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Gst In India: Concept And The Salient Features

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INTRODUCTION

In 2016-17, the finances of states were budgeted to improve at the consolidated level from the sharp deterioration in 2015-16 where the revised estimates (RE) of the gross fiscal deficit-gross domestic product (GFD-GDP) ratio breached the threshold of 3 per cent for the first time since 2004-05. The turnaround was premised on a surplus in the revenue account alongside a decline in loans and advances even as states planned for an increase in capital outlay so that fiscal consolidation is achieved through revenue augmentation rather than growth inhibiting expenditure reduction. Key to the sustainability of this strategy over the medium term is the legislative approval of the Goods and Services Tax (GST) Act in September 2016 and its subsequent enactment into law with likely implementation from July 1, 2017. The GST is widely regarded as a critical structural reform with broader ramifications in terms of growth, inflation, fiscal viability and external competitiveness. Accordingly, this year's report adopts the GST as its theme.[1]

The introduction of the GST is likely to have an enduring impact on state finances over the medium term for several reasons. First, with states being unable to rationalize their committed expenditure burden (*viz.*, pension liabilities, interest obligations and administrative expenses) in the near term, revenue expansion through GST implementation is a prudent strategy in remaining committed to the path of fiscal consolidation. Second, the GST is likely to chart out a new course for cooperative federalism in India focusing on cooperation between the Centre and states in deciding on (i) tax rates, (ii) exemptions and (iii) commodities featuring in each category of tax rate/slab. Finally, GST implementation may result in augmenting the shareable pool of resources which would result in greater transfer of resources from the Centre to the states. Cumulatively, these issues are likely to have a profound impact on state finances in the coming years.

[1] All information on GST related policy developments are as of March 31, 2017

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The GST is a destination-based single tax on the supply of goods and services from the manufacturer to the consumer and is one indirect tax for the entire country. GST will replace multiple taxes such as central value added tax (CENVAT), central sales tax, state sales tax and octroi. A common base and common rates across goods and services and similar rates across states and between Centre and states will facilitate better tax administration, improve tax compliance, alleviate cascading or double taxation while also ensuring adequate tax collection from inter-state sales.

The integrated goods and services tax (IGST) Act, 2017 applies to movements of goods and services from one state to another. It is not a separate tax but a sum of CGST and SGST. The major advantages of IGST model are (i) maintenance of uninterrupted input tax credit (ITC) chain on inter-state transactions; (ii) no upfront payment of tax or substantial blockage of funds for the inter-state seller or buyer; and (iii) no refund claim in exporting state as ITC is used up while paying the tax. It will facilitate the seamless flow of ITC across states as it is a destination based tax, *i.e.*, the IGST amount will be apportioned between the Centre and states although the power to levy and collect IGST lies with the Centre to ensure that a single coordinating agency administers it.

Collections under the IGST are to be deposited into an IGST account administered by the Central Government and will be distributed between the Central Government and the consuming states on a mutually agreed formula epitomizing the spirit of cooperative federalism. The IGST will also apply to imports and exports of goods and services into/from India and any import/export of goods or services into/from Indian territory shall be deemed to be supply of goods and services as inter-state trade or commerce.

The IGST will be governed by the Central Government under the administrative control of CBEC. Although states also want to control the IGST mechanism, the Centre is of the view that it should have sole administrative authority over IGST. By a special provision in the law, however, states can be empowered to collect IGST. In case of any dispute between states over the place of supply, the Centre will have the power to administer those assesses and collect taxes. The levy of IGST, however, can commence only after the GST law has been enacted by all the legislatures, as it would have to be synchronised through the simultaneous participation of the Centre and all the states.

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LITERATURE REVIEW

C.A. Sudhir Halakhandi (2009) in his article entitled "Goods and Service Tax - An Introductory Study", this article focuses on how this tax system will work, and discusses the problems likely to be faced by the Central Government while introducing this tax. It also briefly touches upon the Present state level VAT and Central Service Tax**.** He highlights that there is no principle difference between present tax structure under VAT and GST as far as the tax on goods is concerned because GST is also a form of VAT on Goods and services. Here at present the sales tax, with an exception of CST, is a VAT system and in case of service tax the system also has the CENVAT credit system hence both sales tax and service tax are under VAT system in our country. At present the goods and services are taxed separately but in GST the difference will be vanished. The overall system of GST is very much similar to the VAT, which can be considered as first step towards GST.[2]

Thirteenth Finance Commission On National Council Of Applied Economic Research In Their Report (2009) states that the broad objectives of this study refers to analyzing the impact of introducing comprehensive goods and services tax (GST) on economic growth and international trade; changes in rewards to the factors of production; and output, prices, capital, employment, efficiency and international trade at the sectoral level. Analysis in this study indicates that implementation of a comprehensive GST in India is expected to lead to efficient allocation of factors of production thus leading to gains in GDP and exports. This would translate into enhanced economic welfare and returns to the factors of production, viz. land, labour and capital.[3]

