GST: THE ISSUES, CONCERNS AND IMPACT

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ABSTRACT

BACKGROUND
Goods and Services Tax is not only tax reform but also serves the purpose of eradication of black money. GST and proposed tax structure is a comprehensive indirect tax levied on manufacture, sale and consumption of goods as well as service at the national level. The constitution bill 2014 was introduced by Mr. Arun Jaitely on 19th December 2014 in Loksabha. Today, the situations are changing drastically, still we are managing the provisions of 1935. The current provisions are no more practical because of change in circumstances. GST will follow the destination principle i.e. impact of GST would fall on the person finally consuming the commodity. Consequently, revenue will accrue to the state in which the consumption takes place. In this paper, there is a brief discussion about the existing tax structure, distinguished features of GST and its impact.

KEYWORDS
G- Goods, S- Service, T- Tax (it is termed as Goods & Service Tax).


BACKGROUND
GST is a tax on goods and services and it is proposed to be a comprehensive indirect tax levied on manufacture, sale and consumption of goods as well as services at the national level. Its main objective is to consolidate all indirect tax levies into a single tax except customs, replacing multiple tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in the administration.

GST is a single comprehensive tax levied on goods and services through a tax credit mechanism, this tax is collected on value-added goods and services at each stage of sale or purchase in the supply chain.

The term ‘GST’ is defined in the article 366 (12A) of the Constitution of India to mean any tax on supply of goods and services or both except taxes on supply of the alcoholic liquor for human consumption. The introduction of GST will be the biggest tax reform in the history of the Independent India. GST is expected to simplify tax administration, ensure ease of doing business and promote ‘Make in India’. It will accelerate GDP growth. This is the time when businesses ought to try and align their business model, structure with the proposed tax structure to plug potential tax losses, improve profitability and ultimately accelerate the growth of our Nation.

Section 2 (48) of the GST act defines the “Goods” as:
Goods means every kind of movable property other than actionable claim and money but includes securities, growing crops, grasses and things attached to or forming part of the land which are agreed to be severed before supply or under the contract of supply. Section 65B (44) of finance act 1994, defines services as:
“Service means any activity arrived out by a person for another for consideration, and includes a declared service”.

It is required because of the following Reasons-
1. Simpler tax structure: As multiple taxes on a product or service are eliminated and a single tax comes into place, the tax structure is expected to be much simpler and easier to understand. Paperwork will become simpler and there will be a reduction in accounting complexities for businesses. A simple taxation regime can make the manufacturing sector more competitive and save both money and time. Experts opine that the implementation of GST would push up GDP by 1%-2%.

2. Increased tax revenues:A simpler tax structure can bring about greater compliance, thus increasing the number of tax payers and in turn tax revenues for the Government. The current state of the Indian economy demands fiscal consolidation and reduction in fiscal deficit. A recent report by CRISIL states that GST is the country’s best bet to achieve fiscal consolidation. As there is not much scope to reduce Government expenditure, increasing tax revenues is the best alternative to improve the fiscal health.

3. Competitive pricing: GST will eliminate all other forms of indirect taxing. This will effectively mean that the tax paid by the final consumer will come down in most cases. Lower prices will help in boosting consumption, which is again beneficial to companies. The biggest positive of GST is that goods and services will be taxed on a common basis.

4. Boost to exports: When the cost of production falls in the domestic market, Indian goods and services will be more price-competitive in foreign markets. This can bode well for exporters, who compete with manufacturers abroad facing a lower cost structure.

The exact rate of tax levied under GST will obviously be clear only when the final announcement will be made. Irrespective of the tax rate, it is logical and apparent from examples of other countries, that GST is a critical reform needed for the country. However, many state Governments are not in favour of this move, as it will result in a fall in their tax revenues. Arriving at a suitable formula to solve this problem, making constitutional changes and considering all the dynamics in the economy has resulted in a considerable delay in GST implementation.
The CRISIL report states that at best, only a partial rollout of GST will be possible by the Government in the next financial year. The majority win by the ruling party in the recent elections has given a renewed hope that such important structural reforms will be brought into place without much delay. It is hoped fervently by the industry that Budget 2014 will spell out some solid measures and give a roadmap to the implementation of the GST.

Existing Tax Structure (Indirect Tax)

Central Government Levies Taxes on the following:
- Customs Duties: Duties on import and export of goods.
- Central Excise: Taxes on Manufacturing of dutiable goods.
- Service Tax: Taxes on provision of services.

State Governments can levy the following Taxes:
- Value Added Tax (VAT): This is tax on sale of goods. While intra-state sale of goods are covered by the VAT Law of that state, inter-state sale of goods is covered by the Central Sales Tax Act. Even the revenue collected under Central Sales Tax Act is done so by the State Governments themselves and actually the Central Government has no role to play so.
- Stamp duties and Land Revenue: Since land is a matter on which only State Governments can govern, the Stamp duties on transfer of immovable properties are levied by State Governments.
- State Excise: On Liquor and certain agricultural goods.

