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Invitation to write Article

Readers are invited to contribute article/s for the Journal. The article should be on a topic of current relevance on Corporate Law, Tax Law, or on any other matter or issue relating to Economic or Commercial Laws. The article should be original and of around 7-8 pages in word file (approx. 2500 words). Send your articles at email id : articles@vidhimaan.com along with your student registration number. The shortlisted articles shall be published in the Journal.

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विद्यानामनरस्य कीर्तिरतुला भाग्यक्षयेजाश्रयोधेनुः कामदुधारतिश्च विरहे नेत्रं तृतीयंसा।
सत्काराय तनं कुलस्य महिमा रत्नैर्विना भूषणम्तस्मादन् यमुपेक्ष्य सर्व विषयं विद्याधिकारं कुरु॥
विद्या अनुपम कीर्ति है; भाग्य का नाश होने पर वह आश्रय देती है, कामधेनु है, विरह में रति समान है, तीसरा नेत्र है, सत्कार का मंदिर है, कुल–महिमा है, बगैर रत्न का आभूषण है; इसलिए अन्य सब विषयों को छोड़ कर विद्या का अधिकारी बन।

Such is the importance of gaining knowledge in one's life. I urge my dear students to make it a habit to learn from whatever source you come across daily in your life. Every person you meet has pearls of wisdom to teach you, every object in nature has some beauty hidden and points towards a glorious lesson, it is just the burning desire to learn within a person that may make him gem of a person. Let me share with you a related story "Empty your cup".

"Empty your cup" is often attributed to a famous conversation between the Scholar Tokusan (also called Te-shanHsuan-chien,) and Zen Master Ryutan (Longtan Chongxin). Scholar Tokusan, who was full of knowledge and opinions about the Dharma, came to Ryutan and asked about Zen. At one point Ryutan re-filled his guest's teacup but did not stop pouring when the cup was full. Tea spilled out and ran over the table. "Stop! Stop! The cup is full!" said Tokusan.

"Exactly," said Master Ryutan. "You are like this cup; you are full of ideas. You come and ask for teaching, but your cup is full; I can't put anything in. Before I can teach you, you'll have to empty your cup." Therefore, all of us have to empty our cup and imbibe every learning we come across with an open mind. It will also be my advice to keep yourself abreast of latest developments in our profession in particular and overall economic happenings in India and globally in general. Go beyond boundaries of your syllabus and become a light house of knowledge.

We are taking many new initiatives for our students, latest one being 'Academic Helpline 011-66757777''. It is a facility for those CS students hailing from far flung areas of the country and require help in clearing their doubts on subjects concerning CS course on real-time basis. This Academic Helpline shall have a best pool of faculty/expert resources to cater to the queries of our students from 7 am to 11 pm. Such flexible extended hours will help our students to get guidance at their convenience.

I am sure you must be finding the knowledge hidden in our ancient Indian scriptures presented through our initiative 'Gyan Moti' on ICSI homepage very useful. Also, 'info capsules' is an initiative to provide you a daily dose of updated economic happenings around, therefore, take full advantage of these initiatives of ICSI to become best version of yourselves.

I view you all as most sought after future professionals who will be holding the torch of Corporate Governance in India high, so keep excelling and enriching yourself.

Happy reading!
Best wishes.
CS (Dr.) Shyam Agrawal
President, ICSI
Dated : 6th May, 2017

VAT/CST PROVISION RELEVANT TO GST

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In this article, the author highlights the salient features of the GST and also discusses the relevant provisions of the CST/VAT with respect to GST.

Background

GST, one of the biggest tax reform in India is spurring growth in the economy. It is an indirect tax that brings most the taxes which are imposed on the goods and services under single banner. As, GST is highly successful in the European and other countries, it is expected by the industries dealing in this area that it will simplify the tax structure and make it easier. Experts opine that the implementation of GST would push up GDP by 1%-2%. Consensus has been made between the Central and the State Governments for four tier tax structure. They are as follows:-

5%-Essential Supplies

12%-Standard rate for Goods and Services

18%-Standard rate for Goods and Services

28%-Expected for goods currently taxed at the rate of 30%

Salient Features of GST

- Insertion of new article 246A in the Constitution conferring simultaneous power to the Union and State Legislatures to legislate on GST.
- Insertion of new article 279A in the Constitution for the creation of a Goods and Services Tax Council, which will be a joint forum of the Centre and the States. This Council would function under the Chairmanship of the Union Finance Minister.
- GST would be a destination based tax as against the present concept of origin based tax.
- Central Taxes like Central Excise Duty, Additional Excise Duties, Service Tax, Additional Customs Duty (CVD) and Special Additional Duty of Customs (SAD), etc., will be subsumed in GST.
- At the State level, Taxes like VAT/ Sales Tax, Central Sales Tax, Entertainment Tax, Octroi and Entry Tax, Purchase Tax and Luxury Tax, etc., would be subsumed in GST.
- All goods and services, except alcoholic liquor for human consumption, will be brought under the purview of GST. However, it has also been provided that petroleum and petroleum products shall not be subject to the levy of GST till notified at a future date on the recommendation of the GST Council. The present taxes levied by the States and the Centre on petroleum and petroleum products, i.e., Sales Tax/VAT, CST and Excise duty only, will continue to be levied in the interim period.
- Both Centre and States will simultaneously levy GST across the value chain. Centre would levy and collect Central Goods and Services Tax (CGST), and States would levy and collect the State Goods and Services Tax (SGST) and Union Territory would levy and collect Union Territory Goods and Service Tax (UTGST) on all transactions within a State.
- The Centre would levy and collect the Integrated Goods and Services Tax (IGST) on all inter-State supply of goods and services. There will be seamless flow of input tax credit from one State to another. Proceeds of IGST will be apportioned between Centre and State. On import of goods, IGST would be levied.

