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# **GOODS AND SERVICES TAX**

(Conceptual Discussion and Implementation Strategy)

COMPILATION BY

**RAKESH SINGH**  
Partner  
**Shome & Banerjee**  
*Cost Accountants*

## **Introduction**

Goods and Services Tax (GST) is intended to be introduced in India on 1st April 2010. The Empowered Group headed by Mr. Asim Das Gupta, Finance Minister of the State of West Bengal and Chairman of the group on 8<sup>th</sup> October, 2009 stated that the responses of the states will be obtained (on the discussion paper) and the draft will be finalized for discussion within a month..

The introduction of GST is part of a larger tax restructuring exercise, to enable India to integrate with the globally accepted tax rationale and structure Indian part of the same to remove cascading impact of various indirect taxes.

While most of the countries continue and few only showing some signs of recovery in the second part of this year, India in comparison is showing greater resilience and is picking up overall outlook at a faster pace. Advance tax collections and FII inflow are some of the indications that India is expected to be out of woods earlier than expected. However the challenges on revenue deficit, inflation and high unemployment rate continue as impediments.

A value-added tax like GST has several features that make it attractive. Being a tax on consumption, and not on income, the tax system inherently encourages savings and investments instead of consumption. The tax also has a self-policing mechanism that discourages evasion, unlike in a retail sales tax system or an income tax system where it would be relatively easier to scheme to evade taxes.

The key objective behind GST implementation is to introduce the tax as a part of a tax reform exercise to broaden the tax base, and not necessarily for the purpose of raising revenue. It was with a long-term vision that the Government is in process of introducing the tax – to put in place a tax structure that would stand the country in good stead for future economic development.

The apprehension on the part of the states is that in the initial years of the GST, the tax collected from the GST would be lower than the revenue loss from the package of tax changes and offsets and this will harden the available options in the hands of the states to take up developmental works.

The discussion paper will give us some idea about the road map being formulated by the Government on this issue.

## **Historical Background**

India as a country is union of states having quasi-federal structure. Last 60 years have seen India graduating from a so called Hindu rate of growth to a moderate rate and in recent times beating growth rate of many comparable economies.

The complex structure and issues can be better appreciated if we can understand the following amazing facts about India:-

- It has 17 major languages
- 22000 dialects
- Home to almost every religion
- Over 55% of Indians are below 25 Years of age
- Indian middle class is around 300 million
- Personal consumption makes 67% of GDP (China has this figure as 42%)
- India offers 15 billion USD luxury market
- 100 million Indians have mobile phone
- 2 Million students graduate from Indian Universities every year
- India has about 250,000 registered accountants ( CWA + CA)
- By 2040 India will be the third largest economy and by 2050 will be five times of Japan with 35 fold increase in its Per Capita Income with 2003 as base year.

AND

- We plan to subsume / recode Central Taxes + State Taxes (Excise Act (1)) + (Service Tax (1)) + (VAT (23)) = 25 Major Laws plus at least another 100+ other type of levies with various states.
- Compensation to states may be around Rs.15,000/- Crores
- States to be empowered for collection of Service Tax and Center for tax beyond manufacture of goods

In this background the tremendous work done by EGOM can not but be appreciated. All the Indian states have different revenue model and aspirations as well as apprehensions on the impact of Goods and Services Tax. However the silver lining is the experiences gained from the implementation of VAT. This model of taxation certainly has given better revenue in the hands of states for furtherance of social and economic agenda. The Goods and Services Tax as planned is expected to increase the tax base and therefore will score further on revenue generation with equity and transparency. The long standing irritants relating to movement of goods within the country and its administration will get simpler and self assessment mechanism boost dealer's confidence.

GSTININDIA will play its part in educating all concerned in this on going process. This platform is built up by the expertise of Cost Accountants, Chartered Accountants and other professional colleagues to disseminate knowledge acquired by mutual interaction and sharing of knowledge.

## **Role of Accountants**

The most important part in the administration of Goods and Services Tax is the part of self assessment procedures. It is imperative that accountants will play a major role in this area as there will be many fold increase in the assesses and regulating departments will be constrained with available resources.

