

Goods And Service Tax- An Awaited Legislation

■ **Ankur Singhi**

WAITING TO SEE THE LIGHT OF THE DAY

One of the most eagerly awaited legislation in the Indian context is set to make its debut at the earliest. With the present Government making all the possible efforts for bringing this legislation into effect and letting it see the light of the day. The announcement for introduction of the Goods and Service Tax (GST) dates back to the year 2006, with the object of implementation from 1 April, 2010. Though the initial deadline could be met the concept of the goods and service tax and its implementation in Indian scenario has been taken up for consideration at various points of time. Finally on the 19th of December 2014, the Constitution 122nd Amendment Bill of 2014 was introduced in the Lok Sabha, which was eventually passed on 6, May, 2015 introduced GST bill for the first time. However, due to non-conformity on certain provisions of the draft bill it is still pending approval in the Rajya Sabha.

CONCEPT AND IMPLEMENTATION

The concept of goods and service tax is to remove the multiple layers of taxation imposed by the Union and the State Governments and in turn to dilute the cascading effect of taxation. It seeks to replace the multiple Central and State taxes and impose only a uniform tax

structure. The present taxation structure provides for levy of excise duty and service tax on the manufacture of goods and sale of services respectively, by the Central Government. On the other hand the State government is empowered to levy taxes with regard to the sale of goods within the State. Moreover, when the goods are sold from one state to the other it faces different taxes as imposed by the different states in the form of entry taxes in addition to the Central Sales Tax on Interstate transfer of goods. Thus there exists multiple layers of taxation and it also creates problem in availing the input credits where there is interstate transfer of goods. The existing structure of taxation also has certain difficulties such as:-

1. Different taxes for the different State's and non-uniform tax structure
2. Multiple taxation on single good.
3. As a result of multiple taxation, artificial inflation and increase in the price of goods.
4. A complex tax structure and difficulty in availing the credit of the taxes already paid.

To counter the above difficulties the Goods and Service Tax is devised. The Goods and Service Tax will be levied on a

two-tire model, one comprising the Central Goods and Service Tax (CGST), and the other comprising of the State Goods and Service Tax (SGST), which in some context is similar to the existing structure of tax that is currently into play. Apart from the above there also be an Interstate Goods and Service Tax (IGST), which will be applicable in case of goods being purchased in one state and being sold in the other.

CRITICAL EVALUATION

The goods and service tax will be a major breakthrough and will involve specialized working in replacing the existing tax structure. For the implementation of GST and further monitoring, Goods and Service Tax Council is proposed to be formed which will consist of members from the Centre and States, and will be working under the chairmanship of Union Finance Minister. The council will give recommendations to the Union and the States with respect to the various aspects of GST including, the rate of taxation, the exemptions and other important issues.

The GST is definitely going to have a major impact and will transform the indirect taxation structure prevailing in the country. Many consider it as a welcoming step but many of the other hand also see it as an old wine in a new bottle. It certainly has its own pros and

cons but the ultimate effect will only be evaluated once the system comes into force and whether the implementation and its regime is friendlier in approach than the existing one.

The major advantage of having the GST is that it will subsume the major taxes that are levied by the Centre and the State Governments, but the implementation of GST by a two-tier model will again lead to distinguishment of taxes being collected by the Centre and the State Government and its subsequent set off while availing the credit of such taxes paid. The proposed regime provides for the setting off the CGST paid on inputs against the CGST paid on outputs, similarly the SGST paid on inputs shall be set off against the SGST paid on outputs. This is somewhat similar to the existing rules of the CENVAT credit being availed as per the existing structure. There might be a situation where the entire credits are not fully utilized and there remaining access and utilized credits.

RECENT DEVELOPMENTS

Recently, panel headed by the Chief Economic Advisor recommended for four tier rate structure in GST. Depending upon the types of goods, different rates of GST will be applicable. The recommendations propose as follows:

1. The rate of GST on precious metals, gems and jewellery is proposed at anywhere between 2% to 6%.
2. The rate of GST on concessional or merit goods is proposed at 12%.
3. Standard rate of GST is proposed


anywhere between 17% to 18%.

4. The rate of GST on High Demerit goods is proposed at 40%.

While these recommendations are favorable in respect of some of the goods, it is unfavorable in respect of the others. The highest rate of GST on the demerit goods, such as tobacco and tobacco products, aerated drinks, luxury cars etc., which is proposed that 40% is a bit on the higher side. It further needs to be seen which goods are included in concessional and merit goods and which goods are entirely exempted from the applicability of GST.

EXPECTATIONS

The Indian business community and the allied stakeholders have high hopes with the introduction of GST. The implementation of GST will definitely have an effect on the entirety of indirect taxation. It will, to a large extent, reduce the cascading effect of taxation that is prevalent today. Moreover, it will provide for a uniform rate of taxation across all the States, which will maintain uniformity and will be much easier to account for.

The model of implementation of GST that is being adopted by India is much different than the model of GST that are adopted by various other countries. Generally a uniform rate of GST is applicable throughout the country and there is a departure from the multiple tier of taxation. Deviating from the general mode of implementation of GST to implementation by a two-tier model may have its own challenges. Only the time to come will show the ultimate effectiveness of the most awaited legislation. 



Ankur Singhi [B.Com(Hons.), ACA, CS] is a practicing Chartered Accountant by profession, and a qualified Company Secretary. He is associated with S. K. Singhi & Co., Advocates as a Senior Associate for his advisory and consultancy services.

He has substantial experience in the field of Corporate Advisory and Documentation. His core area of expertise involves transactional advisory, and advising on accounting and taxation issues to Foreign Nationals and NRI amongst others. Mr. Singhi is an associate member of The Institute of Chartered Accountants of India (ICAI).



S.K. SINGHI & CO.
ADVOCATES

4, Kiran Shankar Roy Road
Raja Chambers, 1st Floor
Kolkata - 700001
E: surendra.singhi@sksinghiandco.com
O: 033-22318652