VAT/CST Provision Relevant to GST

Inter-State Transaction

Suppose, A of West Bengal sold the goods to B of Karnataka of value Rs. 50,000. Assuming the rate is 27%, as it is a inter-state sale, IGST would be levied on it which amounts to Rs. 13,500. IGST collected would be apportioned between Centre and State.

GST is a destination based tax and not origin based, therefore, since goods is consumed in Karnataka, it would form the revenue of the Karnataka Government and not West Bengal Govt.

Intra-State Transaction

Suppose, A of WB sold goods to B of WB of value Rs. 50,000. Assuming CGST (13%) and SGST(14%), as it is a Intra- State sale, CGST and SGST would be levied which amount to Rs. 6,500(CGST) and Rs. 7000(SGST).

Treatment of Inter-State Sale Pre-GST and during GST showing the availment of credit

Illustration 1

A, manufacturer of WB manufacture the goods and sold to B of WB. B, trader of WB further sold the goods to C, trader of Karnataka which further sold to D, Karnataka.

Pre- GST

Assessee	Output tax	Input tax	Credit available/ not available
A, manufacturer of WB selling goods to B, WB	Excise Duty WB VAT	Excise Duty Service Tax	Excise Duty available Service Tax available
B, trader of WB selling goods to C, Karnataka	CST	Excise Duty WB VAT	Excise duty not available WB VAT available
C, trader of Karnataka selling goods to D, Karnataka	K-VAT	CST	CST not available
D, Karnataka (last consumer)	–	K-VAT	K-VAT not available

GST Regime

Assessee	Output tax	Input tax	Credit available/not available
A, manufacturer of WB selling goods to B, WB	SGST CGST	SGST CGST (Local purchase)	SGST available CGST available
B, trader of WB selling goods to C, Karnataka	IGST	SGST CGST	SGST available CGST available
C, trader of Karnataka selling goods to D, Karnataka	SGST CGST	IGST	IGST available
D, Karnataka (last consumer)	NIL	SGST CGST	SGST not available CGST not available

VAT/CST Provision Relevant to GST

Notes :

- SGST can be set off against SGST, IGST.
- CGST can be set off against CGST, IGST.
- UTGST can be set off against UTGST, IGST
- IGST can be set off against IGST, CGST, SGST, UTGST
- CGST, SGST and UTGST cannot be set off against each other.

Treatment of Stock Transfer

Illustration 2

A, manufacturer of WB manufacture the goods and sold to B of WB. B, trader of WB transfer the goods to his branch located in Karnataka. Karnataka branch sold the goods to D, Karnataka.

Pre- GST

Assessee	Output tax	Input tax	Credit available/ not available
A, manufacturer of WB selling goods to B, WB	Excise Duty WB VAT (14.5%)	Excise Duty Service Tax	Excise Duty available Service Tax available
B, trader of WB stock transfer the goods to branch located in Karnataka	No tax	Excise Duty WB VAT (14.5%)	2% of WB VAT will not be available as it has to be reversed from input credit. Excise duty not available
Karnataka branch selling goods to D, Karnataka	K-VAT	–	–
D, Karnataka (last consumer)	–	K-VAT	K-VAT not available

GST Regime

Assessee	Output tax	Input tax	Credit available/not available
A, manufacturer of WB selling goods to B, WB	SGST CGST	SGST CGST (Local purchase)	SGST available CGST available
B, trader of WB stock transfer the goods to branch located in Karnataka	IGST	SGST CGST	SGST available CGST available
Karnataka branch selling goods to D, Karnataka	SGST CGST	IGST	IGST available
D, Karnataka (last consumer)	NIL	SGST CGST	SGST not available CGST not available

Notes:

What will happen in case the goods are transferred to consignment agent??

- In Pre-GST, VAT is applicable on sale and not on supply. Hence, for transferring the goods to the consignment agent no VAT is to be charged. Consignment agent charges its commission for the selling the goods on your behalf which is generally around 2 percent to 4 percent. When actual sale takes place then only VAT or CST is charged.

However, GST is levied on the supply of goods. Thus, on supplying the goods to the consignment agent, it would satisfied the leviability and GST at the rate of 20 percent to 27 percent will be imposed on agent. On earning 2 percent to 4 percent commission on sale, first he has to pay GST amount which is ten times of the commission amount.

Compendious Angle

FREQUENTLY ASKED QUESTIONS ON BASICS OF GST

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Introduction

Goods and Services Tax is a tax levied on the supply of goods or services or both. It purports to replace multiple taxes like VAT, service tax, central excise, etc., with only one tax regime, i.e., GST. The tax paid at the previous stage will be allowed as input tax credit against payment of output taxes. To sum up, only value addition will be taxed similar to the VAT and CENVAT regime. It is a destination based tax. It means that the tax would accrue to the state to which the goods are finally supplied, i.e., where consumption takes place.

