

NEED, GENESIS AND IMPLEMENTATION OF GST IN INDIA: A PRACTICAL ANALYSIS

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ABSTRACT

The concept of taxation is very important for the citizens as well as for the Government. Whether one belongs to the financial domain or not it is very much essential for him to have a considerable knowledge regarding taxation. From the government point of view, the tax is the major source of revenue. In this context, every government tries to meet both the ends by formulating a tax structure that will suit the requirement of both parties. There has been a continuous reform in the tax structure of every country with a sole objective of lessening the tax burden on the citizens and increasing the revenue of the government. The implementation of the GST (Goods and Service Tax) is just a step taken in this direction. In this paper, a detail discussion has been made regarding the progress of the phases of the GST implementation. How has the common man been benefited? What are the areas where it has suffered is a matter of discussion on this paper?

Keywords: GST, Taxation, Financial burden, revenue

Introduction

Statement of the problem

The question that frequently strikes our mind is that how in India a complex governmental structure operates comprising various state governments. In fact, this is the essence of the federal form of government. Here all the

state governments have their autonomy to enforce various laws. For the smooth running of the government, the revenue that is needed is collected from the citizens in the form of Indirect Tax and Direct tax. Both governments collect tax through the indirect taxes; the revenue is split and the state gets its

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share through the budget allocated by the central government. For the state, an indirect tax is a major source of income. But these indirect taxes are multi-layered and complex. It consists of mainly VAT (value added tax), Luxury tax, Entertainment Tax, Octroi (from state government), Excise, Cenvat and Service tax (from central government). The current indirect tax has one major problem -the cascading effect. When somebody buys something, he has to pay a tax on the tax itself. In this way, the buyer is subject to the unnecessary burden of paying tax upon tax. This leads to the development of the GST.

Review of Literature

Lourdunathan F and Xavier P (1917) in his study pointed out that the introduction of GST with a robust support system of GSTN will definitely bring relief to the taxpayer in India. It will have a positive impact on all the sectors of the economy.

Khurana A. and Sharma A. (2016) in their study pointed out that this GST is the biggest tax reform in India since independence. They also pointed out that GST will provide relief to producers and consumers by providing

wide and comprehensive coverage of input tax credit set-off, service tax set off and subsuming the several taxes.

Mawuli A. (May 2014) in his study “Goods and Service Tax-An Appraisal” got a conclusion that the GST system is not beneficial for the poor countries as it will not provide broad-based growth to poor countries. It can be implemented in the poor countries only if they keep the tax rate below the 10% rate.

Dr. R. Vasanthagopal (2011) studied, “GST in India: A Big Leap in the Indirect Taxation System” and concluded that switching to seamless GST from current complicated indirect tax system in India will be a positive step in booming Indian economy. The success of GST will lead to its acceptance by more than 130 countries in the world and a new preferred form of the indirect tax system in Asia also.

Ehtisham Ahmed and Satya Poddar (2009) in their study, “Goods and Service Tax Reforms and Intergovernmental Consideration in India” found that GST introduction will provide simple and transparent tax system

with an increase in output and productivity of economy in India. But the benefits of GST are critically dependent on the rational design of GST.

After the review of literature, this paper makes a thorough analysis of the GST and its various impacts on the business in India.

GST VS OLD VAT:

This statement can be considered as a disclaimer that both GST and Old VAT are based on the same fundamental concept but in reality they are different. Direct taxes are taxes in which a person directly pays his/her tax to the government directly, and he/she cannot shift the burden to anyone else. In indirect taxes, it can be shifted to another person. So, the person liable to pay the tax can collect the tax from someone else and then pay it to the government; thus shifting the tax burden. The GST falls into this category.

Before moving to numericals and figures we need to understand the purchase and selling procedure. First, we have to understand the phrases like primary sale and secondary sale.

Here we only discuss the secondary sale, though primary sales contains a tax, it is not necessary in our context. It is a typical supply chain related activity where the selling procedure moves through various channels and ultimately ends with the consumer.

