of Rs 1.5 crores exemption limit under Central Excise.

c) States would also start taxing services which they were not taxing at present.

d) There will be more tax collection because compliance will become better, because the dependency of tax on IT platform will reduce evasion.

xiv. Under the Act, a cap of 14% for CGST and 14% for SGST and consequently 28% for IGST is being proposed.

xv. Two standard rates of 12% and 18% are being discussed where 12% shall be applicable to inputs and 18% for Consumer goods. A higher rate of 26% shall be applicable to luxury goods, lower rate of 4% may apply to precious metals and a general entry rate of 6% may apply to items of daily necessities. Most of the Services will be taxed at 18% but those with abatement (like restaurant or GTA type) in the current regime may face a levy of 12%.

xvi. All the taxes are creditable and they can be used as per the following table:-

Type of Credit	First Preference for use	Second Preference for use	Third Preference for use	Comments
IGST	IGST	CGST	SGST	IGST can be used for payment of any of the taxes.
CGST	CGST	IGST	-	Credit Pertaining to CGST cannot be used for payment of SGST
SGST	SGST	IGST	-	Credit pertaining to SGST cannot be used for payment of CGST

xvii. Export out of the country shall be zero rated with full credit facility on inputs/input services & if some credit can’t be used on account of zero rated exports or on account of supplies to SEZ or on account of inverted rate of duty structure where duty rate on input is higher than duty arte on output) that can be refunded in cash.

xviii. E commerce operators such as Make My Trip, Flipkart and Amazon etc. are being made responsible to collect tax at source and to deposit in Govt account on behalf of vendors supplying Goods & Services using their portal.

xix. There is a limited composition scheme available to the Assesses with a turnover of less than 50 lakhs making supply of taxable goods within the state without the facility of Input Credit. Further taxes paid under the Composition scheme shall not be available for credit by the Recipient. The composition scheme is not available to the Assesses making supply of services or making interstate supplies of goods.

xx. The assessee does not have to go and file any document or return with the respective Tax departments, rather it is going to be online and a single composite return generated by the system will serve the purpose. Various

Govt. authorities having access to the system shall be able to look at the information relevant to them.

xxi. A Business entity making supplies from different states needs to be registered for all those locations. However for multiple locations within the same state there can be a single registration.

xxii. For supply escaping levy of tax, the SCN as well as the adjudication must be completed within three years from the relevant date in normal circumstances and within five years in cases in involving suppression of facts.

xxiii. In Normal cases maximum penalty is 10% of the tax involved, however if it is paid at anytime upto 30 days from the date of issuance of the SCN, then it shall be nil. In cases involving extended period of five years, if it is paid before issuance of SCN the penalty would be 15% of the tax, if it is paid within 30 days of the receipt of the SCN it would be 25% of the tax and if it is paid within 30 days of the communication of the Adjudication order it is 50% of the tax to be paid else it is 100% of the tax involved.

xxiv. Tax collected from the buyer but not deposited with the Government would attract a penalty of 100%.

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