

INDIA INC AND THE GST REGIME: AN OVERVIEW

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Published in the ("Service Tax Journal", Vol. 21, Part 2, April 2010. and www.legallyindia.com on 13 April, 2010)

GST: The Indian Scenario

GST is expected to be implemented from 1 April,2011, but there is a long way to go before it is 'implemented'. Though the First Discussion Paper and the Task Force Recommendations have clarified a few aspects of GST but there is ambiguity regarding a plethora of issues affecting the stakeholders. The Indian industry is hopeful that the transition from the present tax regime to the GST regime will be beneficial but there are some issues regarding which there is uncertainty.

Transitional Issues

The transition would cause ambiguity with respect to issues like treatment of Stock in Hand, available Cenvat Credit / VAT Credit and the provision for which shall be ready much before the implementation of GST.

Exemptions

There should be a common exemption list for CGST and SGST so that there is no discrepancy in collection of taxes. Another important issue is that of area based exemptions and a scheme for treatment of such exemptions should be well devised so that there is no adverse affect on the industry. Though Customs will remain outside the GST regime, a large number of bonds executed by the importer and exporters with the Government will have to be suitably amended for changed liability in view of new GST.

Job Work

Issues like what documents and records need to be prepared by the job worker and the principal, time limit for claiming CENVAT Credit, are to be decided. Since, the focus would be on 'supply' after the implementation of GST, the status of job workers needs to be determined.

Assessable Value

The calculation of assessable value under GST is ambiguous since it is yet to be known as to what are the components of the assessable value. Whether discounts & other charges such as loading/unloading, freight, cartage and packing would be includible in the assessable value or would be chargeable separately?

Place of Supply

In the GST regime, the taxable event would be 'supply' and it is very essential to understand as to where the 'supply' actually takes place. 'Place of Supply' rules refers to the rules that allocate the right to tax between the states. The main concern here is as to which state will collect the SGST.

Branch / Stock Transfer

An efficient provision for branch transfer / stock transfer should be put in place under the GST regime. The system should enable the businesses to make branch transfers without payment of tax and the procedure should be simple so as to ensure maximum compliance and minimise disputes.

Return / Rejection / Replacement of Goods

There has been no clarification on the treatment of goods which are returned, rejected or replaced. A major question here is whether the treatment would be similar to the present system of reversing back the credit or a new provision would be introduced.

IGST

The IGST structure is extremely complicated and no explanation has been given in the discussion paper as to how IGST is better than the State to State input Credit System without centre coming into the picture. The benefit of having a longer procedure where the selling state transfers the tax to the centre and the centre again transfers it to the buying state is not understood and a detailed analysis of the same is called for. The most desirable structure would be a single GST throughout the country.

Common Procedures

The industry expects that there would be similar formats for registration, returns and other records for both CGST and SGST. Functions such as assessment, enforcement, scrutiny and audit should be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States.

DTC vis-à-vis GST

A great disparity in the Direct Tax Code and GST would defeat the purpose of PAN linked GST registrations as cross verification would not be possible. Since the Direct Tax Code is expected to be implemented from 1 April, 2011, its provisions should be in synchronisation with the GST structure so that the compliance is easier.

Conclusion

GST, if implemented efficiently, could prove to be a **Good Sensible Tax**. The government should come up with the draft rules as soon as possible so that there is enough time for the industry to analyse the draft and make representations to the concerned authorities with their suggestions.

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