BACKGROUND OF GST

INTRODUCTION

The introduction of Goods and Services Tax (GST) is a very significant step in the field of indirect tax reforms in India. In the pre GST regime, there was multiplicity of indirect taxes. The central excise duty and service tax was levied by the Central Government, while VAT and Entry Tax was levied by the State Government. Moreover, there was cascading effect of taxes, i.e. tax on tax, at various stages as credit of taxes levied by one government was not available against payment of taxes levied by the other.

GST is a huge reform for indirect taxation in India, the likes of which the country has not seen post Independence. GST will simplify indirect taxation, reduce complexities,and remove the cascading effect. It will have a huge impact on businesses both big and small, and change the way the economy functions.

GST is a comprehensive indirect tax levy subsuming all central and state levies with a single unified value added tax transforming the nation into one single market. Major Central and State taxes are subsumed into GST which will reduce the multiplicity of taxes, and thus bring down the compliance cost. With GST, the burden of CST will be phased out.

As per Statement of Objects and Reasons appended to the Constitutional Amendment bill the object of GST is :

a) to have common national market, and
b) avoid cascading effect of taxes.

From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated to be around 25%-30%. Introduction of GST will make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing character, would be easier to administer.

Unfolding the pages of history, the idea of national GST in India was first mooted by Kelkar Committee in the year 2004. The Committee recommended national GST. The first announcement for the introduction of GST was made in Budget Speech on 28th April,2006 by the then Finance Minister, P. Chidambaram. The proposed target date to introduce nationwide GST was 1st April, 2010. The Empowered Committee of State Finance Ministers (EC) which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, the EC released its First Discussion Paper (FDP) on GST in November, 2009. This spells out the features of the proposed GST and has formed the basis for discussion between the Centre and the States so far.

The Constitution of India was amended from 16th of September,2016 to make provision for the introduction of GST. By this amendments in the Constitution both the Centre and the States shall have concurrent power to levy and collect the GST on both goods and services.

RELEVANT ACTS PASSED BY THE PARLIAMENT AND STATES

Roll out date for GST is fixed at 1st July, 2017. Following are Acts under GST which were passed and received the President's assent on 12th April, 2017-

(1) The Central Goods and Service Tax Act, 2017(CGST),
(2) The Integrated Goods and Service Tax Act, 2017(IGST),
(3) The Union Territory Goods and Service Tax Act, 2017(UTGST),
(4) The Goods and Service Tax(Compensation to States) Act, 2017(Compensation Cess).

Twenty eight states excluding Jammu & Kashmir, Union Territories with legislature- Delhi and Puducherry and the remaining five Union Territories have passed their respective State Goods and Service Tax Act (SGST) and UTGST Act by 30th June, 2017.The State of Jammu & Kashmir passed their SGST Act on 5th of July, 2017.All the acts are effective from 1st day of July, 2017

The CGST and IGST Acts extends to the whole of India except the State of Jammu & Kashmir.

WHAT IS GOODS AND SERVICE TAX?

New Article 366(2A) of the Indian Constitution, defines Goods and Service Tax(GST) to mean a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption.

Note that the word 'supply' is used and not 'sale'. Thus in many cases, free supplies will be subject to GST.

For example, GST will be payable on free supplies made to related persons. No GST will be payable on free gifts and free samples to unrelated person, but input tax credit in respect of such goods will have to be reversed.

Inter-state stock transfers and branch transfers will also be subject to GST-that is, IGST will be payable thereon.

For stock transfers and branch transfers within the State, CGST and SGST will be payable only where the taxable person has more than one GST registration within the State. In case of single registration within the State, Delivery challan will be sufficient and no payment of GST is required.

Further no GST will be payable if goods are sent for job work outside the factory.

New Article 366(26A) defines service to mean anything other than goods.

GST IS A CONSUMPTION BASED TAX BASED ON VAT PRINCIPLE

GST is a consumption based tax, i.e. tax will be payable in the State in which goods and services or both are finally consumed. Exports are not taxable, because the place of consumption is outside India. Imports are taxable, because the place of consumption is in India.

