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A Critical Study of the Design of Indian GST

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Abstract
The aim of this research paper is to discuss the concept of GST and also the design of GST. This research paper is based on literature review wherein secondary data is collected from various sources such as websites, newspaper, journals and different publications. The paper focuses on need and design of GST from various aspects of taxation policy. Inspite of these, this paper is to consolidate all the details at one place so that if any researcher wants to study the design of GST, he will have all the relevant details available at one place instead of searching from other sources.

Keyword: *Goods and Service Tax, Indirect Tax, CGST, SGST, IGST, GSTN, taxation policy, single tax, Information Technology, double taxation*

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INTRODUCTION

All the taxes mentioned earlier are proposed to be subsumed in a single tax called the Goods and Services Tax (GST) which will be levied on supply of goods or services or both at each stage of supply chain starting from manufacture or import and till the last retail level. So basically any tax that is presently being levied by the Central or State Government on the supply of goods or services is going to be converged into GST. GST is proposed to be a dual levy where the Central Government will levy and collect Central GST (CGST) and the State will levy and collect State GST (SGST) on intra-state supply of goods or services. The Centre will also levy and collect Integrated GST (IGST) on inter-state supply of goods or services. Thus GST is a unifier that is going to integrate various taxes being levied by the Centre and the State at present and provide a platform for forging an economic union of the country. This tax reform will lead to creation of a single national market, common tax base and common tax laws for the Centre and States. Another very significant feature of GST will be that input tax credit will be available at every stage of supply for the tax paid at the earlier stage of supply. This feature would mitigate cascading or double taxation in a major way. This tax reform will be supported by extensive use of Information Technology [through Goods and Services Tax Network (GSTN)], which will lead to greater transparency in tax burden, accountability of the tax administration of the Centre and the States and also improve compliance levels at reduced cost of compliance for taxpayers. Studies indicate that introduction of GST would instantly spur economic growth and can potentially lead to additional GDP growth in the range of 1% to 2%. The law governing GST was passed in the parliament on the 29th of March 2017 and it was implemented across the country on the 1st of July 2017.

Need of GST

A common refrain in the popular discussions is what is the need for the introduction of GST? To answer that question, according to GST council of India [1] it is important to understand the present indirect tax structure in our country. Presently the Central Government levies tax on manufacture (Central Excise duty), provision of services (Service Tax), interstate sale of goods (CST levied by the Centre but collected and appropriated by the States) and the State Governments levy tax on retail sales (VAT), entry of goods in the State (Entry Tax), Luxury Tax, Purchase Tax, etc. It is clearly visible that there are multiplicities of taxes which are being levied on the same supply chain.

There is cascading of taxes, as taxes levied by the Central Government are not available as setoff against the taxes being levied by the State governments. Even certain taxes levied by State Governments are not allowed as set off for payment of other taxes being levied by them. Further, a variety of VAT laws in the country with disparate tax rates and dissimilar tax practices, divides the country into separate economic spheres. Creation of tariff and non-tariff barriers such as Octroi, entry Tax, Check posts etc. hinder the free flow of trade throughout the country. Besides that, the large number of taxes creates high compliance cost for the taxpayers in the form of number of returns, payments etc.

REVIEW OF LITERATURE

Empowered Committee on Goods and Services Tax [2]. The Joint Working Group after serious internal discussions as well as interaction with experts and representatives of Chambers of Commerce and Industry submitted its report to the Empowered Committee in November 2007. Deliberations and discussions are going on continuously to work out a mechanism to introduce GST.

Murty [3] assert that the study finds that, such a tax system supplemented by specific excises and subsidies to deal with the problem of equity, environment and social needs is ideal for India.

Christoph Bohringer and et al [4] discussed in his study aims at bringing the gap between stylized theoretical work and numerical analysis. The study develops a flexible, interactive simulation model which was accessible in which users can specify their green tax reforms and environmental effects.

Prakash and Sidhu [5] describe in his study analyzes the impact of direct tax reforms on Indian economy in terms of various economic indicators and compares it with the pre-reform period. The study reveals that tax reforms introduced during the post-liberalization period could not generate the results as desired.

Kelkar Committee [6] reported that the major objectives of the committee were to recommend measures for simplification and rationalization of direct and indirect taxes. Consequently two task forces were set up. The committee suggested various measures under direct taxes like, expansion of tax payer services both qualitatively and quantitatively.

Chellaiah Committee [7] reported that these reports contained recommendations for re-structuring and rationalization of personal income tax, corporate income tax, wealth tax, excise duties, import tariffs, tax administration and enforcement machinery. The committee also recommended imposition of tax on certain selected services.

Basavaraj & Revanasiddayya [8] explained that tax is order of the day and one of the important components of cost of a product or service. Cost of a product or service influences directly or indirectly, profitability of the organization.

Holani and Holani [9] described that the tax system of our ancients was quite reasonable, rational, convenient, elastic, appealing and based on the principles of maximum welfare with some exceptions.

METHODOLOGY

Research methodology adopted is descriptive study as well as secondary source of data is used. All secondary data are collected from various newspaper, publications, journals and websites.