Rendahl, Pernilla in his thesis titled "Cross-Border Consumption Taxation of Digital Supplies: A Comparative Study of Double Taxation and Unintentional Non-Taxation of B2C E-Commerce" highlights that the Consumption taxes such as a value added tax (VAT) or a goods and services tax (GST) is an important revenue source for several countries, not least within the European Union (EU) which has had a harmonized VAT since the end of the

[2] C. A. Sudhir Halakhandi, Goods and Service Tax – An Introductory Study, The Chartered Accountant, 2007, pg. no. 5915
11 The Times of India, 27th September 2011
[3] The Thirteenth Finance Commission, Government of India, NCAER, 2009. New Delhi

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1960s. The intention of consumption taxation is to tax expenditures made by persons for their private purposes, *i.e.* the tax burden is carried by the final consumer.[4]

R Kavita Rao in her article entitled "Goods and Services Tax: The 13th Finance Commission and the Way Forward" analyses the significance of this commission as required to look into the revenue impact of the introduction of the goods and services tax. Its report, based on the recommendations of a task force constituted to study the issue, recommends a highly uniform and centralized format that does not adequately recognize a tax reform exercise in a multi-level fiscal system that involves compromises and trade-offs. While several flaws can be pointed out in its design, developments that have taken place before and since the report was submitted have to a large extent rendered the commission's recommendations irrelevant. All this underlines the need for a model that goes beyond uniform rates of tax and allows states to vary beyond a floor, with a fixed classification of commodities and services, so that they can choose an appropriate rate to ensure that their revenue requirements are met. In her Concluding Remarks Given the approach adopted by the THFC and the developments that have taken place before and since its Report was submitted, ,its interventions in the GST arena have been rendered irrelevant. While the union government did initiate discussions on the lines suggested by the THFC, the discomfort voiced by states has changed the trajectory of the talks. In the dialogue until the second draft of the constitutional amendment bill, the centre has given up the veto power proposed for the union finance minister and also agreed to dilute the demand for uniformity. While what exactly this entails will be revealed in the days to come, what is apparent is that the highly centralized model of the THFC is not in play anymore. While there is some open-endedness on what the GST regime will mandate as essential for all states, it is desirable to retain some commitment or conformity on the following issues. Classification of goods and services: While the states may be allowed to choose the rates associated with different categories of goods or services, the classification of goods and services into different categories should remain the same across all states and the Central government.[5]

[4] Rendahl, Pernilla, Cross-Border Consumption Taxation of Digital Supplies: A Comparative Study of Double Taxation and Unintentional Non-Taxation of B2C E-Commerce, Jönköping University, 2008
[5] Kavita Rao .R, Goods and Services Tax: The 13th Finance Commission and the Way Forward, Economic & Political Weekly November 27 Vol.XIV No.28, 2010.

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Kumar Satyakam in his paper "Goods and Services Tax: future of India" he has given the meaning of GST, its advantages, various problems to be faced while implementing GST and emphasized on the recommendations of Joint working Group of Empowered Committees guidelines for better administration and the suggestions for the state and central government for its preparedness. To conclude, it may boost our economy and enable us to compete at the global front. As a result, even our system may match the international phenomenon. This is the biggest advantage of GST. Every system has its own intricacies embedded a t the initial stages. Lower incidence of tax, reduced prices, a move towards the global concept, reducing cost of tax compliance, better revenue collection, an efficient and harmonized consumption tax system in the country all this looks good on the card, but is it really so easy to implement? Keeping the various constitutional, technological, procedural and political barriers, the job seems easier said than done. The author has brought out the strength, weakness, opportunities and threats of the present VAT system.[6]

VAT or Value Added Tax was first introduced in France somewhere in 1954. The concept of VAT is applying a tax only on the value added by each person at each stage; by allowing the person input credit of taxes paid upto his stage of procurement. Thus the tax is expected to reduce the concept of 'tax on tax', increase the gross domestic product of the economy and reduce prices. Overall it is known to be beneficial to both the consumer, business and the Government.

In India, there are different indirect taxes applied on goods and services by central and state government. GST is intended to include all these taxes into one tax with seamless ITC and charged on both goods and services. Thus excise duty, special additional duty, service tax, VAT to name a few will get repealed and will be added into GST. For this, GST will have 3 parts CGST, SGST and IGST. The central taxes like excise duty will be subsumed into CGST and state taxes like VAT into SGST.

For the introduction of GST in the above form, the Government needs to get the Constitution Amendment Bill passed so that the proposed objective of subsuming all taxes and allowing states to tax subjects in Union list and vice versa is achieved. Without these powers it is not legally possible to move towards GST.

[6] Kumar Satyakam "Goods and Services Tax: Future of India", Symbiosis Law College, Pune 2010.