In the concept of seamless credit where a dealer will be entitled to pay the tax on the value addition of the goods or services the identification, classification, allocation and accounting of the landed cost and selling price will be core area in the administrative mechanism. Authorities will have to rely on Cost Accountants and Chartered Accountants to play their role in proper assessment of the dealers.

The existing provision in Central Excise, Service Tax and VAT utilize services of Cost Accountants and Chartered Accountants for Audits, Special Audits, Departmental Assistance and Appearances before the assessing authorities. However there will be a need for simplification, unification and re-modeling of the reports to serve the objectives enshrined in the law.

Therefore the respective administrative Institutes and membership should train themselves for the challenge and help tax administrators in proper administration of the Goods and Services Tax Law.

Some other areas where accountants can play constructive role:-

- Network of Regional Councils and Chapters / Branches can be advised to carry out survey focused on (a) revenue structure of states (b) impediments in tax administration (3) simplification of forms, returns and documentation;
- Facilitation in e filling as many states/ dealers do not have IT infrastructure;
- GST advocacy; and
- Public awareness programs.

Not many in the administration are experts in taxation. Goods and Services Tax is a new baby and requires complex issues to be addressed. Respective Institutes and professionals should join to suggest formation of an independent body for proper implementation of the Goods and Services Tax.

**HIGHLIGHTS OF THE DISCUSSION PAPER ON GOODS AND SERVICES TAX**










**Dr. Asim Dasgupta**











**Pranab Mukherjee**

**"I am trying to stick to the time schedule, but I will not be surprised if there is slippage of a few months."----- Pranab Mukherjee**

<b>Sl.No.</b>	<b>Expectations / Proposals</b>		
1	Change in date for GST Implementation	No Change Specified in the Paper	
2	Single GST		
3	Dual GST Model		
4	Central Levies to be subsumed	<ul style="list-style-type: none"> <li>(1) Central Excise</li> <li>(2) Additional Excise duty</li> <li>(3) ED under Medical and Toiletries Preparation Act.</li> <li>(4) Service Tax</li> </ul>	

		<p>5. CVD</p> <p>6. Special Additional Duty of customs -4% (SAD)</p> <p>7. Surcharges and</p> <p>8. Cesses</p>	
5	Local levies to be subsumed	<p>1. VAT / Sales tax</p> <p>2. Entertainment Tax (except of local bodies)</p> <p>3. Luxury tax</p> <p>4. Lottery, betting &amp; gambling</p> <p>5. State Cesses and surcharges so far relating to supply of goods and services.</p> <p>6. Entry tax not in lieu of octroi.</p>	
6	Threshold Limit	<p>GST Threshold Nation wide at Rs.10 Lac .</p> 	<p>Central GST Threshold on Goods at Rs. 1.5 crores</p> 

7	Exempted goods		In conformity with state lists
8	Area Based Exemptions	To continue till its stipulated time frame 	No further 
9	Treatment of interstate/ intrastate transactions		Innovative model of IGST to be adopted
10	ITC	Seamless except AED on Tobacco. CGST with CGST & SGST with SGST 	
11	Compensation to states		Till five years. 13 <sup>th</sup> finance commission to look further
12	NSSO to Survey for Tax Base		

13	GST Bill in winter session of parliament		

**Others:**



Tobacco in GST. However center may levy Excise Duty without ITC.



Alcohol not in GST



Decision on petroleum products to be taken later



Exports and SEZs to be Zero-rated



No benefit of DTA sales to SEZs



Services to have single rate. Final rates for CGST & SGST to be decided later



Compensation to states envisaged.



Full and complete set-off will be available on the GST paid on import on goods and services.



For special industrial areas schemes exemptions, remissions etc. would continue up to legitimate expiry time both for the Centre and the States. Any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed.



