GST – CONCEPT & STATUS

Introduction

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would instantly spur economic growth. Last but not the least, this tax, because of its transparent character, would be easier to administer.

Genesis

2. The idea of moving towards the GST was first mooted by the then Union Finance Minister Shri P. Chidambaram in his Budget for 2006-07. Initially, it was proposed that GST would be introduced by 1st April, 2010. The Empowered Committee of State Finance Ministers (EC) which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, the EC released its First Discussion Paper (FDP) on the GST in November, 2009. This spells out the features of the proposed GST and has formed the basis for discussion between the Centre and the States so far.

Salient Features of GST

3. The salient features of GST are as under:

(i) GST would be applicable on supply of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on provision of services.

(ii) GST would be a destination based tax as against the present concept of origin based tax.

(iii) It would be a dual GST with the Centre and the States simultaneously levying it on a common base. The GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States would be called State GST (SGST).

(iv) An Integrated GST (IGST) would be levied on inter-State supply (including stock transfers) of goods or services. This would be collected by the Centre so that the credit chain is not disrupted.

(v) Import of goods or services would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties.

(vi) For an initial period of two years or as further extended on the recommendation of the GST Council, a non-vatable Additional Tax not exceeding 1% on inter-State supply of goods would be levied and collected by the Centre and assigned to the originating State.

(vii) CGST, SGST & IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GST Council.

(viii) GST would replace the following taxes currently levied and collected by the Centre:

a) Central Excise duty
b) Duties of Excise (Medicinal and Toilet Preparations)
c) Additional Duties of Excise (Goods of Special Importance)
d) Additional Duties of Excise (Textiles and Textile Products)
e) Additional Duties of Customs (commonly known as CVD)
f) Special Additional Duty of Customs (SAD)
g) Service Tax
h) Cesses and surcharges insofar as far as they relate to supply of goods or services

(ix) State taxes that would be subsumed within the GST are:

a) State VAT
b) Central Sales Tax
c) Purchase Tax
d) Luxury Tax
e) Entry Tax (All forms)
f) Entertainment Tax (not levied by the local bodies)
g) Taxes on advertisements
h) Taxes on lotteries, betting and gambling
i) State cesses and surcharges insofar as far as they relate to supply of goods or services

(x) GST would apply to all goods and services except Alcohol for human consumption.

(xi) GST on petroleum products would be applicable from a date to be recommended by the Goods & Services Tax Council.

(xii) Tobacco and tobacco products would be subject to GST. In addition, the Centre could continue to levy Central Excise duty.

(xiii) A common threshold exemption would apply to both CGST and SGST. Taxpayers with a turnover below it would be exempt from GST. A compounding option (i.e.to pay tax at a flat rate without credits) would be available to small taxpayers below a certain threshold. The threshold exemption and compounding provision would be optional.

(xiv) The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as far as possible.

(xv) Exports would be zero-rated.

(xvi) Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST paid on inputs may be used only for paying SGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilised, except in specified circumstances of inter-State supplies, for payment of IGST. The credit would be permitted to be utilised in the following manner:

a) ITC of CGST allowed for payment of CGST;
b) ITC of SGST allowed for payment of SGST;
c) ITC of CGST allowed for payment of CGST & IGST in that order;
d) ITC of SGST allowed for payment of SGST & IGST in that order;
e) ITC of IGST allowed for payment of IGST, CGST & SGST in that order.

(xvii) ITC of Additional Tax would not be permitted.

(xviii) Accounts would be settled periodically between the Centre and the State to ensure that the SGST used for payment of IGST is transferred by the Centre to the Destination State where the goods or services are eventually consumed. Similarly the IGST used for payment of SGST would be transferred by the originating State to the Centre.

(xix) The laws, regulations and procedures for levy and collection of CGST and SGST would be harmonized to the extent possible.

GST and Centre-State Financial Relations

4. Currently, fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods

(except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax. Since the States are not empowered to levy any tax on the sale or purchase of goods in the course of their importation into or exportation from India, the Centre levies and collects this tax as additional duties of customs, which is in addition to the Basic Customs Duty. This additional duty of customs counterbalances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of the GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

4.1 The assignment of concurrent jurisdiction to the Centre and the States for the levy of GST would require a unique institutional mechanism that would ensure that decisions about the structure, design and operation of GST are taken jointly by the two. For it to be effective, such a mechanism also needs to have Constitutional force.