GST is based on VAT system of allowing input tax credit of tax paid on inputs, input services and capital goods, for payment of tax on output supply.

Thus, the States from which goods are supplied will not get any tax as goods are consumed in another State.

DUAL GST

India has adopted "Concurrent dual GST" model. The need for Dual GST model is based on the following premise:

- At existing framework, both levels of Government, that is, Centre and State, as per Constitution holds concurrent powers to levy tax on domestic goods and services.
- The Concurrent Dual GST model would be a dual levy imposed concurrently by the Centre and the States, but independently;

- Both Centre and State will operate over a common base, that is, the base for levy and imposition of duty/tax liability would be identical.

Under the Concurrent Dual GST Model taxes shall be levied as per place of supply of goods and services. In case of supplies within the State or Union Territory –

(a) Central GST (CGST) will be payable to the Central Government
(b) State GST (SGST) or Union Territory GST(UTGST) will be payable to the State Government or Administrator of Union Territory(as applicable)

CGST and SGST will also apply in Union Territories having legislature, i.e. Delhi and Puducherry.

Area upto 12 nautical miles inside the sea is part of State or Union Territory which is nearest, so SGST or UTGST will be payable.

IGST FOR INTER STATE TRANSACTIONS

In case of Inter-State supply of goods and services, there will be integrated GST (IGST) imposed by the Government of India.

Equivalent IGST will be imposed on imports

The IGST rate will be equal to CGST plus SGST rate.

IGST rates will be same all over India and will not vary State to State

Revenue from IGST will be apportioned among Union and States by the Parliament on the basis of recommendation of Goods and Service Tax council.

In area inside the sea between 12 nautical miles to 200 nautical miles, IGST will be payable.

ITEMS NOT COVERED UNDER GST

Sl. No.	Items	Remarks
1.	Alcoholic Liquor for human consumption	Article 366(12A) of the Constitution of India provides that taxes on the supply of alcoholic liquor for human consumption are outside the purview of the Goods and Service Tax Act
2	Petroleum Products viz, petroleum crude, high spirit diesel, motor spirit(commonly known as petrol),natural gas and aviation turbine fuel	GST to be levied from such date as may be notified by the Government on the recommendations of the GST Council (Section 9(2) of the CGST Act). Till then Central excise duty will continue on petroleum products.
3	Electricity	As per Entry 53 in List II(State list) of the Seventh Schedule to the Constitution of India, taxes on consumption and sale of electricity are under the ambit of the States.

Note:- Tobacco and Tobacco Products will be subject to Central excise duty plus GST

TAXES SUBSUMED UNDER GST

The GST would replace the following taxes currently levied and collected by the Centre:

a) Central Excise duty
b) Duties of Excise (Medicinal and Toilet Preparations)
c) Additional Duties of Excise (Goods of Special Importance)
d) Additional Duties of Excise (Textiles and Textile Products)
e) Additional Duties of Customs (commonly known as CVD)
f) Special Additional Duty of Customs (SAD)
g) Service Tax
h) Central Surcharges and Cesses so far as they relate to supply of goods and services

State taxes that would be subsumed under the GST are:

a) State VAT
b) Central Sales Tax
c) Luxury Tax
d) Entry Tax (all forms)
e) Entertainment and Amusement Tax (except when levied by the local bodies)
f) Taxes on advertisements
g) Purchase Tax
h) Taxes on lotteries, betting and gambling
i) State Surcharges and Cesses so far as they relate to supply of goods and services'

The GST Council shall make recommendations to the Union and States on the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed in the GST.

COMMON PROVISIONS OF CGST,SGST,IGST AND UTGST

A. PROVISIONS OF CGST and SGST

Article 265 of the Constitution of India mandates that no tax shall be levied or collected except with the authority of law. Charging Section is a must in any taxing statute for the purpose of levy and collection of tax.

In the pre-GST regime, there was clear demarcation of fiscal powers between the Centre and the State. While Centre was empowered to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.), the States have the powers to levy tax on sale of goods. In case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax.