The selling and the buying activities are of two types i.e. Interstate and Intrastate.

Intra State: - when registered dealer purchases some goods from a registered dealer from another state.

Inter-State: - when registered dealer purchases some goods from a registered dealer within the same state.

A registered dealer means that entity registered under the sales tax act whether it's a person or a company or government.

Why do we need GST?

It's a million dollar question for the reader, why we migrated from old system to the new one? If our GDP is increasing constantly then it's not a necessity to migrate from the old taxation system to GST. But the answer lies in old taxation system itself. In India, we had 33 sales tax laws. Most of them are different from one another. And the tax rate

of the same product varies in each state. The disparity attracts unlawful business practice.

In some states, the tax on apparels is 5% whereas, the neighboring state has 13.5% on same apparels. In that case, the dealer imports the product through another dealer where the tax is 5% and then smuggles the goods to that state where the tax is 13.5%. Ultimately the state loses its revenue. And then there is an additional problem at the entry gates. Trucks and Lorries wait for a significant time to get in. And the level of corruption is quite high in those gates. Usually, a truck that originates from Delhi, getting into Odisha needs minimum 10-12 days to reach the destination. That means it takes 12 days to cover 1800kms at a speed 150km per day. The loss of man-hour days is quite significant in all these processes. For tax professionals, it's a hectic process to adjust CST along with State VAT. And he or she has to follow another set of law for services.

To overcome this problem and make it simple, we need a robust tax act which covers the whole of India without any disparity in taxable goods or services. In 122nd constitutional amendment Bill, the

government introduced GST in India it and it was applied from 1st of July 2017.

Why is GST a Big deal?

GST is a comprehensive, multi-stage, destination-based consumption tax that is levied on every stage of value addition in the lifecycle of a product. To understand this better, let us look at each of the terms in detail:

Comprehensive: GST will subsume all of the current indirect taxes. Plus, by bringing in a unified taxation system, across the country, it will ensure that there is no more arbitrariness in tax rates.

Multi-stage: GST is levied on each stage in the supply chain, where a transaction takes place. **Value-addition:** This is the process of adding to the value of a product/ service at each stage of its production, exclusive of initial costs. Under GST, the tax is levied only on the value added.

Destination-based consumption: Unlike the current indirect taxes, GST will be collected at the point of consumption. The taxing authority with appropriate jurisdiction over the place where the goods/ services are finally

consumed will collect the tax.

For example Mr. A, who is having a shoe factory in Delhi and he shipped his product to Odisha. Here Odisha is consumer state whereas Delhi is producer state. In this example, the burden of the tax is on the state of Odisha.

The impact of GST on Import and Export is negligible. Imported goods are treated as same as the goods produced locally whereas, Exports do not fall under GST as the place of consumption is outside of India. Though imported goods may draw some additional tax like a customs duty it's one time and it's added to cost itself.

CGST/ IGST/ SGST

Before moving into technicality, we should be familiar with process and terms. To determine whether Central Goods & Services Tax (CGST), State Goods & Services Tax (SGST) or Integrated Goods & Services Tax (IGST) will be applicable in a taxable transaction, it is important to first know if the transaction is an Intra-State or an Inter-State supply.

- **Intra-State supply of goods or**

services is when the location of the supplier and the destination of supply i.e., location of the buyer are in the same state. In Intra-State transactions, a seller has to collect **both CGST and SGST** from the buyer. The CGST gets deposited with Central Government and SGST gets deposited with State Government.

- **Inter-State supply of goods or services** is when the location of the supplier and the destination of supply are in different states. Also, in cases of export or import of goods or services or when the supply of goods or services is made to or by an SEZ unit, the transaction is assumed to be Inter-State. In an Inter-State transaction, a seller has to collect **IGST** from the buyer.

CGST:- Under GST, CGST is a tax levied on Intra-State supplies of both goods and services by the Central Government and will be governed by the CGST Act. SGST will also be levied on the same Intra-State supply but will be governed by the State Government. The upper limit is 14% for the

time being.

