

GST- A Road to Unification with International Standards, How far is the Destination?

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ABSTRACT

Goods and Services Tax is popularly named as a "Game Changer" as it has completely substituted the existing tax mechanism by a single unified mechanism to tax goods and services. The earlier taxing mechanism had different taxes and duties levied at different levels over the same good ultimately resulting in the increase in the market price of the good and double taxation. But, the new taxing mechanism had reduced that process of double taxation and has enabled a system where the ultimate burden is on the consumer to pay the tax on the goods or services at one hand and on the other hand, regular tax collection in the form of returns on the part of manufacturers and retailers.

The paper, with the help of sub topics mentioned, gives a brief outline about the historical development of GST at both national and international level, international practices in the context of GST and India's position, benefits of GST, issues which India is facing recently followed by a conclusion explaining how far is the destination to match international standards in GST for India.

As the paper concludes it gives the reader a clear understanding of various aspects involved and possible solutions which can be introduced by the legislature in context of the indirect taxing mechanism through GST.

1. Introduction

Goods and services tax is a debatable topic since decades which was implemented recently in the year 2016. The concept was first argued by the Kelkar Task Force in the year 2004 which was adopted by the then Union Finance Minister, Shri P. Chidambaram, while the presenting the budget of the year 2007-2008 and promised this regime of new taxing system will be introduced by 2010 which repeatedly missed several guidelines since then.

Goods and services tax is a value added tax which is levied on the manufacture, sale and consumption of the goods and services. It is a uniform and single taxing mechanism with continuous chain of tax credits at all level of supply chain starting from producer followed by retailer to consumer wherein the final burden is borne by the consumer. It is based on the concept of "one nation one tax". It does not differentiate between the goods and services i.e., there is no cascading of taxes as of the earlier taxing mechanism levying several taxes at multiple level and therefore the two are taxed at a single rate in a comprehensive manner with exemptions restricted to minimum.¹

As India has a federal structure of the government system, the new tax mechanism has been decided to be levied concurrently by the Central government (CGST) and the state government (SGST) whereas the interstate supplies would be monitored through integrated GST (IGST) which is a sum total of CGST and SGST and levied by the central government.

To classify the goods and services a HSN is used, commonly known as Harmonized System of Nomenclature

¹ Indirect tax laws, The Institute of Chartered Accountants of India, Module-1, 2017, pg 1.3

under which services purporting to numerous descriptions are added with their respective rates and reference is made to the First schedule of the Customs Tariff Act, 1975.²

2. Origin of GST

Goods and Services Tax was first devised by a German economist during the 18th century. It is also known as also known as the Value Added Tax (VAT) or Harmonized Sales Tax (HST). He proposed a mechanism if sales tax on goods which did not had any impact neither on the cost of manufacturing the good nor on the distribution of the manufactured good but was to be collected from the final consumer. The tax was at a fixed percentage of the final price and was unaffected from the number of transactions. The tax system was finally adopted by France in 1954 by Maurice Lauré, Joint Director of the French Tax Authority, the Direction générale des impôts, was the first to introduce VAT on April 10, 1954 initially at large businesses, which was later extended over time to include all the business sectors.³

France being the first country to introduce GST in 1954 in a well managed manner, the same has been recently adopted by Seychelles, Gambia, Malaysia and Congo.

Malaysia introduced GST in 2015 after an intense and crucial debate of 26 years which led to a rapid rise in inflation even having considerable increase in the revenue which almost took one year to subside.

² Id at pg 1.8

³ Goods and service tax- a global experience, available at - http://shodhganga.inflibnet.ac.in/bitstream/10603/54220/9/09_chapter3.pdf (last visited on 11/02/2019)

Somewhat Similar situations and trends were witnessed in Australia and New Zealand where price rise followed GST rollout.

An extravagant example of a country having separate state GST is Canada other than India where too inflation rose after switching to new tax regime.⁴

Other countries which introduced the GST after France are Australia which introduced the system in 2000 to replace the Federal Wholesale Tax. GST was implemented in New Zealand in 1986. GST replaced a hidden Manufacturer's Sales Tax in Canada, in the year 1991. In Singapore, GST was implemented in 1994. And lately, GST has been introduced in Malaysia as Value Added Tax in 2015.⁵

3. Why GST?

1. Alignment with International Standards:-

In the world where international relations and business on a global level define strength of an economy, it is very much needed for an economy as large as ours to align our business practices with international standards to facilitate ease of business. GST is a major step towards the same.

