

GST– THE CERTAINTY

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"Nothing is certain but death and taxes"

-Sir Benjamin Franklin

Having dealt with the need of GST as well as the structure of GST in the earlier parts of this trilogy, now we shall move on to the other key features of GST.

GST ON IMPORTS:

As we saw in the Part I of this trilogy, the States are going to get their share on imports. With the advent of GST, both CGST as well as SGST would be levied on all imports of goods and services into the country. The tax is suggested based on the destination principle. In other words, the tax revenue on SGST would accrue to the State where the imported goods or services are to be consumed. A full set-off on imports has also been proposed.

ITC & SET – OFF:

The key feature of this GST is about the set-off mechanism, using Input Tax Credit (ITC). It has been proposed to provide a set – off of CGST credit against CGST, SGST credit against SGST. Cross-sectoral set-off between CGST and SGST has been prohibited. In other words, SGST credit cannot be used to set – off against the CGST credit nor vice versa. But IGST credit can be used to discharge either CGST or SGST or IGST liabilities. Similarly, the CGST credit or the SGST credit or the IGST credit can be used to discharge the IGST liability.

GST RATES:

The exact rates of GST has not been made known in the First Paper as it would be too early to decide. But broadly, it has been mentioned that there would be a lower rate for essential commodities as well as goods of basic importance and a standard merit rate for the goods in general. There would be a special rate for precious metals and also a list of exempted items. A single rate of GST has been recommended for the services in respect of both SGST as well as CGST. Towing the cardinal principle that "goods and services can be exported but not the duties and taxes", it has been recommended to have zero rate for exports as well as SEZs. There would not be any concession for the sales from SEZs to DTA.

EXEMPTION SCHEMES:

Today we have a variety of tax exemptions. It has been recommended to convert all existing tax exemption schemes, remissions etc which are related to industrial incentives into cash refund schemes after collection of taxes. The area based exemptions would continue till their legitimate expiry by both Center as well as the States. New exemptions, remissions or extension of running schemes are discouraged.

COMPOUNDING & THRESHOLD LIMITS:

It has been assured that the interest of the small traders as well as the SSI would be protected . An upper ceiling on gross annual turnover and a floor tax rate is recommended. Across the States, a uniform compounding cut off @ Rs. 50 lakhs with a floor rate of 0.5% is recommended. A uniform threshold of Rs.10 lakhs has been recommended for goods and services for all States and Union Territories. The threshold exemption of CGST on services, which is presently Rs.10 lakhs, is recommended to be increased appropriately. The CGST threshold for SSI is recommended to be kept @ Rs. 1.5 crores per annum. But the moot question is that, with the levy of CGST and SGST along the entire value chain till the retail, what would be the benefit of giving threshold exemption to the SSI manufacturers, as in such cases, though the manufacturer would be exempt from CGST upto 1.5 crores, his wholesaler would be paying the CGST on his sale price, which would make the threshold exemption a farce! (It is also pertinent to mention that, for the same reason, the Kelkar Committee report has recommended not to give any threshold exemptions to the SSI manufacturers).

BOTTLENECKS:

Once the First Paper was made public, as dutiful tax practitioners, we went on to search the possible and potential issues and could find the below as potential bombshells:

- **Transitional credit – lying balance of accumulated CENVAT as well as VAT credit on the date of GST transition**
- **High sea sales – once SGST is going to be there on imports HIGH SEAS SALES may become obsolete**
- **Stock transfers – no provision has been made in the First Paper**
- **FOC clearances – when the levy of GST is for the transactions made for a considerations what would be the fate of free of cost clearances?**
- **Additional considerations and barter transaction valuations could be another hair splitter!**

LEGISLATION:

Last but not the least, the road ahead appears to be very long and deep. The laws have to be drafted. Rules on procedures are to be framed. Crucial Constitutional amendments are required to be effected like amending Entry 84 of the Union List to empower Center to levy tax on Sale of goods, Entry 54 of the State List to empower States to tax services, Entry 83 of the Union List and Article 286 of the Constitution has to be amended to empower States to levy GST on imports and exports, Entry 92A has to be amended to cover services under inter – State transactions!!! These Constitutional amendments require a 3/4th majority in the Parliament as well as ratification by a resolution by 50% of the State Assemblies!!!

EPILOGUE: With all the above, the most pertinent question “TELL ME WHEN?” looms large and I can only borrow the words of Robert Frost, “Woods are lovely, dark and deep, But I have promises to keep, And miles to go before I sleep, And miles to go before I sleep...”