

UNIT I

GOODS AND SERVICES TAX OF INDIA

Introduction- GST is the biggest reform for indirect taxes in India in the post-independence period. It simplified indirect taxation, reduced tax complexities, removed the cascading effect and led to one nation and one tax regime in India. Experts believe that GST will have a huge positive impact on business and change the way the economy functions. In this chapter we shall have a brief introduction on new GST regime introduced in India since July, 2017.

Before we are introduced to the system of GST in India let us know the concepts of Direct and Indirect taxes.

Concept of Direct and Indirect Taxes: A tax may be defined as a fee charged by a government on a product, income or an activity. It is a pecuniary burden laid upon individuals or property owners to support the Government, a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

Taxes are broadly classified into direct and indirect taxes.

Direct Taxes: If a tax is levied directly on or wealth an individual or an organization it is called direct tax. A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. An incidence of direct tax cannot be shifted by the taxpayer to someone else. The burden of such tax is borne by the payer of tax himself. An important direct tax imposed in India is income tax.

Indirect Taxes: If tax is levied on the price of a good or service, then it is indirect tax. The person paying the indirect tax passes on the incidence of tax to some other person. He collects the tax from his customer on sale of goods and services and remits it to the government. The ultimate burden of such tax falls on the final consumer of such goods and services. If the taxpayer (such as a manufacturer or provider of service or seller of goods) is just a conduit and at every stage the tax incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax is one that can be shifted by the taxpayer to someone else.

Existing Indirect Tax Structure in India

Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet

State Taxes

- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax

- Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

Indirect taxes are also called consumption taxes; they are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally.

Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. So far, a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, indirect taxation in India has witnessed a paradigm shift on July 01, 2017 with the introduction of a unified indirect tax regime wherein a large number of Central and State indirect taxes have been subsumed into a single tax – Goods and Services Tax (GST). The introduction of GST is a very significant step in the field of indirect tax reforms in India.

Features of Indirect-taxes:

A major source of revenue: Indirect taxes are an important source of tax revenues for Governments all over the world and continue to grow as more and more countries are moving to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.

Tax on commodities and services: It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on provision of services.

Shifting of burden: In the indirect taxes the tax burden is shifted by the tax payer to his customer. The tax is collected through the selling price of goods and services and remitted to the tax department of the government. Price of goods and services serves as vehicle for indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.

No direct pinch to tax payers: Since, value of indirect taxes is generally inbuilt in the price of the commodity or service, most of the time the tax payer pays the tax without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes. Through the purchase and consumption of various goods and services in

our day to day life we are regularly paying several indirect taxes to the government treasury.

As indirect taxation directly affects the prices of commodities and services a rise in indirect taxes leads to inflationary trend.

Wider tax base: Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds. Hence every person in a nation is indirect tax-payee. Therefore, it is rightly said that there are two things certain in human life namely, death and taxes.

Promotes social welfare: High taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only curtails their consumption but also enables the State to collect substantial revenue. Thus indirect taxes indirectly promote social welfare.

Regressive in nature: Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may lead to further increase the income disparities between the rich and the poor.

Evolution of GST in India:

France was the first country to implement GST in the year 1954. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in most transparent and natural manner.

Kelkar Task Force 2004: The Finance Ministry of Government of India set up a Task Force under the chairmanship Mr. Vijay Kelkar in 2004 on the implementation of Fiscal Responsibility and Budget Management. It made recommendations to bring about a radical transformation of the Indian Tax System. It disagreed with the existing approach of the government to reduce government expenditure to achieve the fiscal consolidation. It has advised to go for a Revenue-led Approach which focuses on enhancing the revenues instead of compressing the expenditure. It went further to suggest that the Government should enhance capital expenditure in order to counterbalance the contraction effects of fiscal consolidation. The Goods and Service Tax is an outcome of the recommendations of the Task Force under the chairmanship of Mr. Vijay Kelkar. In India the draft of Goods and Service Tax (GST) was presented in the parliament in August, 2009.

