BASIC CONCEPTS AND FEATURES OF GOODS AND SERVICES TAX IN INDIA

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INTRODUCTION

I. History of Taxation

What is Tax?

The word tax is derived from the Latin word „*taxare* meaning "to estimate".

"A tax is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority" and is any contribution imposed by government whether under the name of toll, tribute, impost, duty, custom, excise, subsidy, aid, supply, or other name."

II. Tax Structure in India

Taxes in India are levied by the Central Government and the State Governments. Some minor taxes are also levied by the local authorities such as Municipality or Local Council. The authority to levy tax is derived from the Constitution of India which allocates the power to levy various taxes between Centre and State.

Some of the important Central taxes

- CENVAT
- Customs Duty
- Service Tax

Some of the important State taxes

- State Sales Tax
- CST
- Works Contract Act
- Entry tax
- Other local levies

Major milestones in Indirect Tax reform

1974 Report of LK Jha Committee suggested VAT	
1986 Introduction of a restricted VAT called MODVAT	
1991 Report of the Chelliah Committee recommends recommendations accepted by Government	VAT/GST and
1994 Introduction of Service Tax	
1999 Formation of Empowered Committee on State VAT	
2000 Implementation of uniform floor Sales tax rates	
Abolition of tax related incentives granted by States	
2003 VAT implemented in Haryana in April 2003	
2004 Significant progress towards CENVAT	
2005-06 VAT implemented in 26 more states	
2007 First GST stuffy released By Mr. P. Shome in January	
2007 F.M. Announces for GST in budget Speech	
2007 CST phase out starts in April 2007	
2007 Joint Working Group formed and report submitted	
2008 EC finalises the view on GST structure in April 2008	
2009 proposed to be implemented from 1.4.2010 2016 Draft model GST law released 2017 1 July is thought to be the final implementation of the law	

III. Limitations of Existing Indian Taxes

Originally, the taxes on the sale of goods were levied in terms of the respective Sales Tax/Trade Tax enactments and the 'entry of goods' was subject to tax under the respective State Entry Tax enactments and this scenario prevailed till the reform process set in whereupon these levies were replaced by VAT.

The levy of tax on provisioning of services was introduced for the first time in 1994 and has been subjected to persistent vigorous legal challenges. Still lot of services remained uncovered. The need for transition from the Sales Tax /trade structure for taxing commodities to a value added . However the shift to VAT did not put to an end to cascading

realities. This because Parliament has maintained its own VAT model[1] and also the State Legislatures their own[2], there was no linkage between the two and thus the credit of duties paid on manufacture are not available towards adjustment on duties payable on sale of goods.
Input set-off available to the manufacturers.

Thus it is evident that the transition to VAT did not remedy the issue of non-creditable duties and the consequent cascading effect requiring further reform in the area and consequently GST arose.

Service tax was introduced in 1994. Current service tax rate is 10.30%. The scope of service tax has since been expanded continuously by subsequent Finance Acts and now nearly 109 services are covered. But there are many service sectors which are out of purview of Central Government which can generate more revenue to Government.

Despite of existence of multiple taxes like Excise, Customs, Education Cess, Surcharge, VAT, Service Tax etc. GDP of India is much lower than GDP of countries like USA, China and Japan. India has miles to go to achieve this level.

GDP of nations	
G.D.P.	G.D.P. in trillion US.Dollars
U.S.A.	13.84
China	6.99
Japan	4.3
Germany	2.81
Britain	2.14
France	2.05
Italy	1.79
Canada	1.27
India	1.00

Therefore, the Indirect Taxes are therefore urgently required to be rationalized and unified. If the G.S.T. is introduced it would certainly increase the volume of tax collection. The implementation of GST would ensure that India provides a tax regime that is almost similar to the rest of the world. It will also improve the international cost competitiveness of native goods and services.

IV. Need for GST Model in India

"Liberal in assessment and ruthless in collection."

The proposed GST seems to be based on the above principle. Following are the supporting reasons to adopt GST:

- Present system allows for multiplicity of taxes, the introduction of GST is likely to rationalize it.
- Many areas of Services which are untaxed. After the introduction of GST they will also get covered.
- GST will help to avoid distortions caused by present complex tax structure and will help in development of a common national market.
- Existing taxes i.e. Excise, VAT, CST, Entry Tax have the cascading effects of taxes. Therefore, we end up in paying tax on tax. GST will replace existing taxes.
- GST will lead to credit availability on interstate purchases and reduction in compliance requirements.
- Introducing GST will do more than simply redistribute the tax burden from one sector or Group in the economy to another.
- Achieves, uniformity of taxes across the territory, regardless of place of manufacture or distribution.
- Provides, greater certainty and transparency of taxes.
- Ensure tax compliance across the country
- GST will avoid double taxation to some extent.
- The implementation of GST would ensure that India provides a tax regime that is almost similar to the rest of world. It will also improve the International cost competitiveness of native Goods and Services.
- GST will provide unbiased tax structure that is neutral to business processes and geographical locations.
- If the Goods and Service Tax is implemented in the true spirit, it will have many positives for the stakeholders and will lead to a better tax environment.