Keeping in mind the federal structure of the Indian Constitution, Dual GST which is a political necessity, is introduced in India. Under GST, tax is levied concurrently by both the Centre and the States.

The Centre will levy and collect the Central GST and State will levy and collect the State GST on supply of goods and services within the State. (Section 9 of the CGST/SGST Act).

The Central GST will be governed by CGST(Central Goods and Service) Act which is applicable to the whole of India except the State of Jammu & Kashmir. However vide an ordinance dated 8th July, 2017, the provisions governing Goods and Service tax have been extended to the State of Jammu & Kashmir. Consequently Goods and Service tax is now applicable to the whole of India.

The State GST will be governed by SGST(State Goods and Service Tax) Act which is applicable to whole of a specified State(Section 1(2) of CGST/SGST Act). Therefore, there is one CGST Act and 31 SGST Act for each of the 29 states, Delhi and Puducherry.

Some of the highlights of the Dual GST,i.e., CGST+SGST are as follows:-

- Both CGST and SGST will be levied on same price or value in case of Intra state sale. In case of Inter-state sale, only Integrated Goods and Services Tax (IGST) will be levied which shall be administered and collected by the Central Government. IGST is not a tax but a mechanism by which part of the tax shall travel to the state where goods/services shall be consumed ultimately. In case a supplier utilizes the credit of IGST for the payment of SGST, the amount will be reimbursed to the importing state by the Centre. In case supplier in the exporting State utilizes credit of SGST for payment of IGST, centre will debit that amount to the exporting State.

- Every supplier has to take registration in a State from where he undertakes to supply goods or services. Registration in a State will automatically register the supplier under CGST Act and IGST Act. No separate registration is required.

- Full input tax credits will be available with regard to CGST and SGST. However no cross utilization between CGST and SGST will be allowed. The dealer of importing state will be entitled to avail ITC of entire IGST. Further IGST of one State cannot be set off against the IGST of another state.

- HSN will form the basis for product classification for both the Central GST and State GST.

- The obligation to pay both the taxes will be discharged based on a single tax document.

- The pre-requisite to determine the taxable event which gives rise to CSGT and SGST is common.

- The SGST will operate within the specified boundaries of the respective state. Accordingly, in relation to inter-state supplies of goods and services, it will be important to determine which particular state will charge and collect the applicable IGST.

- There will be uniform procedures for collection of the CGST and SGST.

- There will be one common tax return for both the taxes.

It is worth highlighting here that the provisions of the CGST Act 2017 have been replicated in the various SGST Acts. Resultantly almost all the provisions of the CGST Act, 2017 shall apply to SGST Acts, also with necessary changes.

Accordingly, the officers appointed under CGST Act are authorized to be the proper officers for the purposes of this Act. Whereas officers appointed under SGST Act are authorized to be the proper officers for the purposes of SGST Act(Section 3 of CGST/SGST).

Section 4 of the IGST Act provides that without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.

Section 174 of the CGST Act repeals all the Central levies under the previous law viz, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985

Section 174 of the SGST Act repeals all the State levies under the previous laws viz, the State VAT Act, the State Entry tax Act, the State Amusement and Betting Tax Act, State Luxury Tax, State Health Infrastructure & Services Development fund Act and any other State levies as may be provided under the section.

Section 173 of the CGST Act omits Chapter V of the Finance Act 1994, while Section 173 of the SGST Act omits / amends various state levies w.r.t octroi, entry tax, amusement and entertainment tax and other State levies that are subsumed under GST.

The Transitional Provisions under Chapter XX shows certain additional requirement under SGST Act compared to CGST Act.

Section 140(1) of CGST Act entitles to take in the electronic credit ledger, credit of the amount of CENVAT credit as carried forward in the return furnished under earlier law, relating to the period ending with the day immediately preceding the appointed day. The CENVAT credit shall be admissible as CGST tax.

Section 140(1) of the SGST Act entitles to take in the electronic credit ledger, credit of the amount of VAT, as carried forward in the return furnished under earlier law, relating to the period ending with the day immediately preceding the appointed day. The VAT credit shall be admissible as SGST tax.