How is GST better than the Current Tax Regime?

GST intends to remove a lot of drawbacks which are prevalent in the current tax regime. Few of these drawbacks are as follows:

- **Compliance Burden** -Under the current tax regime, a large variety of indirect taxes are charged such as central excise, customs, service tax, state VAT, entertainment tax, State excise, etc. Each of these taxes have separate laws and their respective rules. Currently, a person has to examine which taxes are applicable to him and accordingly has to comply with the same. Also, every tax regime has a different set of taxable events, valuation rules, time of payment, etc. Compliance with so many separate Acts and Rules makes the current tax regime very strenuous. Moreover, the Government has to assess and collect these taxes separately making it difficult for them also. However, under the GST regime most of these taxes have been subsumed into GST.

- **Cascading Effect**-Another major draw back is that the current tax regime has not been able to reasonably remove the cascading effect of taxation. This is because the Central taxes like service tax and excise paid on inputs are not allowed to be set off against the State Level VAT on sale of goods. In the same way, the VAT paid on inputs is not allowed to be set off against the service tax liability on provision of service or Excise Liability on manufacture of goods. This adds to the cost of the goods and leads to double taxation.

In the GST regime, since most of the taxes have been subsumed into GST, it will smoothen the process of flow of credit. In the long run, it will help the consumers by reducing the ultimate selling price and it will help the suppliers by making their products more competitive in the domestic and international markets.

- **Goods or services** – The current tax regime requires us to classify between goods or services. This leads to a lot of disputes and confusions for certain industries like restaurants, construction, etc. Such issues will reduce to a great extent under the GST regime.

- **Easy administration and increase in revenues for the Government** – GST due to its transparent nature will be easier for the Government to administer. Moreover, GST is expected to widen the tax base and improve the compliance rate thereby increasing revenues for the Government.

Which are the Taxes that will be subsumed under GST?

Taxes levied and collected by the Centre: –

Frequently Asked Questions on Basics of GST

- Central Excise Duty
- Duties of Excise (Medicinal and Toilet Preparations)
- Additional duties of Excise (Goods of Special Importance)
- Additional duties of Excise (Textiles and Textile Products)
- Additional Duties of Customs (CVD)
- Special Additional Duties of Customs (SAD)
- Service Tax
- Central surcharges and Cesses so far as they relate to supply of goods and services.

Taxes levied and collected by the State

- Value Added Tax
- Central Sales Tax
- Luxury Tax
- Entry Tax
- Octroi
- Entertainment and Amusement Tax (except when levied by the local bodies)
- Taxes on advertisements
- Purchase Tax
- Taxes on lotteries, betting and gambling
- State surcharges and Cesses so far as they relate to supply of goods and services

How many Taxes will be levied under the GST regime ?

The following are the different taxes levied under the GST regime:

• In case of intra-State supply– A dual taxation system will be followed as GST will be levied in two parts; the Central Goods and Services Tax(CGST) and the State Goods and Services Tax (SGST). The CGST will be levied by the Central Government whereas the SGST will be levied by the State Government. For the purposes of GST, a Union Territory with a legislature shall be treated as a State and SGST will be levied.In case of an Union Territory without a Legislature, instead of SGST, Union Territory GST (UTGST) will be charged.

• In case of inter-State supply – GST will be levied by the name of Integrated Goods and Services Tax (IGST). The IGST will be levied by the Central Government but it will be distributed between the Central Government and the State Government of the state where the goods are supplied, in the manner as may be provided by the Parliament by law on the recommendations of the Goods and Services Tax Council.

What is the need for such Dual Taxation System?

India is a federal country. The Central Government and the State Government have different rights and responsibilities with respect to collection of taxes. Both the Governments are expected to retain their independence with respect to levy and collection of taxes. Since, GST is to be collected by both the Governments concurrently, dual taxation system is required to be implemented in India.

Which products are not covered under GST currently?

The following goods are not covered under GST:

• Alcoholic liquor for human consumption - It will not be covered under GST. State Governments will retain the exclusive right to tax alcoholic liquor for human consumption. So the existing taxes will continue.

• Electricity

• Petroleum Products -Petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel – Although these are covered under GST; The existing taxes (VAT & Central Excise) will continue on these and GST will not be levied till it is specified by the GST Council

What will be the Status of Tobacco and Tobacco Products under the GST Regime?

Tobacco and tobacco products are covered under the GST regime and GST will be levied on it. Moreover, the Central Government has retained the right to levy Central Excise on such products. Hence both taxes can be levied simultaneously on these products.

How many rates are expected under GST?

The Goods and Services Tax (GST) will be levied at multiple rates ranging from 0 per cent to 28 per cent. GST Council finalised a four-tier GST tax structure of 5%, 12%, 18% and 28%, with lower rates for essential items and the highest for luxury and de-merits goods. In order to control inflation, essential items including food, which presently constitute roughly half of the consumer inflation basket, will be taxed at zero rate. The lowest rate of 5% would be for common use items. There would be two standard rates of 12 Percent and 18 Percent, which would fall on the bulk of the goods and services. This includes fast-moving consumer goods. Highest tax slab will be applicable to luxuries and de- merit goods Luxuries, demerit and sin goods (like tobacco and aerated drinks), will attract a cess for a period of five years on top of the 28% GST. The collection from this cess as well as that of the clean energy cess would create a revenue pool which would be used for compensating States for any loss of revenue during the first five years of implementation of GST.