Objectives of the Study

1. To understand the concept of GST.
2. To study the need of GST
3. To review various literatures related to GST.

4. To study the design of GST in India.

The Design of Indian GST

According to Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue Ministry of Finance, Government of India, design of Indian GST [10] is discussed below as various points of view:

Concurrent dual model of GST: India has adopted dual GST model because of its unique federal nature. Under this model, tax is levied concurrently by the Centre as well as the States on a common base, i.e. supply of goods or services or both. GST to be levied by the Centre would be called Central GST (Central tax / CGST) and that to be levied by the States would be called State GST (State Tax / SGST). State GST (State Tax / SGST) would be called UTGST (Union territory tax) in Union Territories without legislature. CGST & SGST / UTGST shall be levied on all taxable intra-State supplies.

The IGST Model: Inter-State supply of goods or services shall be subjected to integrated GST (Integrated tax / IGST). The IGST model is a unique contribution of India in the field of VAT. The IGST Model envisages that Centre would levy IGST (Integrated Goods and Service Tax) which would be CGST plus SGST on all inter-State supply of goods or services or both. The inter-State supplier will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The person based in the Destination State will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds. The major advantages of IGST Model are Maintenance of uninterrupted ITC chain on inter-State transactions. b) No upfront payment of tax or substantial blockage of funds for the interstate supplier or recipient. c) No refund claim in exporting State, as ITC is used up while paying the tax. d) Self-monitoring model. e) Model takes _Business to Business ‘as well as _Business to Consumer ‘transactions into account.

Tax Rates: Owing to unique Indian socio-economic milieu, four rates namely 5%, 12%, 18% and 28% have been adopted. Besides, some goods and services are exempt also. Rate for precious metals and affordable housing are an exception to _four-tax slab-rule ‘and the same has been fixed at 3% and 1% respectively. In addition, unworked diamonds, precious stones, etc. attracts a rate of 0.25%. A cess over the peak rate of 28% on certain specified luxury and demerit goods, like tobacco and tobacco products, pan masala, aerated water, motor vehicles is imposed to compensate States for any revenue loss on account of implementation of GST. The list of goods and services in case of which reverse charge would be applicable has also been notified.

Compensation to States: The Goods and Services Tax (Compensation to States) Act, 2017 provides for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax. Compensation will be provided to a State for a period of five years from the date on which the State brings its SGST Act into force. For the purpose of calculating the compensation amount in any financial year, year 2015-16 will be assumed to be the base year, for calculating the revenue to be protected. The growth rate of revenue for a State during the five-year period is assumed be 14% per annum. The base year tax revenue consists of the states tax revenues from: (i) State Value Added Tax (VAT), (ii) central sales tax, (iii) entry tax, octroi, local body tax, (iv) taxes on luxuries, (v) taxes on advertisements, etc. However, any revenue among these taxes arising related to supply of alcohol for human consumption, and five specified petroleum products, will not be accounted as part of the base year revenue. A GST Compensation Cess is levied on the supply of certain goods and services, as recommended by the GST Council to finance the compensation cess.

E-Way Bill System: The introduction of e-way (electronic way) bill is a monumental shift from the earlier ―Departmental Policing Model‖ to a ―Self Declaration Model‖. It envisages one e-way bill for movement of the goods throughout the country, thereby ensuring a hassle free movement for transporters throughout the country. The e-way bill system has been introduced nation-wide for all inter-State movement of goods with effect from 1st April, 2018. As regards intra-State supplies, option was given to States to choose any date on or before 3 rd June, 2018. All States have notified e-way bill rules for intra-State supplies last being NCT of Delhi where it was introduced w.e.f. 16th June, 2018. New features in the e-way bill system have been introduced such as the auto calculation of distance based on PIN codes for the generation of e-way bill and blocking the generation of multiple e-way bills against one invoice.

Anti-Profiteering Mechanism: Implementation of GST in many countries was coupled with increase in inflation and the prices of the commodities. This happened in spite of the availability of the tax credit. This was happening because the supplier was not passing on the benefit to the consumer and thereby indulging in illegal profiteering. Any reduction in rate of tax or the benefit of increased input tax credit should have been passed on to the recipient by way of commensurate reduction in prices.

National Anti-profiteering Authority (NAPA) has been constituted under GST by the Central Government to examine the complaints of non-passing the benefit of reduced tax incidence. The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

The Authority may determine whether any reduction in the rate of tax or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices. It can order reduction in prices, imposition of penalty, cancellation of registration and any other decision as may deem fit, after inquiry into the case.

Concept of Supply: GST would be applicable on supply of goods or services as against the present concept of tax on manufacture of goods or on sale of goods or on provision of services. It includes all sorts of activities like manufacture, sale, barter, exchange, transfer etc. It also includes supplies made without consideration when such supplies are made in certain specified situations.

Threshold Exemption: Threshold limits of aggregate turnover for exemption from registration and payment of GST for the suppliers of goods would be Rs. 40 lakhs and Rs. 20 lakhs (in case of States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand) with effect from 01.04.2019. Threshold limit of aggregate turnover for exemption from registration and payment of GST for suppliers of services would be Rs. 20 lakhs and Rs. 10 lakhs (in case of States of Manipur, Mizoram, Nagaland and Tripura). A common threshold exemption applies to both CGST and SGST. The benefit of threshold exemption, however, is not available in inter-State supplies of goods.