The second provisio to Section 140(1) of the SGST Act so much of the said credit as is attributable to any claim related to section 3, 5(3), 6, 6A and 8(8) of the CST Act, 1956 which is not substantiated in the manner, and within the period prescribed in rule 12 of the CST(Registration and Turnover) Rules, 1957 shall not be eligible to be credited to the electronic credit ledger.

Thus in case of inter-state sale, if CST Forms like, Form C,F,H,E1,E2 are not received by the seller within the prescribed time of 3 months as stipulated in Rule 12 of the CST rules, credit equal to difference between state VAT on that item and CST paid will not be available for carry forward.

The third provisio to Section 140(1) of the SGST Act provides that an amount equivalent to the credit specified in the second provisio shall be refunded under the existing law when the said claims are substantiated in the manner prescribed in rule 12 of the CST (Registration and Turnover) Rules, 1957. Thus when the claim is substantiated, the amount will be refunded to the taxable person.

Sub-section 14 is specifically inserted to Section 142 of the SGST Act, which provides that where any goods or capital goods belonging to the principal are lying at the premises of the agent on the appointed day, the agent shall be entitled to take credit, subject to the following conditions:
(i) The agent is a registered taxable person
(ii) Both the principal and the agent declare the details of stock
(iii) The invoices are not older than twelve months
(iv) The principal has either reversed or not been availed on the input tax credit

Besides the above, all the provisions of CGST Act and SGST Act are similar.

B. COMMON PROVISIONS OF CGST AND IGST

The following provisions of the Central Goods and Services Tax Act, shall, mutatis mutandis, apply to Integrated tax as they apply in relation to Central tax as if they are enacted under IGST Act.

(i) scope of supply;

(ii) composite supply and mixed supply;

(iii) time and value of supply;

(iv) input tax credit;

(v) registration;

(vi) tax invoice, credit and debit notes;

(vii) accounts and records;

(viii) returns, other than late fee;

(ix) payment of tax;

(x) tax deduction at source;

(xi) collection of tax at source;

(xii) assessment;

(xiii) refunds;

(xiv) audit;

(xv) inspection, search, seizure and arrest;

(xvi) demands and recovery;

(xvii) liability to pay in certain cases;

(xviii) advance ruling;

(xix) appeals and revision;

(xx) presumption as to documents;

(xxi) offences and penalties;

(xxii) job work;

(xxiii) electronic commerce;

(xxiv) transitional provisions; and

(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

C. COMMON PROVISIONS OF CGST AND UTGST

The following provisions of the Central Goods and Services Tax Act, shall, mutatis mutandis, apply to Union Territory as they apply in relation to Central tax as if they are enacted under UTGST Act.

(i) scope of supply;

(ii) composition levy;

(iii) composite supply and mixed supply;

(iv) time and value of supply;

(v) input tax credit;

(vi) registration;

(vii) tax invoice, credit and debit notes;

(viii) accounts and records;

(ix) returns;

(x) payment of tax;

(xi) tax deduction at source;

(xii) collection of tax at source;

(xiii) assessment;

(xiv) refunds;

(xv) audit;

(xvi) inspection, search, seizure and arrest;

(xvii) demands and recovery;

(xviii) liability to pay in certain cases;

(xix) advance ruling;

(xx) appeals and revision;

(xxi) presumption as to documents;

(xxii) offences and penalties;

(xxiii) job work;

(xxiv) electronic commerce;

(xxv) settlement of funds;

(xxvi) transitional provisions; and

(xxvii) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

RATES OF GST

The rates of GST (CGST+SGST/UTGST)- Nil,5%,12%,18% and 28%. These rates will apply to IGST also. CGST and SGST rate is expected to be same. IGST is expected to be equal to double the CGST rate. Thus if CGST and SGST is same, the IGST rate will be equal to the rate of SGST plus CGST.