2. Simple and uniform method:-

GST provides a simple and uniform method for the tax payers which ultimately become the part of their business hence easing the payment of tax returns and forming an integral part of their business. The tax is calculated on the basis of the size of business.

3. Enabled automation and digitization:

The introduction of the GS tax regime has earmarked a progress in the digitization of the business industries and trade to a great extent enabling the transparency in the taxes.

4. Promote "Make in India":

GST helps in creating a unified common national market for India, giving a boost to foreign investment and "**Make in India**" campaign by preventing cascading of taxes and making products cheaper, thus boosting aggregate demand aiming to create India a "Manufacturing hub".

5. Reducing evasion:

GST helped in preventing evasions of taxes at different level by way of data mining and pattern detection and has increased the tax collection as compared to the earlier system.

6. Other benefits:

- Reduced effective rates of tax to one or two floor rates.
- Removed cascading effect of taxation.

- Removed distortion in the economy.
- Enhanced manufacturing and distribution efficiency and reduced cost of production of goods and services resulting in the increase in demand and production of goods and services.
- It promotes economic efficiency and sustainable long-term economic growth being neutral at business processes and models.
- It will give competitive edge in international market for goods and services produced in India, leading to increased exports.
- Reduces litigation, harassment and corruption.
- Resulted in widening tax base and increased revenue to the Centre and State.
- Reduces administrative cost for the Government.⁶

4. Introduction to GST in India

History of concept of GST in Indian Context can be traced in the year 2000 when the government of Atal Bihari Bajpayee suggested the introduction of GST as the new mechanism for indirect tax mechanism. The then state Finance minister formed an Empowered Committee under the chairmanship of Asim Dasgupta, the then Finance Minister of Bengal till 2011. In 2004, the Kelkar Task Force headed by Vijay L. Kelkar suggested that the present taxation system needs many changes. After which in 2005, the then Finance Minister P. Chidambaram in the budget session declared that the country needs a long term goal in context of taxation system to boost the economy of the country and later in 2006, in the Budget Session of the Parliament he declared that the deadline for the implementation of GST in India in 01 April, 2010. The committee formed in the year 2004 presented its First Discussion Report in 2009 with a view to start discussion on the topic. Whilst in the year 2010 the government failed to meet the deadline to implement the GST because of the introduction of the mission- mode project. Following which in the year 2011, the Congress Government proposed the 115th Amendment Bill which was opposed by the opposition and the Bill was sent to the Standing Committee which presented its report in the August 2013. While On the other hand the state of Gujarat opposed the GST Bill as it would have suffered a loss of rupees 13000 crore as a result of which the Bill was lapsed in May 2014 and Modi was elected as the Prime Minister. Further in December 2014 Arun Jaitley being the Finance Minister proposed the 122nd Amendment Bill which was passed by the Lok Sabha in May 2015 and petroleum was decided to be rolled out of GST for the time being but the Bill could not be passed in the Rajya Sabha. after which, the Finance Ministry presented the Bill to the public for inviting opinions and suggestions on the same and in August 2016, the Bill as passed in the Rajya Sabha as well with 4 (four) major amendments proposed by the congress which ultimately received the assent of the President on September 2016 and lastly it was implemented on 1 July, 2017.⁷

⁴ Goods and Services Tax: How world went about GST and what lies ahead for India , available at <https://www.indiatoday.in/india/story/goods-and-services-tax-gst-challenges-in-india-1021816-2017-07-01> (last visited on-11/02/2019)

⁵ History of GST in India, available at <https://www.bankbazaar.com/tax/history-of-GST.html> (last visited on 10/02/2019)

⁶ Goods and service tax- a global experience, available at - http://shodhganga.inflibnet.ac.in/bitstream/10603/54220/9/09_chapter3.pdf (last visited on 11/02/2019)

⁷ History of GST in India, available at- <https://www.bankbazaar.com/tax/history-of-GST.html> (last visited on

