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Research Article

GOODS AND SERVICE TAX- AN EVOLUTION OF INDIA TAX REGIME

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ABSTRACT

A system of Indirect tax on the sale of goods and services in India has been introduced through the mechanism of Goods and Services Tax (GST). Goods and Service tax so far has been seen by the different Indian states Governments as a mechanism whereby its authority to levy taxes on certain commodities being diluted in favour of center and hence a great threat to the fabric of Federalism. The states are also apprehensive as to the amount of taxes collected and available for appropriation after the introduction of the GST. They believe the introduction of GST will greatly affect the consolidated fund of the state. This Article discusses the fine points of much talked about Goods and Service taxes which will clear the picture to certain extent. In this Article the Author(s) will carved out the different provisions articulated under different heads related to the Goods and services to make to it easy for the end user to understand the concept of GST precisely and clearly.

INTRODUCTION

Kalidas alias Kautilya commenting on the taxes levied by the King once said that

"It was only for the good of his subject that he collected taxes from them, just as the Sun draws moister from the Earth to give it back a thousand fold[1]".

From Manu Smriti to Kautilya's Arthasastra, India's Taxation system has a great long History. Kautilya's Arthasastra speak about progressive taxation system according to which affluent should pay higher taxes as compared to poor people. The present taxation system of India is also progressive tax system and traces its origin from the Indian Income Tax Act of 1860.

It won't be a misnomer to call Sir James Wilson India's First De-facto Finance Minister[2], who then on April, 7, 1860 introduced India's First Union Budget. The Income Tax Act, 1860 introduced by him was imposed to meet the expenses sustained by the then British government because of great mutiny of 1857. As per the act the Income was divided under four Heads that was taxed separately:

- Income arising from Landed Property;
- Income arising from Trades &Professions;
- Income arising from Securities;
- Income arising from Salaries and Pensions.

From then the Indian Taxation regime has seen number of amendments in the form of Income Tax Act of 1886, The Indian Income tax act of 1918 which was again replaced by the act of 1922 and finally the Income tax act of 1961 which is applicable to whole of India including Jammu and Kashmir.

Demographic changes and collective welfare requirements, which increases with the development of the Nation has introduce the need for the new taxation policy which not only look for Direct tax but also for the indirect taxes to be levied on the manufacture, sale and consumption of goods and services in India. This new initiative although not adhere to the progressive taxation policy but will eventually free up additional public resources without Compromising the economic competitiveness of the Nation and hence the need for the introduction of hassle free single taxation Regime i.e. Goods and Service tax.

The seed of indirect tax regime in India's was sown by the then Finance Minister Mr.Vishwanath Pratap Singh in the year 1986 with beginning the era of the Modified Value Added Tax (MODVAT). Former Prime Minister and then Finance minister Manmohan Singh gave impetus to this innovative idea and finally it goes to the credit of the former Prime Minister Atal Bihari Vajpai who after consulting the three former RBI governors introduced the Single Common GST in the year

1 https://archive.india.gov.in/spotlight/spotlight_archive.php?id=95
2 https://blogs.economictimes.indiatimes.com/onmyplate/james-wilson-and-150-years/

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1999. He then set up the Asim Dasgupta committee to design a model for GST.

LITERATURE REVIEW

The Author came across sufficient literature available and is relevant to the topic under consideration.
Some of the articles and other material have been briefly reviewed as under:

- Income Tax Act of 1962[3]
- Recommendation of Asim Das Gupta Committee
- Report of the task force on Goods and Service tax[4]
- Kelkar committee recommendations[5]
- The Central Goods and Service Tax Act, 2017[6]
- Constitution Of India specifically the 101st Constitutional Amendment Act
- Different views from Indian electrical and print media like The Hindu, Times of India, Economic Times, Indian express, law Journals like EPW Economic and Political weekly, Jstore. etc.

