An analysis on prospects of implementation of Goods and Services Tax in India

Authored by: Mr. Vivek Kohli, (Senior Partner)
Mr. Ashwani Sharma (Managing Associate)
And Mr. Sudeep Vijayan (Associate)
ZEUS Law Associates

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The proposed introduction of Goods and Service Tax in India is an attempt by the Government of India with an objective to rationalize the current indirect tax regime in India, to bring about a more transparent and efficient tax system. This article provides a selective analysis on a few broad areas of the proposed GST model, in order to encourage a widespread public debate to bring in to light more issues and concerns prior to finalization of the Goods and Service Tax regime for India. The Author opines that the introduction of the GST regime would definitely go a long way in improving and rationalizing the quality of the indirect tax regime as it incorporates all the desirable features of an efficient tax system.

Introduction

1. The proposed introduction of Goods and Service Tax in India is an attempt by the Government of India with an objective to rationalize the current indirect tax regime in India, to bring about a more transparent and efficient tax regime in place. At present any assessee, in order to pursue its business activity, is required to pass through various levels of taxation namely, at the national level, state level and in certain cases even at the sub-state level. The tax liability at all of the above stages is influenced by various factors, namely - multiple tax rates, cascading nature of taxes, tax administration complexities (separate authorities for most of the taxes), high compliance costs, cross-adjustment of tax credit (only allowed among certain taxes), adjustment/refund of tax etc. Therefore, in order to ensure uniformity and boost efficiency, and rightfully to make India a competitive trading destination among the comity of nations, the Government of India has initiated its transition towards the Goods and Service Tax regime. The indirect taxation system in India has evolved over the years and has been witness to a series of structural as well as systemic changes

within it – the more significant among all of them being the value-added taxation or the VAT regime. The implementation of VAT regime benefited the Government of India as well as the trade / industry in a large way by bringing in a more visible tax structure which enhanced compliance through a

degree of self-assessment, ultimately leading to reduction in pilferage of taxes. The VAT regime, though substantial in nature still suffered from various anomalies in the nature of multiple taxation, adverse cascading effect of taxes etc. which have subsequently paved way for a more sound and comprehensive GST regime, expected to come into operation from April 1, 2010.

GST- A broad – based single comprehensive tax

2. The idea of goods and service tax (hereinafter "GST") is basically to create a broad-based and single comprehensive tax leviable on goods and services provided and / or consumed in an economy. In simple terms, it may be defined as a tax on goods and services which is leviable at each point of sale or rendering of service, in which at the time of sale of goods or rendering of services, the seller or service provider, may claim the input credit of tax which he has paid while purchasing the goods or procuring the services. The GST regime has already been implemented by more than 150 nations worldwide (comprising of both developing as well as developed economies) and has been well received across various governments as well the industry / trade, thereby resulting in major revenue augmentation, and simultaneous increase in credibility, transparency and efficiency etc. in their respective tax systems. Traditionally speaking, until now all of the central levies come into play only at the manufacturing level and do not extend below it. But, in accordance to the proposed model of GST in India[1], it is pitted to capture the value-added chain in the distribution trade below the manufacturing chain as well, while simultaneously also extending the scope of the state levy which is presently restricted to sale / purchase of goods, by enlarging its scope of taxation by allowing taxation at the manufacturing level as well as rendering of services. With this primary objective in mind, it is important now to discuss the proposed model of GST.

3.GST Model in India

(i) Taxes to be subsumed under the GST

GST is implemented across the globe in various models tailored to suit the specific requirements with respect to the individual fiscal policy of nation states. In India, considering the current federal set-up where there exists distribution of taxing powers between the Centre and the States, administered through appropriate legislations, it was more suitable to develop and adopt

a dual system of GST. The design of the proposed GST scheme ideally should have been in such a way that, both the Central GST (or CGST) and State GST (or SGST) operates in a parallel fashion, thereby removing the existing distinction between the goods and services leading to subsuming of a number of central as well as state levies into a consolidated levy. This particular aspect has been well considered and has also received due attention in the said paper, wherein it is being prescribed that, the taxes or levies to be subsumed should primarily be of a nature of indirect taxes, either on supply of goods or on supply of services. On the contrary, the taxes or levies not specifically related to supply of goods or services should not form part of the consolidated levy. Also, those taxes should be part of the transaction chain which commences with the import / manufacture / production of goods or provision of services at one end and the consumption of goods and services at the other. This subsumation should result in free flow of credit at the central as well as the state levels.

The Paper also prescribes a concept of 'revenue fairness', which needs to be adopted and followed among all states of the Indian federal polity, in order promote and establish a healthy and competitive environment for all stakeholders. At present and to begin with, 8 major taxes are being proposed to be subsumed into the CGST, while 6 taxes are being proposed to be subsumed within the SGST. In regard to which, it is stated that the said Paper does not prescribe or indicate any specific criteria or guiding principle for subsumation of taxes, however, it is felt that this being the launch of the GST regime, in future various other taxes not presently included would be included within the consolidated levy. The fundamental challenge or difficulty posed through integration of taxes would be to effectuate a constitutional amendment in order to settle the taxing power of the states vis-à-vis the centre. However, it is felt in-principle that subsuming of taxing levies into a consolidated levy seems to be a suitable option as per the basic tenets of fiscal federalism.

(ii) GST rate structure

India is presently following a dual rate structure, wherein Excise Duty is being levied at a typical 8 / 16 per-cent while the state VAT is being levied at 4/12.5 per-cent. This model of dual rate structure has proved successful within our fiscal framework hence it is imperative to carry forward the same within the GST framework as well. In fact, the Paper has indicated a dual rate structure, which would have three further variants namely – a basic rate (for necessary items and items of basic importance), a standard rate (for goods in general) and a special rate (for precious metals and exempted items).