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Thus going forward on all transactions of both goods and services, only one tax will apply which is GST comprising of CGST and SGST. IGST would be applied instead of SGST for interstate transactions. Input credit of all these taxes will be available against all the respective outputs.

For successful implementation of GST, it is necessary that the Government at both centre and state levels, agree to merge all their taxes into CGST/SGST. Further, the base for taxation for both has to be the same. The exemptions, abatements etc. under GST need to be common for both centre and all states to avoid litigation. Further exemptions/exclusions should be minimum to avoid break of credit chain. The law needs to provide for single point compliances, absence of multistate audits etc. for the assessee. Conceptually GST is expected to have numerous benefits like reduction in compliances in the long run since multiple taxes will be replaced with one tax. It is expected to bring down prices and hence the inflation since it will remove the impact of tax on tax and enable seamless credit. It is expected to generate revenue for the country as the tax base will increase as the GST rate will be somewhere around 27% with both goods and services covered. It is also expected to make exports from India competitive and India a preferred destination for foreign investment since GST is a globally accepted tax.

To this goal, in 2012 the Government introduced the Negative list regime of taxation and Place of Provision of Services Rules, 2012. They have also recently circulated the draft Place of Supply Rules towards GST which has certain drastic differences from the earlier rules. Even in the Budget of 2015, the Government has shown its intention of moving towards GST by increasing the excise rate to flat 12.5% and service tax rate to flat 14% and removing the applicable cesses. Thus once the Constitution Amendment Bill is passed the much awaited GST will be introduced. Financial service industry – specifically financial institutions like Banks and NBFCs are the backbone of any economy. They are the drivers of the economy and contribute approximately 6% of the indirect taxes. Thus they are a significant player and an adverse impact on the sector impacts the economy. Further, Banks currently operate only in the service sector and are covered by Service Tax @ 12.36% currently. Going forward with GST, they will have to pay approx. 27% GST. Further since all major Banks have multistate operations they would need to understand and implement multistate compliances under GST.

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Thus before the impending GST, addressing issues faced by the financial service industry is important to address. The industry is currently facing issues inter alia on determining nature of taxability of their incomes, input credit recovery, deciding the place of provision of their service, issues like intermediary service income, interchange income, correspondent bank charges income, format of the service tax returns, time limits for compliances and revision of returns, and so on.

Unless these issues are addressed the industry would face major hurdles with GST. GST is a multistate tax with compliances expected in different states. Thus it is imperative to address the issue of "place of supply" with clarity before GST. Further double taxation issues like taxing intermediary services, interchange income, correspondent bank charges etc. needs to be addressed so that India is globally competitive. Issues around compliances need to be clarified since going forward there is an apprehension of multistate compliances and so on.

THE SALIENT FEATURES

The GST is likely to strengthen cooperative federalism and have far-reaching implications for growth, inflation, public finances and external competitiveness in the Indian economy, drawing on the evidence of significant efficiency gains revealed in empirical evaluation of the implementation of VAT in 2005. The GST is likely to bolster states' revenue and anchor fiscal consolidation without compromising on expenditure quality. Seamless implementation of GST is contingent upon a robust dispute resolution mechanism and a sound information technology (IT) infrastructure. From a medium term perspective, the GST assumes significance in the context of the debt sustainability of states and the evolving contours of state finances.

India's comprehensive dual Goods and Services Tax (GST) has replaced the complex multiple indirect tax structure as of 1 July 2017. The concept of GST was introduced in 1999. On 8 August 2016, the Constitutional Amendment Bill for implementation of the GST was passed by the Parliament, followed by ratification of the bill by more than 15 states and enactment of the bill in early September. The GST Council consisting of representatives from the Central Government as well as state Governments.

On 12 April 2017, the Central Government enacted four GST Bills:

- Central GST (CGST)

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- Integrated GST (IGST)
- Union Territory GST (UTGST)
- Bill to Compensate States

The Government has also notified GST rules, tax rates on goods and services, the exemption list and categories of services on which a reverse charge is applicable.

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 they relate to supply of goods or services.

GST AND CENTRE-STATE FINANCIAL RELATIONS

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 sale of goods. In 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 (commonly known as CVD and SAD) counter balances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

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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.

CONCLUSION

The introduction of Goods and Services Tax on the 1st of July 2017 was 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, the aim was to 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 was estimated to be around 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self policing character, would be easier to administer.

With heterogeneous state Laws on sales tax, the debate on the necessity for Goods and Service Tax (GST) has risen. GST will bring about a change on the tax system by redistributing the burden of taxation equitably between manufacturing and services. It will lower the tax rate by broadening the tax base and minimising exemptions. It will reduce distortions by completely switching to the destination principle. The service tax in India is progressing faster in terms of revenue growth, assessee base growth and even growth in service tax collection per assessee and per service. However, the service tax failed to meet the growth of revenue generation from the service sector. Hence, it is suggested that the Government should consider implementing the proposed broad based Goods and Service Tax (GST) uniformly in the coming years.

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