What is the Taxable event under GST?

The taxable event under GST is the "supply" of goods or services. This term has a very wide scope and has been given an inclusive meaning under the law.

How will Imports be treated under GST?

Imports of goods and services will be treated as inter-State supplies and IGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. With respect to import of goods, basic customs duty will continue to be levied even under the GST regime.

How will Exports be treated under GST?

Exports will be treated as zero rated supplies. No tax will be payable on exports of goods or services, however, credit of input taxes will be available and same will be available as refund to the exporters. The exporter will have an option to either pay tax on the output and claim refund of IGST or export under Bond without payment of IGST and claim refund of Input Tax Credit (ITC).

Whether Transaction in Securities be taxable in GST?

Securities have been specifically excluded from the definition of goods as well as services. Thus, the transaction in securities shall not be liable to GST.

Who is required to Register under the GST Regime?

The following persons are required to register under GST:

- Persons having an aggregate turnover of more than:

(a) Rs. 10 lakh in Special Category State (viz. States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand)

(b) Rs. 20 lakh in other than Special Category States

The registration is required to be taken in each of the States from where the taxable supplies are made.

- Aggregate turnover means the aggregate value of

a) All taxable supplies

b) Exempt supplies

c) Export of goods or services or both

d) Interstate supplies

of a person having the same PAN No.to be computed on an all India Basis. It does not include the CGST, SGST,UTGST or IGST charged on supplies.

- Every person who is registered or holds a licence under any of the existing law on the date immediately preceding the appointed date
- Certain persons who are required to compulsorily register irrespective of their turnover (viz., persons making any interstate taxable supply, persons required to pay tax under reverse charge basis, electronic commerce operator etc.)

What are the conditions for paying taxes under Composition Scheme of GST?

A registered person with an aggregate turnover in a preceding financial year up to Rs. 50 lakh shall be eligible for composition levy. Under the scheme, a taxpayer shall pay tax as a percentage of his turnover in a state during the year without the benefit of ITC. The rate of tax for composition levy shall not exceed

(a) 1 Percent under CGST + 1Percent under SGST =2Percent of the turnover in State for manufacturer

(b) 2.5Percent under CGST + 2.5Percent under SGST = 5Percent of the turnover in state for specific services as Serving of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) for cash, deferred payment or other valuable consideration,

(c) 0.5Percent under CGST+ 0.5Percent under SGST= 1Percentof the turnover in State in other cases.

A tax- payer opting for composition levy shall not collect any tax from his customers. The government may increase the above said limit of Rs. 50 lakhto up to Rs. 1 crore, on the recommendation of GST Council.

The following persons cannot opt for Composition Scheme ;

- Tax- payers making inter- state supplies
- Supplier of services other than that on which 2.5Percent tax shall be applied as mentioned above
- Supplier of any goods which are not leviable to tax under this Act
- Persons making supplies through e-commerce operators who are required to collect tax at source
- Manufacturers of such goods as may be notified by the Government, on the recommendations of the Council.

Conclusion

Finally, GST is a reality and there is still a lot that needs to be done in the next few months by the industry for transition into this new regime. It is being touted as the most game changing tax reform of the country since independence. It is certainly going to affect all the businesses and professions throughout the country. So, it is paramount for the trade and commerce to make an impact assessment for their respective businesses.

Article

GSTN-DEVELOPMENTS AND THE CHALLENGES AHEAD

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In this article, the author provides an overview of GSTN developments and highlights challenges ahead in implementing GST

Introduction

With President assent to the four Central Goods and Services Tax (GST) Laws, namely the Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Goods and Services Tax (Compensation to States) Act, 2017 and Union Territory Goods and Services Tax Act, 2017, the Government, industry and the common man are all expecting and getting ready for GST to be rolled out from 1st July, 2017. However, for GST to become the game changer everyone expects it to be and for a painless migration to such an India's biggest indirect tax reform, Goods and Services Tax Network (GSTN) will be the key, the IT backbone of GST regime. Though the IT infrastructure is in place, the rapid technological change stresses the need for speed, flexibility and transparency and a completely foolproof security mechanism against any cyber attacks. The article will throw light on developments in the IT infrastructure and its challenges ahead in smooth implementation of GST.

Overview

Information technology('IT') is considered to be the key implementing factor for the Goods and Services Tax (GST) to become the game changer everyone expects it to be. Only through a robust, state-of-the- art, secured and trusted IT system it is possible to provide a seamless, user-friendly experience cutting across geographical and functional boundaries. A smooth migration to this landmark indirect tax reform will depend on efficient working of GST's most critical component, the GST Network (GSTN). 'GSTN' is considered to be the soul if GST, meaning thereby, that the compliances under GST law are IT-driven. GST portal is the most important device which will act as a means of communication between taxable person and tax administrator.

IT platform for implementing GST

Rolling out the required IT platform for implementing GST and sorting out the administrative arrangements for GST system consisting of State GSTs, Central GSTs and an Integrated GST for inter-state movement of goods and services if not a task of the sooth.