Initiative of NDA Government: Subsequently, the then Union Finance Minister, Shri P. Chidambaram announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty. The talks of ushering in GST, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution. (122nd Amendment) Bill, 2014 on GST in the Parliament on 19th December, 2014. The Lok Sabha passed the Bill on 6th May, 2015 and Rajya Sabha on 3rd August, 2016. Subsequent to ratification of the Bill by more than 50% of the States, Constitution. (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and

became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India. In the following year, on 27th March, 2017, the Central GST legislations - Central Goods and Services Tax Bill, 2017 integrates Goods and Service Tax Bill, 2017, Union Territory Goods and Services Tax Bill, 2017 and Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in Lok Sabha. Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent on 12th April, 2017, the Bills were enacted.

State GST Laws: The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws. GST is a path breaking indirect tax reform which will create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax, etc.

Concept of GST: Value Added Tax: GST is a single value added tax on the supply of goods and services levied by the government of India. Under GST, tax is levied only on the value added at each stage in the supply chain from producer to the ultimate consumer. For example, if a business house purchases the goods of Rs. 1,000 and sells it for Rs. 1500 by adding Rs. 500 to the initial cost (consisting of say business overheads Rs. 200 and Profits of Rs. 300) he will have to pay GST only on the value addition of Rs. 500 and not on the total cost of Rs. 1500.

Comprehensive: GST subsumes all the prevailing indirect taxes. Moreover, by bringing in a unified taxation system across the country, it ensures that there is no more arbitrariness in tax rates.

Multi-stage: GST is levied at each stage in the supply chain from manufacturer to the ultimate consumer where the transaction takes place. GST offers comprehensive and continuous chain of tax credits from the producer's point or service provider's point up to the retailer's level or consumer's level thereby taxing only the value added at each stage of supply chain.

Credit of GST paid on Purchases: The supplier at each stage is permitted to avail credit of GST paid on purchase of goods and or services and can set-off this credit against the GST payable on supply of goods and services to be made by him.

Thus only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all previous stages.

Destination based consumption: GST is collected at the point of consumption. The tax authority with appropriate jurisdiction in the place where the goods / services are finally consumed will collect the tax. For example let us say that the cotton garments are shipped from Gujarat to Maharashtra. Gujarat is producer state and Maharashtra is the consumer state. Tax revenue under GST shall be collected by GST authorities in Maharashtra.

No Cascading Effect: Since only the value added at each stage is taxed under GST, there is no tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus the two are taxed at a single rate.

Rates of GST: Currently there are four slabs of GST on the various categories of goods and services. They are 5%, 12%, 18% and 28%.

Registration under GST: Every supplier who makes a taxable supply of goods and / or services liable to get himself registered in the state from where he supplies. Threshold limit (computed on all India basis) – Special category states – Rs.10 lakhs – Other states –Rs.20 lakh. Online application for registration has to be made within 30 days. PAN based Registration has to be done. Following persons have to obtain registration irrespective of their threshold limit: (a) Persons making inter-state taxable supply (b) Casual taxable persons and (c) Non-resident taxable persons.

GST for sale within the state: In case the buyer and seller of goods or service are from the same state transaction would be taxed simultaneously under Central GST (CGST) and State GST (SGST). The Central GST and the State GST would be levied simultaneously on every transaction of supply of goods and services except the exempted goods and services. Further, both would be levied on the same price or value. While the location of the supplier and the recipient within the country is immaterial for the purpose of CGST, however, SGST would be chargeable only when the supplier and the recipient are both located within the State.

GST for Inter-state Sale: Integrated Goods and Service Tax (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. The GST on supplies in the course of Inter-State trade or commerce shall be levied and collected by the Government of India. Such tax shall be apportioned between the Union and the States in the manner as may be provided by the law.

Taxes Subsumed by GST:

Taxes not to be subsumed by GST in India are: Basic Customs Duty • Export Duty • Toll Tax • Road and Passenger Tax • Electricity Duty • Stamp Duty • Property Tax.

Note: 1. Alcoholic beverages for human consumption are proposed to be kept out of the purview of GST 2. GST on petroleum products would be levied from a notified date to be recommended by the GST Council.