For Example:- Rajesh, a dealer in Maharashtra sold goods to Anand in Maharashtra worth `. 10,000. The GST rate is 18% comprising of CGST rate of 9% and SGST rate of 9%, in such case the dealer collects ` 1800 and ` 900 will go to the central government and ` 900 will go to the Maharashtra government.

Again if Rajesh sells goods to dealer in Delhi worth `. 10,000. This being inter- state, the dealer will charge IGST at the rate of 18% and the amount collected ` 1800 will go the central government and will later be apportioned between the union and the states on the recommendation of the GST council.

There is a special rate of 0.25% for rough diamonds and 3% for Gold, silver and jewellery, platinum, imitation jewellery, pearl, diamond, synthetic stone.

In addition, there will be GST Compensation cess on Aerated waters, cigarettes, tobacco and tobacco products, coal, peat, lignite and motor vehicles.

ADVANTAGES OF GST:

(A) MAKE IN INDIA:

(i) Will help to create a unified common national market for India, giving a boost to Foreign investment and "Make in India" campaign;

(ii) Will prevent cascading of taxes as Input Tax Credit will be available across goods and services at every stage of supply;

(iii) Harmonization of laws, procedures and rates of tax;

(iv) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth;

(v) Ultimately it will help in poverty eradication by generating more employment and more financial resources;

(v) More efficient neutralization of taxes especially for exports thereby making our products more competitive in the international market and give boost to Indian Exports;

(vii) Improve the overall investment climate in the country which will naturally benefit the development in the states;

(viii) Uniform SGST and IGST rates will reduce the incentive for evasion by eliminating rate arbitrage between neighboring States and that between intra and inter-State sales;

(ix) Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption, which in turn means more production thereby helping in the growth of the industries . This will create India as a "Manufacturing hub".

(B) EASE OF DOING BUSINESS:

(i) Simpler tax regime with fewer exemptions;

(ii) Reductions in the multiplicity of taxes that are at present governing our indirect tax system leading to simplification and uniformity;

(iii) Reduction in compliance costs - No multiple record keeping for a variety of taxes- so lesser investment of resources and manpower in maintaining records;

(iv) Simplified and automated procedures for various processes such as registration, returns, refunds, tax payments, etc;

(v) All interaction to be through the common GSTN portal- so less public interface between the taxpayer and the tax administration;

(vi) Will improve environment of compliance as all returns to be filed online, input credits to be verified online, encouraging more paper trail of transactions;

(vii) Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods and services will lend greater certainty to taxation system;

(viii) Timelines to be provided for important activities like obtaining registration, refunds, etc;

(ix) Electronic matching of input tax credits all-across India thus making the process more transparent and accountable.

(C) TO THE GOVERNMENT:

(i) Broadening Tax base
(ii) Improved compliance and revenue collections
(iii) Efficient use of Resources
(iv) Investments out of savings by consumers:-mitigation in the cascading effects of taxes will contribute to increase in availability of funds out of savings of consumer which may be used for financing development activities.

(D) TO TRADE

(i) Reduction in multiplicity of taxes
(ii) Mitigation of cascading/ double taxation
(iii) More efficient neutralization of taxes especially for exports
(iv) Development of Common National Market or Common Economic market
(v) Simpler tax regime with fewer rates and exemptions

(vi) Increase in cost competitiveness' for domestic industries with reduction in tax cost and also reduced cost of compliance.

(E) TO CONSUMER

(i) Reduction in cost of goods and services due to elimination of cascading effect of taxes
(ii) Increase in purchasing power and real income
(iii) Increase in savings due to decrease in cost
(iv) Increase in investments due to increase in savings

DISADVANTAGES OF GST:

- GST is not good news for all sectors, though. In the current system, many products are exempted from taxation. The GST proposes to have minimal exemption list. Currently, higher taxes are levied on fewer items, but with GST, lower taxes will be levied on almost all items.

- GST is not applicable on liquor for human consumption. So alcohol rates will not get any advantage of GST.

- Stamp duty will not fall under the GST regime and will continue to be imposed by states.

IMPACT OF COST AND REVENUE

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