V. Introduction to GST

- GST is not going to be an additional new tax but will replace other taxes.
- GST is a simple, transparent, and efficient system of indirect taxation.
- The system facilitates taxation of goods and services in an integrated manner.
- It is a comprehensive value added tax on the supply and consumption of goods and services in an economy.
- GST is levied at every stage of production-distribution chain with applicable set-offs. GST is basically a tax on final consumption.
- In simple terms, GST may be defined as a tax on goods and services, which is leviable at each point of sale or provision of service, in which at the time of sale of goods or providing services the seller or service provider may claim input credit of tax which he has paid while purchasing the goods or procuring the services.

- It will help in eliminating tax induced economic distortions and gives boost to the economy.
- The compliance and administrative cost will be much lower.
- On indirect tax front, India is all set to usher into the era of all new tax called 'Goods and Service Tax' which will bring in India at par with over 140 developed Nations of the world. It is going to be the biggest tax reform ever introduced in Independent India.

VI. Background of Goods and Service Tax outside India

Goods and Service also known as the Value Added Tax (VAT) or Harmonized Sales Tax Following are some successfully implemented GST models in other counties:

1.Australia

- Rate of GST 10%
- GST is administered by the Tax office on behalf of the Australian Government, and is appropriated to the states and territories.
- Every company whose turnover exceeds $75,000 is liable for registration under GST and in default $1/11^{th}$ of the income and some amount is form of penalty.
- There are provisions for credit back of GST, submission of returns according to limit decided, Maintenance of records etc. There they have to keep records for 5 years for the purpose of GST.

2. Canada

- GST is imposed at 5% in Part IX of the Excise Tax Act. GST is levied on goods and services made in Canada except items that are either "exempt" or "zero-rated".
- When, a supplier makes a zero-rated supply, he is eligible to recover any GST paid on purchases but the supplier who makes supply of Exempt goods he is not eligible to take input tax credit on purchases for the purpose of making the exempt goods and services.

3. NewZealand

- Rate of GST 12.5%.
- Exceptions are rent collected on residential rental properties, donations and financial services.

VII. Background of Goods and Service Tax in India

The Kelkar Task Force on implementation of FRBM[3] Act, 2003 had pointed out that although the indirect tax policy in India has been steadily progressive in the direction of VAT Principle since 1986, the existing system of taxation of goods and services still suffers from many Problems. The tax base is fragmented between Centre and States.

Keeping significance of GST in view, an announcement was made by then our Ex – Finance Minister Mr. P. Chidambaram in his four budget speeches[4].

Budget Speech 2004-05

Budget Speech 2005-06

Budget Speech of 2006-07

Similar speech given in the Budget of 2007-08

VIII. GST Models Suggested by Indian Experts Initially

On this basis as experts are univocal on three options namely –

- First, The Centre will have complete power to levy and collect tax and will distribute it to States according to a pre-defined formula.
- Second, a dual levy, one at the Central and another at the state with a common base;
- Third, dividing the right to tax goods between the Centre and the States.

Various models have been designed and a few of them advocated by various experts as follows.

The Kelkar – Shah Model suggested implementation of GST in four stages -

The Kelkar – Shah Model
Establishing Information Technology systems
Building the Central GST
Political effort of agreeing on "Grand bargain;
Interaction with the States.

The Bagchi – Podda Model –

It also visualizes a combination of Central Excise, Service tax and VAT to make it a common base of GST to be levied both by the centre and the states separately and collection by both the centre and the states.

The Institute of Chartered Accountants of India

The ICAI, recommended that GST should have Dual tax structures at the Centre and State levels. There should be two levels operating parallelly, one at Union Level and other at State LevelAs per the budget speech of 2006-07, the Empowered Committee was to suggest best model after analyzing above global models and Indian models in operations to suit India's federal structure.

Suggestions made by experts of Indian in above proposed models had same reflected in the

Budget speech of Union Finance Minister Mr. Pranab Mukherji in 2009-10[5]

Dr. Asim K. Dasgupta, Chairman of Empowered Committee and Revenue Secretary Mr. P. V. bhide have also reiterated that GST is coming w.e.f. 1st April, 2010.