Need of GST in India: The prevailing value added tax system had several deficiencies which were cured by the GST. These deficiencies were as under:

Multi-tax Regime: In the earlier indirect tax regime, a manufacturer of excisable goods charged excise duty and value added tax (VAT) on intra-State sale of goods. However, the VAT dealer on his subsequent intra- State sale of goods charged VAT (as per prevalent VAT rate as

applicable in the respective State) on value comprising of (basic value + excise duty charged by manufacturer + profit by dealer). Further, in respect of tax on services, service tax was payable on all 'services' other than the Negative list of services or otherwise exempted.

Deficiencies and Diversities in Indirect taxes: The earlier indirect tax framework in India suffered from various shortcomings. Under the earlier indirect tax structure, the various indirect taxes being levied were not necessarily mutually exclusive.

Framework of GST as introduced in India:

Dual GST India has adopted a dual GST system, which was imposed concurrently by the Centre and States as CGST & SGST. Center has the power of tax intra-state sales and states are empowered to tax services. Now GST has extended to all over the India.

CGST/SGST/UTGST/IGST: - GST is a destination based tax applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof. GST in India comprises of Central Goods and Service Tax (CGST) – levied and collected by Central Government, State Goods and Service Tax (SGST) – levied and collected by State Governments/Union Territories with State Legislatures and Union Territory Goods and Service Tax. (UTGST)-levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services. (IGST)- Inter-State supplies of taxable goods and/or services are subject to Integrated Goods and Service Tax. IGST is approximately the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

Legislative Framework: There is single legislation – CGST Act, 2017 – for levying CGST. Similarly, Union Territories without State legislatures [Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu and Chandigarh] are governed by UTGST Act, 2017 for levying UTGST. States and Union territories with their own legislatures [Delhi and Puducherry] have their own GST legislation for levying SGST. Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.

Classification of Goods and Services: - HSN (Harmonized System of Nomenclature) code is used for classifying the goods under the GST. A new Scheme of Classification of Services has been devised wherein the services of various descriptions have been classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of the First Schedule to the Customs Tariff Act, 1975.

Manner of utilization of ITC: - Input Tax Credit (ITC) of CGST and SGST/UTGST is available throughout the supply chain, but cross-utilization of credit of CGST and SGST/UTGST is not possible, i.e. CGST credit cannot be utilized for payment of SGST/UTGST and

SGST/UTGST credit cannot be utilized for payment of CGST. However, cross utilization is allowed between CGST/SGST/UTGST and IGST, i.e. credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa.

Registration- Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover exceeds 20 lakh during a FY.

However, the limit of `20 lakh will be reduced to `10 lakh if the person is carrying out business in the Special Category States – [11 Special Category States are specified in Article 279A(4)(g) of the Constitution] - States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

Composition Scheme in GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed in the law.

However, for providing relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Levy.

Exemptions Apart from providing relief to small-scale business, the law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

The benefits of GST

For business and industry:

Easy compliance: A robust and comprehensive IT system would be the foundation of the GST regime in India. Therefore, all tax payer services such as registrations, returns, payments, etc. would be available to the taxpayers online, which would make compliance easy and transparent.

Uniformity of tax rates and structures: GST will ensure that indirect tax rates and structures are common across the country, thereby increasing certainty and ease of doing business. In other words, GST would make doing business in the country tax neutral, irrespective of the choice of place of doing business.

Removal of cascading: A system of seamless tax-credits throughout the value-chain, and across boundaries of States, would ensure that there is minimal cascading of taxes. This would reduce hidden costs of doing business.

Improved competitiveness: Reduction in transaction costs of doing business would eventually lead to an improved competitiveness for the trade and industry.

Gain to manufacturers and exporters: The subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input goods and services and phasing out of Central

Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.

For Central and State Governments

Simple and easy to administer: Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.

Better controls on leakage: GST will result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an inbuilt mechanism in the design of GST that would incentivize tax compliance by traders.

Higher revenue efficiency: GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.