Apart from the above, certain powers of taxation have been devolved in the hands of local bodies. These local governing bodies can levy taxes on water, property, shop and establishment charges, etc. They are called so as the burden of taxation falls directly on the taxpayer.

Under the Income Tax Act, 1961, the Central Government levies direct taxes on the income of individuals and business entities as well as Non-business entities also. The taxation level depends on the residential status of individuals. The thumb rule of residential status is that an individual becomes resident in India if he has remained in India for more than 182 days in a particular residential year. If he becomes resident in India, then his global income i.e. income earned even outside India is taxable in India. This has to be noted very carefully by Expatriates on deputation to India. They need to plan their stay in such a manner as to avoid becoming a resident in India.

In India, indirect taxes are a vast ocean as there are number of taxes to be paid on manufacture, import, sale and even purchase in certain cases. Further, the law is governed less by the acts and more by day-to-day notifications, circulars and orders by the Governing bodies. So an explicit understanding is very much essential.

Further, there are some local indirect taxes levied like Local Body Taxes (LBT) or Octroi. These are expected to be abolished some time in future after introduction of Goods and Service Taxes (GST).

Analysis of Existing Tax Structure

Taxes as Central Excise, Service Tax, VAT etc., are levied by the Central and State Governments and are multistage value added taxes. Before introduction of VAT in Sales Tax and CENVAT in Central Excise and Service Tax, the tax system is very complex and has a cascading effect. The product or services are taxed on various stages or destinations. The tax levied at one destination is also being taxed on another destination. In recent past, there was significant progress in the taxation scenario, which improved the tax structure by using new and improved technologies.

Many changes held on taxation front such as single point sale has been replaced by Value Added Tax, service tax has been introduced by the Central Government. In Central Excise, government has introduced CENVAT by allowing set-off taxes paid on inputs, while producing output products.

The Introduction of VAT System in India is a progressive step towards implementation of Goods and Services Tax in India. There are some deficiencies in the Current System of Taxation which are as follows:

1. The CENVAT (Excise Duty) is levied on the products manufactured or produced in India. But there are various definitions related to manufacture and various rulings given by the courts. There are also various disputes regarding valuation of products. The issue related to the applicability of CENVAT (Excise Duty) only at manufacturing level, which is an impediment to an efficient and neutral flow of tax credit. Various countries have replaced VAT system by implementing GST.

2. The Constitution of India has bifurcated the power of taxation between Central Government and the State Government. The State Government has power to levy taxes on all matters or items falling under State List. Now in case of Service Tax, the Central Government has power to levy tax on Services but in case of Work Contracts the State Government also has power to levy tax. This type of system creates difficulties and disputes in revenue generation and distribution.

3. The distinctions between goods and services are getting closer due to improvement in technology and innovation. The copyrights, patents, software etc., are not considered as goods and falling under domain of State Government. So the goods are getting colours of services and their classification becomes more complicated by the tax authorities. Let us consider an example in case of Leasing of Equipments, without transfer of machinery and control to the lessee, would this be taxable as Service or Sale. There are various cases, where disputes raised in present taxation scenario.

4. The Service Sector is growing rapidly and Central has exclusive power to levy tax on services. The State Government is losing its revenue by not levying tax of services under the State.

5. In case of CST on Interstate Sales, no set-off is allowed, which also in creases cascading effect.

6. The Central and State Government are using new and modern technologies to administer the taxes, but more improvement required. The present system, the dispute resolution system is complex and more time and money consuming. These difficulties should be addressed.

7. There are various tax forms and returns are required to be filed related to various duties under various taxation laws and rules. These returns are complex and lengthy, and these should be simplified.
There is lack of cross verification of returns filed under various State as well as Central Taxation Rules.

At present, there are more than fifteen taxes under Indirect Tax System. All these taxes are of different rates and required to be filled through different forms and returns.

The tax structure in India is complex and burdensome. There are various definitions of the same transaction in different States as well as Central Laws. These should be addressed.