5. Carve outs from international practices

As India have adopted the Canadian model of GST, it is expected to the discuss the Canadian model of GST at first instance-

Canada-

GST in Canada is known as Federal Goods and Service Tax & Harmonized Sales Tax having a standard rate of 5% whereas the HST differs from 0% to 15% with a threshold exemption limit of Canadian \$30,000 which is approximately Rs.15.6 lakh in INR. The liability in the Canadian GST arises on the date of issue of invoice or the date of receipt of payment- earlier and the returns and payments can be made on monthly, quarterly or on annual basis as per the annual turnover. Exempted services under Canadian GST are Financial Services, Real estate, Charities, Rent (Residence), Health and Education.

U.K-

GST in U.K is popularly known as Value Added Tax having a standard rate of 20% and a reduced rate of 5% along with exempted and zero rated GST standards. The threshold exemption limit in U.K's model of GST is GST is 73,000 pound which is approximately Rs.61.32 lakh in India and the accrual basis of liability in U.K is based on Invoice or Payment or Supply whichever is earliest and payment on Cash basis (T/O up to 1.35mn). Returns and payments are usually made quarterly but small businesses have the option of making the payments annually. The exempted services in U.K are Education, Finance, Insurance, Postal services and Medical.

Singapore-

It is known as Goods and Service Tax with 7% reduced standard rate and threshold exemption limit of Singapore \$ 1 million (approximately Rs. 4.8 crore). The liability arises on the accrual basis of Issue of invoice or Receipt of payment or Supply whichever is earliest. Returns and payments are usually made on quarterly basis and businesses have option of paying on monthly basis as well. Exempted services in Singapore's model of GST are financial services, Real estate and Residential rental.

Malaysia-

Malaysia have recently implemented GST in the year 2015 setting an example and helping India to learn the steps to be taken before its implementation in the country. The GST in Malaysia is also known as Goods and Services Tax having a standard rate of 6% and threshold exemption limit of MYR 500,000 (Approx Rs. 75 lakh). The liability in Malaysian GST arises on Delivery of goods or Issue of invoice or Receipt of payment where the large organizations file their returns and make payments on monthly basis. The exempted services in the Malaysian model of GST are Transportation, Health, Agricultural land, Residential property, Basic food.⁸

10/02/2019)

⁸ GST in India v. GST in other countries – how India differs, available at- <https://cleartax.in/s/GST-india-and-other-countries-comparison> (last visited on- 12/02/2019)

After discussing the above models of GST, it is pertinent to now evaluate the Indian GST in the light of the parameters used in the comparison in the above GST models.

India-

The indirect tax regime in India is known as Goods and Services Tax as of Singapore and Malaysia. The standard rate of GST in India is 0% (for food staples), 5%, 12%, 18% and 28% (+cess for luxury items). The threshold exemption limit is 20 lakh (10 lakh for North Eastern states). The liability to pay GST in India arises on Issue of invoice or Receipt of payment which ever is earliest. The concept of returns and payments is decided to be paid monthly along with one annual return. And, the exempted services in Indian GST are Education, Agriculture, Transport, Legal Sector, Construction sector, SEZ etc.⁹

6. How things are turning out for us?

GST have unified the scattered indirect taxing mechanism by allowing one single tax in place of various duties like excise duty, VAT , Central Sales Tax, Service Tax, Entry tax and merging them all into one tax. It has allowed full input tax credit and reduced the occasions of tax evasion. But as a coin always has two faces, there is another side of a unified indirect tax mechanism which our economy is facing as problems. Some of these issues are discussed here in below-

- The complete procedure for GST compliance is to be carried through online portal only which has caused serious problems to small stakeholders who do not much technological knowledge thus increasing their investment cost.
- Every assessee has to file 3 monthly returns and 1 annual return which add up to 37 in total causing a great increase in the workload exertion.
- The service tax rate has been increased from 12% to 18%-20%; hence the service industries are facing higher taxes.
- There is no big difference between the tax rates of normal goods and luxury goods as compared to earlier law which is making it difficult for the SMEs to compete with non SMEs.
- There are 3 categories of GST namely, CGST SGST which are intrastate GST and IGST which is interstate GST creating confusion as there is no clear categorization as to which category is to be mentioned under which head.
- Many industries such as FMCG, Pharmaceuticals, and textiles observe tax holidays but GST have no such notification as to such holidays meaning thereby these industries will be taxed on these days as well, the burden of which has to be borne by the final consumer.¹⁰