For the consumer

Single and transparent tax proportionate to the value of goods and services: Due to multiple indirect taxes being levied by the Centre and State, with incomplete or no input tax credits available at progressive stages of value addition, the cost of most goods and services in the country today are laden with many hidden taxes. Under GST, there would be only one tax from the manufacturer to the consumer, leading to transparency of taxes paid to the final consumer.

Relief in overall tax burden: Because of efficiency gains and prevention of leakages, the overall tax burden on most commodities will come down, which will benefit consumers.

Challenges in implementing GST: While the desirability of the reform was undoubted, making a transition to GST involved not only considerable work but also formidable challenges.

Understanding between Center and States: Unlike in many other countries where GST is a centralized tax, in India it is to be executed by both central and state governments, according to the proposals. This implies that both the structure and administration of the levy had to emerge after detailed negotiations and bargaining between the centre, 29 states and the two Union Territories with legislatures. Given the sharp differences in the structure of the economy and sales tax revenue (as a ratio of gross state domestic product, or GSDP) across states, the interests of the states did not always coincide. Hence considerable effort was needed to persuade them to adopt a uniform or even a broadly harmonized structure and administrative system for the tax.

Information Technology Platform: For ensuring seamless input tax credit, they had agreed on a mechanism wherein the tax levied at the stage of interstate sale was to be collected and pooled

separately and transferred to the destination state through a clearing house. They had also established the GST Network (GSTN), a special purpose vehicle with equity contributions from the technology partner (NSDL), and central and state governments to erect the information technology (IT) platform to administer GST.

Issue of compensation for the loss of revenue: The 13th Finance Commission's recommendation that states should levy "flawless" GST to be eligible to receive compensation for any loss of revenue put the entire negotiation process on the back burner. The problem was compounded by the central government's refusal to pay compensation for the loss of revenue arising from the reduction in central sales tax (CST). CST is the sales tax levied on inter-state transactions. The tax which was levied at 4% by the exporting state was reduced to 2% in 2007 in preparation for the introduction of GST. The central government had agreed to pay compensation for the loss of revenue to the states until 2010, when the GST was to be implemented. When the central government refused to compensate the states after 2010, a huge trust deficit was created and the entire negotiation process virtually broke down. The new finance minister has promised to clear the backlog of dues to the states and the states have resumed the negotiation process. The finance minister has also announced that the Constitution Amendment Bill will be placed in the winter session of Parliament. These developments bode well.

Contentious issues and negotiation process: There are a number of issues on which negotiations are necessary to reach a consensus between the centre and the states and among the states themselves. The first issue relates to the inclusion of taxes within the ambit of GST. The bone of contention relates to inclusion of purchase taxes on foodgrain, taxes on motor spirit and high-speed diesel (GSD), and octroi or entry tax in lieu thereof. The foodgrain surplus states have been levying the purchase tax, the burden of which is exported to non-residents. The states were reluctant to bring motor spirit and high speed diesel within the ambit as presently the tax is levied at a floor rate of 20% and the states derive about 35% of their sales tax collections from these petroleum products.

Determination of Revenue Neutral Rate: Another issue to be decided is the rates of central and state GSTs to be levied. It was expected that the tax rates would be revenue neutral. This implies that in the short term, there would not be any revenue loss or gain, but over time the revenue productivity is expected to increase due to better compliance of the tax and increased productivity of the economy. However, estimation of revenue-neutral rate required consensus on the exemption list, number of tax rates to be levied and the list of goods and services to be included in different rate categories. Revenue-neutral rates had to be estimated for the centre and for each of the states. Furthermore, when there was a preference for two rates—one for essential goods and services consumed by common people and another general rate—the estimation of revenue-neutral rates becomes further complicated.

Setting up of an administrative system: Another area where a lot of work is needed is the setting up of an administrative system for GST and working out the transitional arrangements. Ideally, from the viewpoint of reducing compliance cost, a unified administration would be desirable. However, that is not likely to happen as each state would like to control the administration of its GST. In this situation, harmonization of administrative processes with uniform systems, forms and procedures would be necessary. This would also require additional training of tax collectors in the administration and enforcement of the tax. Equally important is the dissemination of information about the tax to taxpayers.