IX. Salient features of proposed GST model

i. Harmonized system of nomenclature (HSN) to be applied for goods

ii. Uniform return & collection procedure for central and state GST.

iii. PAN based Common TIN registration[6].

iv. Turnover criteria to be prescribed for registration under both central goods and services tax (CGST) and state goods and services tax (SGST).

v. TINXSYS to track transactions[7].

vi. Tax Payment will be by exporting dealer to the account of receiving state. vii. Credit will be allowed to the buying dealer by receiving state on verification. viii. Submission of declaration form is likely to be discontinued.

ix. Area based exemptions will continue up to legitimate expiry time both for the Centre and the States.

x. Product based exemptions to be converted into cash refund.

xi. Limited flexibility to be given to Centre and States for exceptions like natural disasters etc.

xii. Simplified structure to reduce transaction cost. xiii. Separate rules and procedures for the administration of CGST and SGST. xiv. Specific provisions for issues of dispute resolution and advance ruling.

X. Preparation for GST

The GST will require legislative and constitutional changes. As the time gap between formation and implementation is very less. Therefore, following things need to be done:-

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i. Constitutional amendment to enable state to levy service tax.

ii. Center to tax goods beyond factory Gates

iii. Laws of central excise act 1944 and finance act 1994 needs to be replaced. iv. Existing VAT laws needs to be repealed.

v. It is highly expected that all steps are taken to ensure that no pending work relating to Sales Tax, VAT or other Indirect Taxes remains outstanding before implementation of GST so that everybody can concentrate on new law.

vi. Central and State Government should be prepared to fulfill the expectations for Trade and Industries.

vii. Record keeping will have to be changed and IT software will have to be updated in order to comply with GST provisions. viii. Trade and Industries will have to rethink market strategies, stock transfer pricing and godown keeping policies in different states.

ix. Uniform dispute settlement machinery

x. Adequate training for both tax payers and tax enforcers.

XI. Impact of Goods and Service Tax

1. Food Industry

The application of GST to food items will have a significant impact on those who are living under subsistence level. But at the same time, a complete exemption for food items would drastically shink the tax base. Food includes grains and cereals, meat, fish and poultry, milk and dairy products, fruits and vegetables, candy and confectionary, snacks, prepared meals for home consumption, restaurant meals and beverages. Even if the food is within the scope of GST, such sales would largely remain exempt due to small business registration threshold. Given the exemption of food from CENVAT and 4% VAT on food item, the GST under a single rate would lead to a doubling of tax burden on food.

2. Housing and Construction Industry

In India, construction and Housing sector need to be included in the GST tax base because construction sector is a significant contributor to the national economy.

3. FMCG Sector

Despite of the economic slowdown, India's Fast Moving Consumer Goods (FMCG) has grown consistently during the past three – four years reaching to $25 billion at retail sales in 2008. Implementation of proposed GST and opening of Foreign Direct Investment (F.D.I.) are expected to fuel the growth and raise industry's size to $95 Billion by 2018.

4. Rail Sector

There have been suggestions for including the rail sector under the GST umbrella to bring about significant tax gains and widen the tax net so as to keep overall GST rate low. This will have the added benefit of ensuring that all inter – state transportation of goods can be tracked through the proposed Information technology (IT) network.

5. Financial Services

In most of the countries GST is not charged on the financial services. Example, In New

Zealand most of the services covered except financial services as GST. Under the service tax, India has followed the approach of bringing virtually all financial services within the ambit of tax where consideration for them is in the form of an explicit fee. GST also include financial services on the above grounds only.

6. Information Technology enabled services

To be in sync with the best International practices, domestic supply of software should also attract G.S.T. on the basis of mode of transaction. Hence if the software is transferred through electronic form, it should be considered as Intellectual Property and regarded as a service. And If the software is transmitted on media or any other tangible property, then it should be treated as goods and subject to G.S.T.

7. Impact on Small Enterprises

There will be three categories of Small Enterprises in the GST regime.

- Those below threshold need not register for the GST
- Those between the threshold and composition turnovers will have the option to pay a turnover based tax or opt to join the GST regime.
- Those above threshold limit will need to be within framework of GST Possible downward changes in the threshold in some States consequent to the introduction of GST may result in obligation being created for some dealers. In this case considerable assistance is desired.

In respect of Central GST, the position is slightly more complex. Small scale units manufacturing specified goods are allowed exemptions of excise upto Rs. 1.5 Crores. These units may be required to register for payment of GST, may see this as an additional cost.

XII. Conclusion

- The enumeration of benefits casts a welcome setting for GST
- Proving GST as a superior and sufficient system depends upon the structure it is designed into and the manner of implementation.
- While it serves to be beneficial set up for the Industry and the Consumer, it would lead to increase in revenue to Government.

XIII References

- **www.goodsandservicestax.com**
- **http://en.wikipedia.org**
- **www.taxmanagementindia.com**
- **www.hindybusinessline.com**
- **www.finmin.nic.in**
- **www.economictimes.inditimes.com**
  - **www.moneycontrol.comwww.ficci.com**