⁹ GST Exemptions: List of items and services exempted under GST, available at- <https://taxguru.in/goods-and-service-tax/exemptions-GST-complete-list-items-services-exempted-GST.html> (last visited on- 12/02/2019)

¹⁰ GST: Contemporary challenges and issues, available at- <https://taxguru.in/goods-and-service-tax/GST-contemporary-challenges-issues.html> (last visited on- 12/02/2019)

- There are many other implementation and other problems being faced by the businessmen which are yet to be reported and examined.

7. Is merger with international standards really possible?

"The tax rates in the Indian GST system are among the highest in the world. The highest GST rate in India, while only applying to a subset of goods and services traded, is 28 per cent, which is the second highest among a sample of 115 countries which have a GST (VAT) system and for which data is available," the World Bank said in a report.¹¹

As per the Report produced by World Bank, GST in India has the most complex structure globally. The World Bank also stated in its report that burden of compliance on the tax payer has caused major increase in costs and issues to the small business players in the country.

The burden of choosing and applying the correct slab rate is already a major task for the tax payers and in addition to that, they need to match invoices between their outputs and inputs eligible for input tax credits. Big companies and large tax payers can afford to higher professionals for their GST Compliance requirements but the small tax payers within the low- or medium-income bracket face the burden of additional costs. Along with compliance challenges, a major issue for the tax payer under our system of GST is created by delayed processing of tax refunds that has created a situation of locked up working capital for the small business firms.

Situations like these make us question the success of the agenda put forth by the government while introducing GST that promised lower costs, higher eligible input tax credits, smoother functioning of business, ease of business and benefits to the smaller businesses in the country.

It seems that as a blue print, GST was a lot different than what it is when implemented. The frequent amendments introduced by the government and problems faced by both, the tax department and the tax payers on an administrative level as well as on a legal point of view prove that a lot needs to be done to bring the GST System of India to a level of international standards.

If we move our focus from the issues and look from a positive point of view, the World Bank also stated, "Despite the initial hiccups, the introduction of GST is having a far-reaching impact on reducing tax-related barriers to trade barriers, which was one of the primary goals of the introduction,"¹²

¹¹ GST: Indian system among the most complex globally, says World Bank report, available at- https://www.business-standard.com/article/economy-policy/gst-indian-system-among-the-most-complex-globally-says-world-bank-report-118031600472_1.html (last modified on- 16/03/2018)

¹² GST: Indian system among the most complex globally, says World Bank report, available at- https://www.business-standard.com/article/economy-policy/gst-indian-system-among-the-most-complex-globally-says-world-bank-report-118031600472_1.html (last modified on- 16/03/2018)

For the question raised by many regarding multiple slab rated under GST, Finance Minister Arun Jaitley had stated, "Luxury goods, sin products, and products hazardous to the environment and health can't be taxed at the same rate as 'common-man products'. Wheat, rice, sugar can't be taxed at the same rate as a Mercedes car or a yacht or tobacco".¹³

Mint, in an article states that "By doubling the goods and services tax (GST) eligibility limit, India's version of GST has inched closer to the global format. However, tax experts say India has kept finding ways to make things complicated, with the recent introduction of cess for Kerala taking things from bad to worse."¹⁴

If levying additional cesses on GST are introduced again, then it might move us further away from the global format. Instead of levying a new cess, the government should have funded the state for its loss on account of the disaster directly to avoid introduction of cess because such a step defeats the major purpose for which GST was introduced, that is, to remove multiple cesses and taxes.

From a professional point of view, considering the vast size of our economy and the scale of implementation when compared to other countries, it is clear that our tax structure is supposed to be a lot different than most of the countries.

Thus, we can say that the tax structure is and is supposed to be more complex than most of the countries, but the government can improve the functioning of the process to make the GST System run smoother to achieve the ultimate goal of ease of business.

¹³ Id

¹⁴ 1 step forward, 2 steps back. Is GST going the VAT way? , available at- <https://www.livemint.com/> (last visited on- 13/02/2019)