For rolling out the required IT platform, called GSTN, the National Securities Depository Ltd. (NSDL) has to compile the necessary database for around eight million traders and service providers in collaborations with Union and State Governments and issue each entity a GST ID number for retrieval of all relevant data similar to an income-tax PAN card. This is a formidable task. But quite a bit of database already been complied and verified from the IT database. Additional data regarding nature of business, place of business, banking account details, etc., are yet to be compiled.

GST Network

To develop, design and rollout an appropriate GST network in itself is a gigantic task with full of technology and operational issues and complexities on a PAN India map. Keeping in view such facts in mind, GSTN special purpose vehicle ('SPV') was incorporated on 28th March, 2013 as a non-Governmental, not-for-profit [Section 25], and a private limited company registered under the Companies Act. The authorised capital of this company is Rs.10 crore and shareholding composition is: 24.5 percent of Central Government, 24.5percent of all State Governments/UTs and 51percent is of Institutions (like HDFC Bank, ICICI Bank, HDFC Ltd., LIC, etc.) and here lies the bone of contention from the critics point of view who held the view that larger chunk of 51 percent is entrusted with private sector and minor partner is Government which is neither rational nor justified specially per views expressed by Mr. Subramanian Swamy, IRS Association. However, it is worth to mention that under GSTN, strategic control to remain with Government, hence concerns may not stand substantiated. Infosys has been appointed as MSP (managed service provider) and GSTN to interalia, function as a Common Pass-through portal for tax- payers towards -

- Registration processing,
- Returns file processing, and
- Tax payments.

Task is not easy on PAN India basis to keep aligned and harmonised operational IT structure in view of transitional provisions, tracking and retrieving of existing data-base (about 80 lakh existing taxpayers of VAT, Service Tax and Excise Duty). Inserting of new data base and their linking, multiple legislations (around 38), circulars, notifications, Banking arrangements, etc.,task is undoubtedly gigantic, tremendous and, therefore, concerns are being raised in various corners.

GSTN is a private limited company with Central and State Governments holding 49percent stake, while the remaining 51percent is with non-government financial institutions. There are about 65 lakh registered VAT assesses, 26 lakh service tax assesses and another 5 lakh central excise assesses, who are expected to register under the unified GSTN, which provides IT infrastructure and services for implementation of GST.

Taxpayers located across different States can log into the website www.gst.gov.into update their information and other relevant document as a first step towards obtaining a registration number under GST. All traders will need a GST ID number, a 15 digit number based on their Permanent Account Number (PAN) to operate under GST which is expected to take effect from1st July, 2017. The network, which forms the backbone of GST, is coordinating with State Government to update information on traders and issue them TIN. All interaction with GSTN would be electronic. The transaction needs to be managed with teams for coordinating activities of different work streams, anticipating risks and potential roadblocks and ensuring timely completion of all tasks.

GST Network, the firm which is being considered the IT backbone of GST regime, assured stakeholders that all their data will be stored in an encrypted form and only the taxpayer and the Assessing Officer (AO) will have the access to information. The database administrator has been designed in a way that no outsider can see the data. Only two people can have access, the taxpayer himself or his tax officer, who is responsible for that. Clear tax, an income- tax returns e-filing and enterprise compliance service provider, launched a first-of-its kind multi-GSP taxation solution for the same. All GST Suvidha Providers (GSPs) will provide an identical interface that links to GSTN.

Challenges

Following are the challenges ahead for GST rolling out through GSTN

Blockchain Technology

For a smooth rollout of GSTN, states have hammered out a consensus on a common portal providing three core services viz., registration, returns and payments. However, with rapid technological changes, the need for speed, flexibility and transparency, burgeoning societal expectations coupled with complexities in value exchanges, the existing governance structure and paradigm are under severe stress. They now require global-scale platforms for value exchange or 'blockchain technology', the disruptive technology that underpins the bitcoin economy.

Blockchain is a method of recording data, a digital ledger of transactions, agreements and contrasts distributed across several hundreds or even thousands of computers around the world. Digital records are lumped together to 'blocks', then bound together crypto-graphically and chronologically into a 'chain' using complex algorithms. It can be used like a ledger, which can be shared and corroborated by anyone.

The present system of data manage-ment by tax departments typically involves large legacy centralised IT systems based on a 'centralised ledger' with some recovery sites. These are supplemented by an array of networking and messaging systems to communicate with the external stakeholders. Highly centralised systems present a high cost single point of failure, apart from cost and complexity. In contrast, distributed ledgers are inherently harder to attack. They are multiple shared copies of the same database. So, a cyber attack would have to attack all the copies simultaneously to be successful.

GST is a destination-based tax that provides a comprehensive and continuous chain of set-off benefits from the producer and service provider's point upto the retailer's level, taxing only the value addition at each level. This is akin to a peer-to-peer network ('P2P'). Blockchain is a P2P technology that uses 'distributed ledger' and can record 'proof of events' like value added, set-off and tax paid across the entire supply chain. This proof is public, irrefutable, non-repudiable and impervious to tampering it establishes a distributed consensus about every transaction. This frictionless flow of value has a built-in-reward of set-off benefits in the supply chain. This means centralised uploading and invoice-matching by tax departments become redundant.