Constitution (One Hundred and Twenty Second) Amendment Bill, 2014

5. To address all these and other issues, the Constitution (115^{th} Amendment) Bill was introduced in the Lok Sabha on 22.03.2011. The said Bill lapsed with the dissolution of the 15^{th} Lok Sabha. The Constitution (122^{nd} Amendment) Bill has now been introduced in the 16^{th} Lok Sabha on 19.12.2014. The Bill provides for a levy of GST on supply of all goods or services except for the specified goods. The tax shall be levied as Dual GST separately by the Union (CGST) and the States (SGST). The Parliament would have exclusive power to levy GST (IGST) on inter-State trade or commerce (including imports) in goods or services. The Central Government will have the power to levy excise duty in addition to the GST on tobacco and tobacco products. As a temporary measure, for two years (or for such further period as recommended by the GST Council), a non-vatable additional tax not exceeding 1% on inter-State supply of goods would be levied and collected by the Centre and assigned to the originating State.

5.1 A GST Council (GSTC) would be constituted comprising the Union Finance Minister, the Minister of State (Revenue) and the State Finance Ministers to recommend on the GST rate, exemption and thresholds, taxes to be subsumed and other features. This mechanism would ensure some degree of harmonization on different aspects of GST between the Centre and the States as well as among States.

5.2 The Constitution Amendment Bill needs to be passed by a two-third majority in both Houses of Parliament and subsequent ratification by at least half of the State Legislatures. The Bill has been passed by the Lok Sabha on 06.05.2015. The Bill has, however, been referred to the Select Committee (of 21 members led by Sh. Bhupendra Yadav, Hon'ble MP) of Rajya Sabha on 12.05.2015. The Select Committee has been requested to submit its report on the last day of the first week of the Monsoon session of the Parliament. After passage of the Bill by both Houses of Parliament, ratification by State legislatures and receipt of assent by the President, the process of enactment would be complete.

Other Legislative Requirements

6. Suitable legislation for the levy of GST (Central GST Bill and State GST Bills) drawing powers from the Constitution can be introduced in Parliament or the State Legislatures only after the enactment of the Constitution Amendment Bill and on the recommendation by the GSTC. Unlike the Constitutional Amendment, the GST Bills would need to be passed by a simple majority. Obviously, the levy of the tax can commence only after the GST Law has been enacted by the respective legislatures. Also, unlike the State VAT, the date of commencement of this levy would have to be synchronized across the Centre and the States. This is because the IGST model cannot function unless the Centre and all the States participate simultaneously.

Recent Developments on the GST

7. Five Committees have been constituted by the Empowered Committee of State Finance Ministers (EC) to deal with the various aspects of work relating to the introduction of GST. The Committees are:

(i) The Committee on the Problem of Dual Control, Threshold and Exemptions in GST Regime;

(ii) The Committee on Revenue Neutral Rates for State GST & Central GST and Place of Supply Rules (A Sub-Committee has been constituted to examine issues relating to the Place of Supply Rules);

(iii) The Committee on IGST & GST on Imports (A Sub- Committee has been set up to examine issues pertaining to IGST model);

(iv) The Committee to examine Business Processes under GST Regime (Three Sub-Committees have been constituted to examine issues pertaining to Registration & Returns, Refunds and Payments);

(v) The Committee to draft model GST Law (Three Sub-Committees have been constituted to draft various aspects of the model law);

7.1 The first four Committees have submitted their final reports which are under consideration of the Empowered Committee / Government of India.

7.2 CBEC officials, as members of these Committees / Sub-committees, are playing a significant role in the work relating to design and contours of the proposed GST regime.

7.3 The meetings of the Empowered Committee are attended by the Nodal Member of the CBEC and other officials.

7.4 A GST Cell headed by a Commissioner level officer has been created within CBEC which functions in close coordination with TRU. Three Groups have been constituted by CBEC to work on various aspects of the GST.

Role of CBEC

8. The CBEC is playing an active role in the deliberations in the various Committees constituted by the Empowered Committee. It is expected to play an equally important role in the drafting of GST law and procedures, particularly the CGST and IGST law, which will be exclusive domain of the Centre. This apart, the CBEC would need to prepare, in advance, for meeting the implementation challenges, which are quite formidable. The number of taxpayers is likely to go up significantly. The existing IT infrastructure of CBEC would need to be suitably scaled up to handle such large volumes. Based on the legal provisions and procedure for GST, the content of work-flow software such as ACES (Automated Central Excise & Service Tax) would require review. DG Systems has recently constituted a Steering Committee Steering Committee for implementation of GST System for CBEC. Augmentation in human resources would be necessary to handle such large number of taxpayers scattered across the length and breadth of the country. Capacity building, particularly in the field of Accountancy and Information Technology, for the departmental officers have to be taken up in a big way.

9. The GST law is still evolving and the dialogue continues between the Centre and the States on related issues. A number of procedural, legal and

administrative issues relating to GST are under active discussions in various Committees / Sub-committees constituted by the EC and in various Groups constituted by the CBEC.

(This Note is for creating general awareness about the GST among the officers and staff of CBEC)

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