SGST:-Under GST, SGST is a tax levied on Intra-State supplies of both goods and services by the State Government and will be governed by the SGST Act. As explained above, CGST will also be levied on the same Intra-State supply but will be governed by the Central Government.

Note: Any tax liability obtained under SGST can be set off against SGST or IGST input tax credit only.

IGST:-Under GST, IGST is a tax levied on all Inter-State supplies of goods and/or services and will be governed by the IGST Act. IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

Note: Under IGST,

- Exports would be zero-rated.
- The tax will be shared between the Central and State Government.

Examples:-

Mr. A, who is a Delhi based manufacturer supplied goods worth Rs 1, 00,000 to Mr. B who is a Delhi based wholesaler. Mr. B supplied to Mr. C, who is a trader in Kolkata for Rs. 1, 20,000. And Mr. C sells to Mr. D

(Darjeeling) who is a consumer for Rs. 1, 50,000.

Suppose CGST is 9%, And SGST is 9% then
 $IGST\ 18\% = CGST\ 9\% + SGST\ 9\%$.

Since A is selling this to B in Delhi itself, it is an intra-state sale and **both CGST and SGST will apply, at the rate of 9% each.**

B (Delhi) is selling to C (Bengal). Since it is an interstate sale, **IGST will apply, at the rate of 18%.**

C (Bengal) is selling to D also in Bengal. Once again it is an intra-state sale and both **CGST and SGST will apply, at the rate of 9% each.**

First Case

A (Delhi) → B (Delhi)

$Rs\ 1,00,000 + TAX\ 18\% (CGST\ 9\% + SGST\ 9\%) = 1,18,000$

Here TAX 18%, RS 18,000 is an input tax for dealer B, and it would be subsequently adjusted with his output tax. We already discussed about this effect.

Second Case

B (Delhi) → C (Bengal)

Here B sold his product for Rs 1, 20,000 excluding taxes.

$\text{Rs } 1, 20,000 + \text{Tax } 18 \% (\text{IGST}) = \text{Rs } 1, 41,600$

Here Tax is Rs 21,600. And B charged this TAX. When somebody collected tax for his product or services, that tax is called output.

The total tax liability of dealer A is Rs 21,600- Rs 18,000= Rs3, 600. But there are some conditions, which we need to understand.

Any IGST credit will first be applied to set off IGST then CGST. The balance will be applied to set off SGST. Since GST is a consumption-based tax, the state where the goods were consumed will collect GST.

Third Case

C (Bengal) → D (Bengal)

Here the consumer came into the scenario. Mr. C Sold his product at Rs 1, 50,000 excluding tax.

$\text{Rs } 1, 50,000 + \text{TAX } 18\% (\text{CGST } 9\% + \text{SGST } 9\%) = \text{Rs } 1, 77,000$

Transaction	Actual Cost	Tax Amount	Actual Liability	Total
Manufacturer A	100000	18,000 (CGST+SGST)	18,000	1,18,000
Wholesaler(B) margin Rs 20,000	120000	21,600 (IGST)	3,600	1,41,600
Retailer Margin Rs 30,000	150000	27,000 (CGST+SGST)	5,400	1,77,000
Total	1,77,000 (consumer price)		27,000	

The tax paid by D is Rs. 27,000. And C

collected from D which is output tax for C. And his total tax liability Rs. 27000 – Rs.21, 600= Rs. 5400

CGST/IGST/SGST

Someone can draw an inference by looking at these figures that taxation on GST is simple compared to previous VAT system. And all taxes are directly proportionate with the profit.

When is Tax levied?

A taxable event such as manufacture, sale, and provision of a good has to occur for the purpose of tax collection. Under the current system, each taxable event is subject to multiple taxes such as excise, VAT/ CST and service tax. But under GST, products will no longer have multiple taxes, and will not incur excise duty as well as VAT at different points of time. There will no longer be any difference between goods and services in terms of taxation.