Blockchain allows untrusted parties to collectively create a trusted authoritative record, making it bad news for all 'trust keepers': governments, regulators, clearing house of this world as it strikes at their raison d'etre. It has taken the financial world by storm. R3, a consortium of around 45 of the world's largest banks, is betting big on private blockchain. Also, "open ledger project", led by Linux Foundation, is trying to build a distributed ledger, 'Fabric', amenable to customisation for different industries.

By being oblivious to blockchain, India may languish at the bottom of technology pyramid. True, in its present form, it suffers from several limitations like scalability, speed, confidentiality, secrecy and a "suspect reputation" amplified by lack of a governance structure. Yet, it is shaking the foundations of today's commercial facilitation.

Blockchain's biggest strength is the secured distributed database aspect of technology. While the era of blockchain proliferation has just began, the road to programmable economy of the future is a long run. However, the intended benefits far outweigh the associated risks. Blockchain technologies may fundamentally alter government functioning. The government has a historic opportunity to start small with a tactical, narrow deployment in GSTN that can be rapidly scaled up. It should also invest in accelerators and incubators, collaborate with academia, industrialists and venture capitalists to create a proper ecosystem for start-ups in blockchain technology and help India move up the food chain of software development.

Web Traffic

For long, GST had been envisaged as a 'single tax' to replace the State VAT, Central Excise, Service Tax and a few other Income-tax Laws. GST pose a couple of mind boggling challenges. First, more than three billion invoices would have to be uploaded every month across the base of business of all sizes. The income- tax system has to take in returns filed on 10th, 15th and 20th of every month, apart from eight other categories of returns spread over a quarter.

GST Suvidha Providers (GSP)

The number of service providers who fulfilled the qualification conditions to be GST Suvidha Providers, of the 343 registrants by 21st October 2016. Only 34 selected.	98
The average-turnover threshold for a company registered in India to qualify as GSP	Rs. 10 crore
Actual expenditure by GSTN since 2013-14 of the Rs.315crore non-recurring grant from the Centre	Rs. 62.12 crore
The minimum number of transactions per month that the IT infrastructure of a GSP should be able to process.	1,00,000

Government Organised Sandboxes For Developers

	City	Date	Attendance
Adhaar	Bengaluru, Delhi	June-15	1677
NPCI	Bengaluru	Feb-16	3819
TRAI	Bengaluru	Jul-16	1898
HRD Ministry	Across colleges in India	Jan-17	NA

Source: GST Network

Considering aforesaid data, single website would never be resilient enough to handle this amount of web traffic.

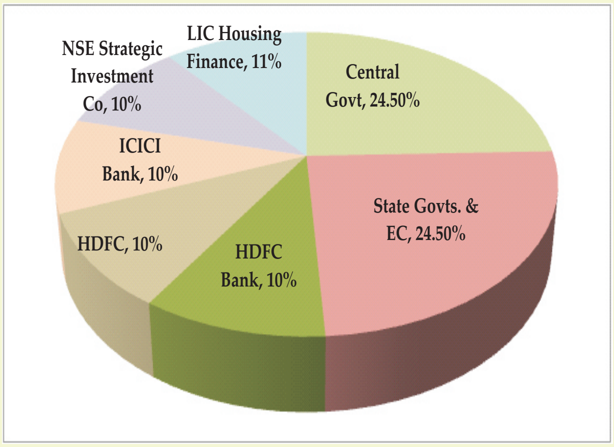
Under the GST Act, an enterprise can reduce the tax already paid on inputs at the time of paying tax on output; this is commonly referred to as 'input credit'. It entails monthly computation of every B2B transactions with every party that a single company does business with. For enterprises, this means capturing every invoice for it to be corroborated against how the corresponding party (supplier or buyer) recorded the same transaction. This enables tax authorities to check if any business is understating the number of business transactions and value. Such computations have to be done across more than 6.5 million businesses. This mindboggling activity involves anywhere between 1.2 billion and 2 billion invoices getting uploaded every month. It makes the underlying technology (or platform) absolutely vital.

Simply out, GST accepts an indirect tax settlement only after the two parties (buyers and seller) agree on every single transaction. At a transaction level, a reconciliation-and-match is done. The GSTN infrastructure is crucial to capture that transaction level data. It will involve into a grand datastore. Incorporated in 2013, the GSTN is a private body that manages the software platform. By releasing secure APIs, it has already delegated the GST computation and processing tasks to 34 “GSTN Suvidha Providers” (GSPs) such as Deloittee Touche Tohmatse and Alankit Ltd.. The latter is opening 4,000 facilitation centres at its locations across the country, where GSTN certified accountants (CA) and lawyers can bring tax filings in a raw format. Each facilitation centre will process the application and upload these filings to the network.

IT Infrastructure

A strong information technology infrastructure is going to be the backbone of an effective GST system. GSTN should be ready with its full array of services and the portal functionality should be ready for testing well before the date to go live. It is to be noted that migration of assessees (Phase I) which had just 19 fields of information to be fed into the system, itself had a lot of hiccups. The credit matching and reconciling facility needs careful testing and the small and medium players in Industry need to be sensitised of procedures and their responsibility.

Equity Structure of GST Network



Currently, 3.8 million businesses have enrolled and migrated to GSTN portal from State-VAT departments and further about 70 percent of country's small and mid-sized firms are yet to begin preparations to get synced with GST structure even as the country prepares to roll out the biggest indirect tax reform from 1st July, 2017.