*IT infrastructural requirement will be shared by the Central Government with states through the use of its own IT infrastructure facility*



*The Working Group will also address the issues of dispute resolution and advance ruling*

## **RELEVANT CONTENTS AND OBSERVATIONS IN THE DISCUSSION PAPER**

- Discussion Paper divided into four parts (1) Process of Introduction of VAT and background for introduction of GST (2) Process for preparation for GST (3) Comprehensive structure of the GST Model and (4) FAQ on GST.
- The debate and interactions at central and state levels to start immediately. Seeks views from trade and industry etc. in a time bound manner.
- GST is improvement over VAT principles and disjointed service tax.
- Deviations from agreed VAT rates have been within 3 % of the total list of commodities.
- The rate of growth in tax revenue with VAT doubled from the average annual rate of growth in the pre-VAT five year period after the introduction of VAT.
- Justification for GST includes non-inclusion of several Central taxes in the overall framework of CENVAT ( additional custom duties and surcharges etc.) and in order to capture value added chain in the distribution trade below the manufacturing level. On a similar footing taxes like entertainment tax and luxury tax are not yet part of VAT.
- Revenue gain by increase in tax base and better compliances.
- Continuous chain of set off envisaged from original producers point to final consumer with removal of all cascading effects.
- Constitutional amendment to be made for giving powers also to the states.
- CST to be removed from the date of introduction of GST.
- GST at state levels justified on the grounds of:
  - (a) additional power of levy of taxation of services for the States;
  - (b) system of comprehensive set-off relief, including set-off for cascading burden of CENVAT and service taxes;
  - (c) subsuming of several taxes in the GST and
  - (d) removal of burden of CST. Because of the removal of cascading effect, the burden of tax under GST on goods will, in general, fall.
- Compensation on account of revenue fall to be considered.
- GST will be a positive sum game.

## **SALIENT FEATURES OF THE GST MODEL**

- A dual GST mechanism;
- proposed model are as follows:
  1. The GST shall have two components: one levied by the Centre GST, and the other levied by the States;
  2. Rates for Central GST and State GST would be prescribed appropriately, reflecting revenue considerations and acceptability.
  3. This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State).
  4. However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.
  5. The Central GST and the State GST would be applicable to all Transactions of goods and services made for a consideration except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits.
  6. The Central GST and State GST are to be paid to the accounts of the Centre and the States separately.
  7. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to Central GST or State GST (with identification of the State to whom the tax is to be credited).
  8. Since the Central GST and State GST are to be treated separately, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST.
  9. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit. Further, the rules for taking and utilization of credit for the Central GST and the State GST would be aligned.
  10. Cross utilization of ITC between the Central GST and the State GST would not be allowed except in the case of inter-State supply of goods and services under the IGST model.
  11. Ideally, the problem related to credit accumulation on account of refund of GST should be avoided by both the Centre and the States except in the cases such as exports,

12. purchase of capital goods, input tax at higher rate than output tax etc. where, again refund/adjustment should be completed in a time bound manner.

13. To the extent feasible, uniform procedure for collection of both Central GST and State GST would be prescribed in the respective legislation.

14. The administration of the Central GST to the Centre and for State GST to the States would be given.

15. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.

16. A uniform State GST threshold across States is desirable and, therefore, it is considered that a threshold of gross annual turnover of Rs.10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime.

17. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States also considered that the threshold for Central GST for goods may be kept at Rs.1.5 crore and the threshold for Central GST for services may also be appropriately high.

18. The States are also of the view that Composition/ Compounding Scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular, there would be a compounding cut-off at Rs. 50 lakh of gross annual turn over and a floor rate of 0.5% across the States.

19. The scheme would also allow option for GST registration for dealers with turnover below the compounding cut-off.

20. The taxpayer would need to submit periodical returns, in common format as far as possible, to both the Central GST authority and to the concerned State GST authorities.

21. Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits.

22. Keeping in mind the need of tax payer's convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States.

## **Central and State Taxes to be subsumed under GST**

***While identifying the levies to be subsumed, the following principles were kept in mind:***

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsumation should result in free flow of tax credit in intra and inter-State levels.
- (iv) The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- (v) Revenue fairness for both the Union and the States individually would need to be attempted.

***On application of the above principles, it is recommended that the following Central Taxes should be, to begin with, subsumed under the Goods and Services Tax:***

- (i) Central Excise Duty
- (ii) Additional Excise Duties
- (iii) The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- (iv) Service Tax
- (v) Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- (vi) Special Additional Duty of Customs - 4% (SAD)
- (vii) Surcharges, and
- (viii) Cesses.