[1] First Discussion Paper on Goods and Service Tax in India, November 10, 2009 (hereinafter referred to as "Paper")

Currently, the cumulative tax incidence of the element of Excise Duty and state VAT works out to be between 22% - 24% of the retail sale price. Hence, it is expected that the aggregate rate of duty for GST would be worked out in such a fashion that it brings down the element of tax from the present rate of 24% (maximum) to a much lower rate, thereby assisting in bringing down the tax burden. Such step would also lead to an additional benefit, apart from reduction in rate, determination of base rate would ensure uniformity in charging of CGST and SGST, thereby ensuring no cascading effect of taxes. As per the said Paper, it is being proposed that the tax base for the SGST as well as the CGST would be common, thereby safeguarding itself from any possibility of double taxation and cascading effect of taxes. It is felt that this initiative would be a major move which would apart from taking into account the aspects of practical and administrative feasibility would also go a long way in addressing the problem of double taxation as well as cascading effect of taxes.

(iii) Input tax credit

As per the proposed GST model the chain for CGST as well as the SGST have been completely keep independent of each other implying that a dealer / manufacturer would not be able to utilise the credit on either of the above taxes for payment of GST on each other except for their respective chain. Each individual chain for e.g. SGST would be a consolidated levy integrating all the state level levies whereby allowing availment as well as utilisation of input tax credit within the same chain. However, the option of cross-credit has been kept open under the Integrated Goods and Service Tax (IGST), which is applicable on inter-state sale of goods. This concept of input tax credit is also projected to have a considerable impact in the cases of Zero rated exports / Special Economic Zones and it still remains unclear as to whether the GST regime would disturb the existing system of allowing excise rebate or removal under UTI / bond, as in the above cases, to a completely new system.

(iv) Inter-State Trade of goods and services

An integrated GST model (IGST) for taxation of inter-state sale of goods and services has been proposed in the said Paper. This system of taxation is being adopted on the behest of the Central Sales Tax (CST) which would be completely phased out before adopting this new system. As per this model, the Centre would levy IGST (which is determinable as the sum total of CGST and SGST separately) in the following manner –

(a) at the outset the inter-state seller would make the payment of IGST either through payment or adjusting of available credit of IGST.

(b) the exporting state will transfer the IGST to the Centre out of which the SGST component would be further transferred to the importing state.

(c) meanwhile, the relevant information would be submitted to the Central Agency which would act as a clearing house mechanism, verify claims and inform the respective governments to transfer the funds.

(d) there would be appropriate mechanism put in place for consignment / stock transfer of goods and services.

As it would appear that the determination of the 'exporting state' is an essential requirement as it would determine the future course of the supply chain for supply of goods and services. Thus, the 'place of supply rules' have to be put in place.

(v) Threshold Limit

A threshold of gross annual turnover of Rs. 10 Lakh (rupees ten lakhs) has been proposed for both the goods as well as the services across the board in all states, with special compensation facilities for states in North-Eastern Region and Special Category States (where lower threshold had been prevalent). The said Paper has continued with the existing threshold limit of Rs. 1.5 Crore (one crore fifty lakhs) for Central GST on Goods, and the threshold limit for Central GST on services is undecided but most likely the threshold would be also be kept comparatively high.

(vi) Selective Concessions / Exemptions / Area based exemptions

Interestingly, the proposed GST structure has come out with a separate framework for two sets of goods / services namely – (i) exempted goods; and (ii) zero-rated goods. The input tax credit is allowable for the first category while same remains aloof for the second category. In case of units availing area based exemptions the discussion paper has brought into picture a new regime i.e. the refund regime, which is proposed to replace the current regime by allowing such units to avail input tax credit. But in a significant shift from the present regime, such units would be required to collect the applicable taxes during the final stage of sale, which would subsequently stand transferred to the revenue account of the state. And, in case the differential total between the tax credit (on inputs) and the final duty (final products) becomes negative then the respective units would need to pay the differential amount in cash and claim refund later. It is humble opinion of the author that the discussion paper does not provide any details regarding the structure or implementation of this scheme.

(vii) Composition / Compounding Scheme

Under the proposed GST model, a composition / compounding scheme for the purposes of GST would be leviable which would have an upper ceiling limit on gross annual turnover and a floor tax rate would be leviable with respect to the gross annual turnover. In particular, the compounding cut-off would be available to a unit at Rs. 50 lakh of gross annual turnover and a floor rate of 0.5% would be applicable across the states. This scheme would keep the option for registration open for dealers / manufacturers with a turnover below the compounding cut-off limit.

Conclusion

4. The introduction of the GST regime would definitely go a long way in improving and rationalizing the quality of the indirect tax regime as it incorporates all the desirable features of an efficient tax system. It is for the first time that the system of a continuous set of relief for taxes paid either on inputs or in the previous stage of distributive trade has been proposed. The ultimate process of integration of taxes and equalization of rates is positive step which proves to be the hallmark in the proposed GST regime. Apparently, the proposed regime has given much emphasis to the system of refunds and also fails to provide any justifiable explanation for the reduction in the overall tax burden on the manufacturers / traders and more importantly the **final consumers**!!. It is felt that apart from the above issues the biggest of challenges for implementation of the GST model would come in the form of having a sound IT infrastructure to manage the impact as well as the transition towards the GST regime in a more effective and sound manner.

All Suggestions and Queries may be mailed to us at: **zeus@zeus.firm.in**