Compliance with Various Norms and Requirements

Tax paying businesses are never homogenous. The compliance norms and requirements vary across industries. For example, pharmaceuticals and FMCG industries have high volumes of reverse transactions to unlike, say automotives. So small retailers and pharmacies returns products and medicines to manufacturers after the goods are past expiry dates. The tax filing processes had to make sense for such peculiarities, all kinds and sizes of business, yet be uniform and simple for the end user.

Updation of technology infrastructure

Many Indian companies including some of the largest ones are struggling to update their technology infrastructure to implement the GST (goods and services tax). The biggest hurdle is the coordination between tax experts and the technology teams in introducing and tweaking IT systems. In many cases, some of the Enterprise Resource Planning ('ERP's') software that were provided by IT majors has to be redesigned as per the GST rules for keep updating.

Companies are mainly upgrading their ERP, a category of business management software, so as to accommodate the complexities of calculating GST. ERP helps companies manage and monitor everything in the organisation from supply chain, finance to human resource functions. SAP and Oracle are the big players in Indian ERP space. Many companies will have to move from their current system, where every transaction is recorded separately, to an upgraded system where there is a correlation between every entry.

ERP systems are extensively used by goods manufacturers, especially for supply chain management. For instance, many retailers use ERP systems to check movement of goods from the warehouse to the retailer. So, if a soap manufactured in Himachal Pradesh reaches a mall in New Delhi, ERP records every stage of movement, including the goods carrier's passage through check points.

Companies have to set-up teams that would include a technology expert from their vendors, tax advisors to upgrade their systems to enable tracking of goods and analysis of tax and other cost implications once the GST regime comes into force.

Conclusion

Though the Government and industry's speedy efforts towards implementing this biggest indirect tax reform is appreciated, the efficient functioning of the IT backbone of GST is the biggest challenge in view of large number of assesses unable to register themselves at GST portal and security threats evolving in recent times necessitating authorities to built security mechanism against data hacking by various groups.

GST LAW 2017

GST HIGHLIGHTS

Introduction-The four Bills (noted below) that were passed by the Central Government for the implementation of GST have received the assent of the President, Sh. Pranab Mukherjee on 12th April, 2017. Further, it is proposed to be applicable from 1st July, 2017.The four Bills that become an Actare as hereunder:-

- THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
- THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017
- THE UNION TERRITORY GOODS AND SERVICES TAX ACT, 2017
- THE GOODS AND SERVICES TAX (COMPENSATION TO STATES) ACT, 2017

The Central Goods and Services Tax Act, 2017- An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto. It extends to the whole of India except the State of Jammu and Kashmir.

The Integrated Goods and Services Tax Act, 2017-An Act to make a provision for levy and collection of tax on inter-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto. It shall extend to the whole of India except the State of Jammu and Kashmir.

The Union Territory Goods and Services Tax Act, 2017-An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Union territories and for matters connected therewith or incidental thereto. It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory.

The Goods and Services Tax (Compensation to States) Act, 2017-An Act to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.It extends to the whole of India.

Applicable on"supply" of Goods and Services- GST would be applicable on "supply " of goods or services as against the present concept of tax on the manufacture of goods or on sale of goods or on services.

It is a Destination based Tax-GST would be based on the principle of destination based consumption taxation as against the principle of origin based taxation

It would be Dual GST-It would be a dual GST with the Centre and the States simultaneously levying it on a common base.Further, GST levied by Centre is called Central GST and the GST levied by State is called State GST.Union territories without Legislature would levy Union Territory GST.

Import of"goods"and "services" would be treated as Inter-State Supplies-Import of "goods" and "services" would be treated asinter-State supplies and would be subject to IGST in addition to applicable custom duties.

Credit would be levied at a rate mutually agreed by GST Council-Credit ofCGST, SGST/UTGST& IGST would be levied at a rate mutually agreed upon by the centre and state under aegis of GST Council.

Insertion of new article 246A of Constitution- A new article i.e. article 246A has been inserted which provide simultaneous power to the Union and State Legislature on GST.

Insertion of another article 279A of Constitution-Another new article i.e., article 279A for creation of a Goods and Services Tax council, which will be a joint forum of the centre and the state. The council will work under the chairmanship of Finance Minister.

Central Tax and State Tax would be subsumed in GST - All Central tax like central excise duty, additional excise duties, service tax, additional custom duties(CVD) and special additional duty of customs(SAD), etc., will be subsumed in GST. In addition, all State level tax like VAT/Sales tax, entertainment tax,octroi and entry tax, purchase tax and luxury tax would also be subsumed.

Alcoholic liquor for Human Consumption would not be under purview of GST-All goods and services, except alcoholic liquor for human consumption, will be under the purview of GST. However, it has also been provided that petroleum and petroleum products shall also not be subject to GST till further notification.

Consensus between Central andState government made for a four-tier rate structure-Consensus has been made between Central and State Government for a four tier tax structure and they are:-

5% -Essential supplies

12%-Standard rate for goods and services

18%-Standard rate for goods and services

28%-Expected for goods currently taxed at the rate of more than 30%.

Tax payer to be rated on GST Compliance-Tax payers registered under the new GST regime, will be assigned a rating, based on how promptly they uploaded invoices, pay taxes and files return. The ratings will be made public on GST Network(GSTN) websites.