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<th>Issues</th>
<th>Present Regime</th>
<th>GST Regime</th>
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<td>1.</td>
<td>Broad scheme</td>
<td>There are separate laws for separate levy, For e.g. Central Excise Act, 1944, respective State VAT laws…</td>
<td>There will be only one such law because GST shall subsume various taxes as specified above.</td>
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<td>2.</td>
<td>Tax rates</td>
<td>There are separate rates, For e.g. Excise 12.36 % and Service Tax 14%.</td>
<td>There will be one CGST rate and a uniform rate of SGST across all states.</td>
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<td>3.</td>
<td>Cascading effect</td>
<td>This Problem arises because credit of CGST and many other taxes not allowed.</td>
<td>This situation will not arise as GST concept is being eliminated with introduction of IGST.</td>
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<td>4.</td>
<td>Tax burden</td>
<td>Under present scenario, tax burden on tax payer is high.</td>
<td>Under this, tax burden is expected to reduce since all taxes are integrated which make it possible the burden to be split equitably between manufacturing and services</td>
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<td>5.</td>
<td>Cost Burden on Consumers</td>
<td>Due to presence of cascading effect, certain taxes become part of cost.</td>
<td>As GST mechanism removes such effect by providing credit, cost burden is reduced.</td>
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<td>6.</td>
<td>Concurrent Power</td>
<td>At present, there is no such power to both Centre and State on same subject tax matter</td>
<td>Both Centre and State are vested with the power to make law on GST by virtue of proposed Article 246A of the Constitution</td>
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<td>7.</td>
<td>Compliance</td>
<td>Tax compliance is complex because of multiplicity of laws and their provisions to be followed.</td>
<td>Tax compliance would be easier as only one law subsuming other taxes need to be followed</td>
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<td>8.</td>
<td>Transparent Tax administration</td>
<td>Presently, tax is levied at two stages in broad manner i.e. 1. When product moves out of factory. 2. At retail outlet.</td>
<td>GST is to be levied only at final destination of consumption and not at various points. This brings more transparency and corruption free tax administration.</td>
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### Present Regime vs. GST Regime

#### (Reference: CS Journal)

**Salient Features of GST**
- A comprehensive tax on goods and services.
- Multipoint tax on value added at each stage.
- Tax is only cost to the end customer.
- Consumption based tax not origin based.
- No cascading due to input credit mechanism.
- Self-policing or voluntary compliances.
- Reduction of tax evasion widens the taxation base.
- Enormous scope for augmenting revenue.
- Lower taxes lead to better compliance and higher revenues.
- Good opportunity to jointly work for better enforcement.
- Makes export more competitive.

**GST would replace the following Taxes Currently Levied and Collected by the Centre-**
- Central excise duty.
- Duties of excise.
- Additional duties of excise (Goods of special importance).
- Additional duties of excise (Textiles and textiles products).
- Additional duties of customs (Commonly known as CVD).
- Special additional duty of customs (SAD).
- Service tax.
- Cesses and surcharges as far as they relate to supply of goods or services.

### State Tax that would be subsumed within the GST are-
- State VAT.
- Central Sales Tax.
- Purchase tax.
- Luxury tax.
- Entry tax.
- Entertainment tax.
- Taxes on Advertisements.
- Taxes on lotteries, betting and gambling.

#### Meaning & Concept of Supply and its Relevance- Definition of Supply

Under section 2 (92) read with section 3, 'supply' includes all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business. Schedule I specified the supply.

#### Analysis

Supply is the term replaced for the term sale; no scope has been left for any confusion and the definition includes every term which shall be coined as sale. Even the supply which is made or agreed to be made without a consideration will also amount to sale.

#### Time of Supply of Goods

The provisions of section 12 of the model GST Act is akin to the provisions contained in Service Tax (Point of Taxation) Rules, 2012. It prescribes the liability to pay CGST/SGST and provides that a) the time of supply of goods shall be the earliest of the date on which the supplier issues the invoice; b) the date on which the goods are made available to the recipient; c)
the date on which the goods are made available to the recipient; d) the date on which supplier receives the payment; e) the date on which the recipient shows the receipt of the goods in his books of account.

**Time of Supply of Services**
Section 13 of the Model GST law prescribes the liability to pay CGST/SGST as under- a) the time of supply of services; b) the date on which the supplier issues the invoice; c) the date on which the supplier receives the payment; the date on which the recipient shows the receipt of the services in the books of accounts.

**CONCLUSION**
In a welcome measure, the Government of India has made public the proposed law relating to the levy and collection of Goods and Services Tax which is expected to be implemented in current year. Given the passage of the Constitution (122nd) Amendment Bill on Goods and Services Tax in the Lok Sabha, the proposed GST law would replace all the indirect taxes levied on goods and services by the Centre and States. For being ready for the GST regime and its smooth working, the Government of India has released the draft business report inviting suggestions from all the stakeholders. The model GST law – Goods and Services Tax Act 2016- has also been released by the Government. When Goods and Services Tax is introduced and fully implemented apart from full allowance of credit there will be many more advantages and benefits such as reduction in prices, increase in Government revenue, less compliance and procedural cost, move towards a unified GST in line with international practice in Government revenue, less compliance and procedural cost, move towards a unified GST in line with international practice and much more. Let us look forward for the earlier implementation and in the meantime the industry and trade should be ready for take-off by understanding the proposed law and regulations.

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