Composition Scheme: Composition scheme has been formulated for small businessmen being supplier of goods and supplier of restaurant services. Under the scheme, person with turnover up to Rs. 1.5 crore (Rs. 75 lakhs in States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand) needs to pay tax equal to 1% to 5% on his turnover and needs to file his returns annually with quarterly payment from FY 2019-20. Composition scheme has also been formulated for supplier of services (to those who are not eligible for the presently available composition scheme). Under the scheme, person with turnover up to Rs. 50 lakhs needs to pay tax equal to 6% on his turnover and needs to file his returns annually with quarterly payment from FY 2019-20.

Zero rated Supplies: Export of goods and services are zero rated. Supplies to SEZs developers and SEZ units are also zero-rated. The benefit of zero rating can be taken either with payment of integrated tax, or without payment of integrated tax under bond or Letter of Undertaking.

Cross-utilization of ITC: IGST credit can be used for payment of all taxes. CGST credit can be used only for paying CGST or IGST. SGST credit can be used only for paying SGST or IGST. The credit would be permitted to be utilized in the following manner: a) ITC of CGST allowed for payment of CGST & IGST in that order; b) ITC of SGST allowed for payment of SGST & IGST in that order; c) ITC of UTGST allowed for payment of UTGST & IGST in that order; d) ITC of IGST allowed for payment of IGST, CGST & SGST/UTGST in that order. ITC of CGST cannot be used for payment of SGST/UTGST and vice versa. It has been further provided that IGST balances shall be exhausted for payment of IGST, CGST or SGST, as the case may be, before utilization of CGST or SGST.

Settlement of Government Accounts: Accounts would be settled periodically between the Centre and the State to ensure that the credit of SGST used for payment of IGST is transferred by the originating State to the Centre. Similarly, the IGST used for payment of SGST would be transferred by Centre to the destination State. Further the SGST portion of IGST collected on B2C supplies would also be transferred by Centre to the destination State. The transfer of funds would be carried out on the basis of information contained in the returns filed by the taxpayers

Modes of Payment: Various modes of payment of tax available to the taxpayer including internet banking, debit/ credit card and National Electronic Funds Transfer (NEFT) / Real Time Gross Settlement (RTGS).

Tax Deduction at Source: Obligation on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakh and fifty thousand rupees. The provision for TDS has been operationalized w.e.f. 01st October, 2018. Exemption from the provisions of TDS has been given to certain authorities under the Ministry of Defence.

Refunds: Refund of tax to be sought by taxpayer or by any other person who has borne the incidence of tax within two years from the relevant date. Refund of unutilized ITC also available in zero rated supplies and inverted tax structure.

Tax Collection at Source: Obligation on electronic commerce operators to collect _tax at source‘, at such rate not exceeding two per cent of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals. The provision for TCS has been operationalized w.e.f. 01st October, 2018.

Self-assessment: Self-assessment of the taxes payable by the registered person shall be the norm. Audit of registered persons shall be conducted on selective basis. Limitation period for raising demand is three (3) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in normal cases. Limitation period for raising demand is five (5) years from the due date of filing of annual return or from the date of erroneous refund for raising demand for short-payment or non-payment of tax or erroneous refund and its adjudication in case of fraud, suppression or willful mis-statement.

Recovery of Arrears: Arrears of tax to be recovered using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person.

Appellate Tribunal: Goods and Services Tax Appellate Tribunal would be constituted by the Central Government for hearing appeals against the orders passed by the Appellate Authority. States would adopt the provisions relating to Tribunal in respective SGST Act.

Advance Ruling Authority: Advance Ruling Authority would be constituted by States in order to enable the taxpayer to seek a binding clarity on taxation matters from the department. Centre would adopt such authority under CGST Act.

Transitional Provisions: Elaborate transitional provisions have been provided for smooth transition of existing taxpayers to GST regime. Subsuming of taxes, duties etc.: Among the taxes and duties levied and collected by the Union, Central Excise duty, Duties of Excise (Medicinal and Toilet Preparations), Additional Duties of Excise (Goods of Special Importance), Additional Duties of Excise (Textiles and Textile Products), Additional Duties of Customs (commonly known as CVD), Special Additional Duty of Customs (SAD), Service Tax and cesses and surcharges insofar as they related to supply of goods or services were subsumed. As far as taxes levied and collected by States are concerned, State VAT, Central Sales Tax, Purchase Tax, Luxury Tax, Entry Tax, Entertainment Tax (except those levied by the local bodies), Taxes on advertisements, Taxes on lotteries, betting and gambling, cesses and surcharges insofar as they related to supply of goods or services were subsumed.

CONCLUSION

It can be conclude that the above discussion on design of GST will provide all the legal aspect of GST. The GST will bring about quantitative as well as qualitative changes in taxation system of India. Proper implementation of GST law will lead for gaining revenue for central government as well as state government. Finally, it can be said that GST have a positive impact on Indian economy.

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