An example of this is when we go out to eat at a restaurant. Earlier, the customer paid both VAT and service tax on a single bill, but after GST is implemented there will be a single tax charge on the bill amount.

This leads to an important concept in GST - Time, Place, and Value of Supply of goods and services.

Time, Place and Value of Supply under GST Explained

According to the law, the point of taxation means the point in time when goods have been deemed to be supplied or services have been deemed to be provided. The point of taxation enables us to determine the rate of tax, value, and due dates for payment of taxes.

The liability to pay CGST / SGST will arise at the time of supply as determined for goods and services. There are separate provisions for time of supply for goods and time of supply for services. The liability to pay CGST / SGST on the services shall arise at the time of supply as determined by GST provisions.

How to Determine Time of Supply?

The time of supply of goods/services shall be the date of issuing an invoice (or the last day by which invoice should have been issued) OR the date of receipt of payment, whichever is earlier. If the supplier of taxable

goods/service receives an amount up to INR 1000 in excess of invoice amount, the time of supply for the extra amount shall be the date of issue of invoice (at the option of the supplier).

For both the above clauses, the supply shall be assumed to have been made to the extent it is covered by the invoice or the payment (as the case may be). For the second clause, the date of receipt of payment shall be the earlier of:

The date on which the dealer enters the payment in their books

OR

The date on which the payment is credited to their bank account, for example, if the date of the invoice is 22nd September 2018 and date of receipt of payment is 1st of November 2018, the date when the supplier recorded the receipt in his books is 2nd November 2018. Thus, the time of supply will be 22nd September 2018.

How to Determine Place of Supply?

'Place of Supply' under GST is an important factor as it defines whether the transaction will be counted as intra-state (i.e. within the

same state) or inter-state (i.e. between two states) and accordingly the changeability of tax, i.e. levy of SGST, CGST & IGST will be determined.

While determining the levy of taxes based on place of supply, two things are considered:

- Location of Supplier: It is the registered place of business of the supplier
- Place of Supply: It is the registered place of business of the recipient

There are specific provisions for determination of the place of supply of goods which depend on:

- The place of supply of goods: where the supply involves movement of goods
- The place of supply of goods: where the supply involves no movement of goods
- The place of supply of goods: in case of export and import of goods

How to Determine the Place of Supply of Services

GST is destination based tax i.e. consumption tax, which means the tax will be levied where goods and services are consumed and will accrue to that state.

Under GST, there are three levels of Tax, IGST, CGST and SGST and based on the 'place of supply' so determined, the respective tax will be levied. IGST is levied where the transaction is inter-state, and CGST and SGST are levied where the transaction is intra-state.

Harmonized System of Nomenclature (HSN)

It's a product code developed by world customs organization. It comprises about 5,000 commodity groups; each identified by a six-digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS. The HS contributes to the harmonization of Customs and trade procedures, and the non-documentary trade data interchange in

connection with such procedures, thus reducing the costs related to international trade.

What is GSTIN?

For any dealer registered under state VAT law, a unique TIN number is issued by the state tax authorities. A service provider is assigned a service tax registration number by the Central Board of Excise and Custom (CBEC).

Going forward, in the new GST regime, all these taxpayers get consolidated into one single platform for compliance and administration purposes and are assigned registration under a single authority. The government has set up GSTN—a special purpose vehicle to provide the IT (the infrastructure necessary to support GST digitally). All of these businesses are assigned a unique Goods and Services Tax

Identification Number (GSTIN).

Each taxpayer is allotted a state-wise PAN-based 15-digit Goods and Services Taxpayer Identification Number (GSTIN).

- The first two digits of this number represents the state code as per Indian Census 2011. The next ten digits, the PAN number of the taxpayer, and the thirteenth digit is assigned based on the number of registration within a state.
- The fourteenth digit is Z by default. The last digit is for check code.

Conclusion

It's very early to give a conclusion about GST. It can be implemented effectively only if the government builds proper IT infrastructure and creates awareness among stakeholders. Anyhow, it has achieved its objective One Nation One Rate & One tax.

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