GST IMPLEMENTATION TO HAVE FAR REACHING IMPLICATIONS FOR THE INDIAN ECONOMY, RBI RELEASES STATE FINANCES: A STUDY OF BUDGETS OF 2016-17

The Reserve Bank of India (RBI) vide a notification dated May 12, 2017 released the report entitled "State Finances: A Study of Budgets of 2016-17", an annual publication that provides information, analysis and an assessment of the finances of state governments. It is the primary source for disaggregated state-wise fiscal data and delineates the changing dynamics of fiscal federalism over the years. The theme of this year's report is the Goods and Services Tax (GST). Highlights of the report are:

- Introduction of GST would have economy-wide ramifications in terms of growth, inflation, government finances and external competitiveness over the medium-term.
- It is likely to champion a new course for cooperative federalism in India, focusing on collaboration between the Centre and states.
- GST remains the best bet for state governments in returning to the path of fiscal consolidation without compression of productive expenditure.
- GST implementation challenges should be

addressed through a robust dispute resolution mechanism; with the goods and services tax network (GSTN) expected to provide the necessary information technology (IT) infrastructure to all stakeholders.

- Greater devolution of resources through statutory transfers would provide states with the flexibility to prioritize their expenditure in sync with their development objectives.

- From a medium term perspective, debt sustainability of states is likely to be the key factor in shaping the evolving contours of state finances.

COMPANY LAW

AMENDMENT RULES

The Ministry of Corporate Affairs has notified the following Amendment Rules :-

- ***The Companies (Meetings of Board and its Powers) (Amendment) Rules, 2017-*** It amends clause (a) of sub-rule (3) of rule 15 of the Companies(Meeting of Board and its Powers) Rule,2014 which provides criteria of contracts or arrangements with respect to section 188(1)(a) to (e) .

- ***The Companies (Audit and Auditors) (Amendment) Rules, 2017-*** It inserted new clause (d)in the rule 11 of the Companies (Audit and Auditors) Rules, 2014 which states that the requisite disclosure in its financial statements should be in accordance with books of account.

- ***The Companies (Registration of Charges) (Amendment) Rules, 2017-*** It substituted the following e-Forms prescribed in the Companies (Registration of Charges) Rules,2014:

  - Form CHG-1-Application for registration of creation, modification of charge (other than those related to debentures) including particulars of modification of charge by Asset Reconstruction Company in terms of Securitisation and Reconstruction ofFinancial Assets and Enforcement of Securities Interest Act, 2002.

  - Form CHG-4-Particulars for satisfaction of charge thereof.

  - Form CHG-9-Application for registration of creation or modification of charge for debentures or rectification of particulars filed in respect of creation or modification of charge for debentures.

- ***Companies (Compromises, Arrangements and Amalgamations) (Amendment) Rules, 2017-*** It inserts rule 25A in the Companies (Compromises,Arrangements and Amalgamations) Rules, 2016 which shall be effective from the date of notification, i.e.,13th April, 2017.Rule 25A states that a foreign company incorporated outside India may merge or amalgamate with an Indian company and vice versa after obtaining prior approval of Reserve Bank of India and after complying with sections 230 to 232 of the Companies Act, 2013.

- ***Companies (Removal of Names of Companies from the Register of Companies)Amendment Rules, 2017-*** It inserts a new proviso to rule 7(1) ofthe Companies (Removal of Names ofCompanies from the Register of Companies) Rules, 2016 prescribing noticein Form no. STK-5A

NOTIFICATION

- ***Commencement of section 234 of Companies Act, 2013-***Vide notification

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SO1182(E)the Central Government appoints 13th April, 2017 as the date on which the provisions of section 234 of the Companies Act, 2013 shall come into force. Section 234 deals with the merger and amalgamation of company with foreign company.

INSOLVENCY AND BANKRUPTCY LAW

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (VOLUNTARY LIQUIDATION PROCESS) REGULATIONS, 2016 - IBBI has notified the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2016 which shall come into force from 1st April, 2017. These Regulations shall apply to the voluntary liquidation of corporate persons provided under Chapter V of Part II of the Insolvency and Bankruptcy Code, 2016 i.e., the companies, limited liability partnerships and any other persons incorporated with limited liability. The regulations provides for the requisite majority to initiate voluntary liquidation proceedings, provisions for appointment of liquidator and their remuneration, their powers and functions. The regulations also provides for the manner and content of public announcement, receipt and verification of claims of stakeholders, reports and registers to be maintained, preserved and submitted by the liquidator, realisation of assets and distribution of proceeds.

INFORMATION UTILITIES REGULATIONS, 2017-The Insolvency and Bankruptcy Board of India (IBBI) notified theregulations relating to Information Utilities ('IU') which are effective from 1st April, 2017.Provisions relating to IUs are contained in Chapter 5 of the Insolvency and Bankruptcy Code, 2016 ('Code').IUs essentially act as a data storage entity that collects information from various sources and stores it in an electronic format in a safe and secure manner. The IU will ensure that when a financial firm uploads information about its (pending) financial liabilities, such information is verified by all necessary parties to ensure its authenticity. These regulations provides for the following:-

- The eligibility criteria for registration of an IU under the Code
- Applicant is provided the opportunity of being heard and to curedefects in the application, and it also spelt out reasons for not being granted the registration
- The persons have been allowed accessing the IU database and inter-operability provisions.

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