Following State taxes and levies would be, to begin with, subsumed under GST:

- (i) VAT / Sales tax
- (ii) Entertainment tax (unless it is levied by the local bodies).
- (iii) Luxury tax
- (iv) Taxes on lottery, betting and gambling.
- (v) State Cesses and Surcharges in so far as they relate to supply of goods and services.
- (vi) Entry tax not in lieu of Octroi.

## Inter-State Transactions of Goods and Services

***The Empowered Committee has accepted the recommendations of the Working Group of concerned officials of Central and State Governments for adoption of IGST model for taxation of inter-State transaction of Goods and Services. The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.***

The inter-State seller will pay IGST on value addition after adjusting available credit of IGST, CGST, and SGST on his purchases. The Exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The Importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST. The relevant information will also be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective governments to transfer the funds.

The major advantages of IGST Model are:

- a) Maintenance of uninterrupted ITC chain on inter-State transactions.
- b) No upfront payment of tax or substantial blockage of funds for the inter-State seller or buyer.
- c) No refund claim in exporting State, as ITC is used up while paying the tax.
- d) Self monitoring model.
- e) Level of computerization is limited to inter-State dealers and Central and State Governments should be able to computerize their processes expeditiously.
- f) As all inter-State dealers will be e-registered and correspondence with them will be by e-mail, the compliance level will improve substantially.
- g) Model can take 'Business to Business' as well as 'Business to consumer' transactions into account.

## GST Rate Structure

The Empowered Committee has decided to adopt:-

- (1) A two-rate structure –a lower rate for necessary items and goods of basic importance and
- (2) A standard rate for goods in general.
- (3) There will also be a special rate for precious metals ; and
- (4) A list of exempted items.

For upholding of special needs of each State as well as a balanced approach to federal flexibility, and also for facilitating the introduction of GST, it is being discussed whether the exempted list under VAT regime including Goods of Local Importance may be retained in the exempted list under State GST in the initial years.

***It is also being discussed whether the Government of India may adopt, to begin with, a similar approach towards exempted list under the CGST. The States are of the view that for CGST relating to goods, the Government of India may also have a two-rate structure, with conformity in the levels of rate under the SGST. For taxation of services, there may be a single rate for both CGST and SGST. The exact value of the SGST and CGST rates, including the rate for services, will be made known duly in course of appropriate legislative actions.***

## GST on Imports

The GST will be levied on imports with necessary Constitutional Amendments. Both CGST and SGST 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. Full and complete set-off will be available on the GST paid on import on goods and services.

### **Special Industrial Area Scheme**

After the introduction of GST, the tax exemptions, remissions etc. related to industrial incentives should be converted, if at all needed, into cash refund schemes after collection of tax, so that the GST scheme on the basis of a continuous chain of set-offs is not disturbed. Regarding Special Industrial Area Schemes, it is clarified that such exemptions, remissions etc. would continue up to legitimate expiry time both for the Centre and the States. Any new exemption, remission etc. or continuation of earlier exemption, remission etc. would not be allowed. In such cases, the Central and the State Governments could provide reimbursement after collecting GST.

### **IT Infrastructure**

*After acceptance of IGST Model for Inter-State transactions, the major responsibilities of IT infrastructural requirement will be shared by the Central Government through the use of its own IT infrastructure facility. The issues of tying up the State Infrastructure facilities with the Central facilities as well as further improvement of the States' own IT infrastructure, including TINXSYS, is now to be addressed expeditiously and in a time bound manner.*

### **Need for compensation during implementation of GST**

*Despite the sincere attempts being made by the Empowered Committee on the determination of GST rate structure, revenue neutral rates, it is difficult to estimate accurately as to how much the States will gain from service taxes and how much they will lose on account of removal of cascading effect, payment of input tax credit and phasing out of CST. In view of this, it would be essential to provide adequately for compensation for loss that might emerge during the process of implementation of GST for the next five years. This issue may be comprehensively taken care of in the recommendations of the Thirteenth Finance Commission. The payment of this compensation will need to be ensured in terms of special grants to be released to the States duly in every month on the basis of neutrally monitored mechanism.*