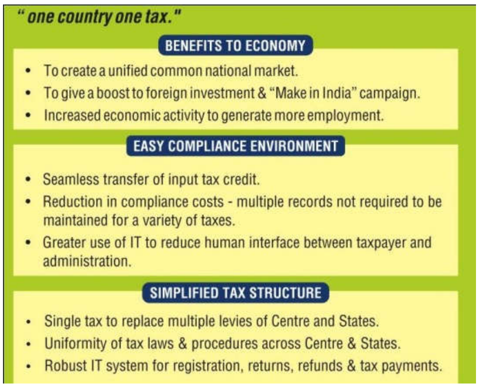
RESEARCH METHODOLOGY

This work is amalgamation of analytical, descriptive and doctrinal Research wherein the author has researched this work by reviewing and critically analyzing the primary and the secondary sources available in the market. Where primary sources are in the nature of the bare text pertaining to taxation System in the country and various other regulations and policies of the Government, including the recommendations of the committee and task forces, the secondary sources relate to the books and scholarly articles available for review. Due to the certain limitations, the research is restricted to articles and publications on the Internet only.

FINDING AND DISCUSSIONS

Power to levy central tax and state tax are distributed between centre and state and this division is elaborately given in Schedule 7 of Constitution of India. In present scenario centre is empowered to impose tax on manufacturing (Except alcohol and sin Goods) , Interstate trade i.e. CST (though retained by originating state) and service tax, on the other hand state can impose tax on intra state sale by means of local vat and other local tax like octroi, entertainment tax etc. This division of power was increasing the cascading effect of tax and burdening the consumer. With the view to bring transparency, removing cascading effect, promoting one common market, easy accessibility of goods to consumers on pan India level idea of GST was envisaged but to bring GST under practical application it was imperative to make amendment in Indian Constitution so that centre and state can impose tax on manufacturing, sale, Provisioning of services concurrently.

Envisioned idea of GST was tabled for the first time in Rajya Sabha for its discussion in the form of constitution amendment bill and was passed by Upper House on 03.08.2016[7] and by Lower House i.e Lok Sabha on 08.08.2016[8]. Constitution Amendment bill was notified as Constitution (101st Amendment) Act, 2016 on 08.09.2016[9].



Constitution Amendment act introduced some new features to Indian Tax System, These are:

1. Article 246A : concurrent jurisdiction given to centre and state for levy and collection of GST
2. Article 269A: Centre was given power to levy and collect IGST on supplies in the course of interstate trade or commerce including imports[10].
3. Article 279A: It provided for the constitution of Goods and Service Tax council (GSTC). GSTC was given power to make recommendations relating to main features of GST Law.

In order to give effect to the provisions of Constitution Amendment Act, 2016 relating to constitution of GST council within 60 days, it was constituted on 12.09.2016.
After its constitution GST Council starts framing main provisions of GST Law. These main provisions (recommendations) of the GST council are enumerated below:

[3] http://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx
[4] http://www.prsindia.org/uploads/media/Constitution%20122nd/Report%20of%20Task%20Force-%20GST.pdf, thirteenth finance commission 2009
[5] http://www.dor.gov.in/servicetaxes
[6] http://gstcouncil.gov.in/sites/default/files/CGST.pdf

[7] GST: The ayes have it, Constitution Amendment Bill passed in Rajya Sabha; Available at : http://indianexpress.com/article/india/india-news-india/gst-bill-live-latest-updates-rajya-sabha-to-take-up-key-tax-reform-legislation-arun-jaitley-today-2950855/; *(last modified sept,21)*
[8] As it happened: Lok Sabha passes GST bill;Available at : http://www.thehindu.com/news/national/As-it-happened-Lok-Sabha-passes-GST-bill/article14558756.ece; *(last modified sept,24)*
[9] The Gazette of India; Available at : *http://lawmin.nic.in/ld/The%20Constitution%20(One%20Hundred%20and%20First%20Amendment)%20Act,%202016.pdf; (last modified sept,28)*
[10] *The newly inserted Article States as follows:* ***269A***

I. GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.
Explanation. - For the purpose of this clause, supply of goods or of services or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.
II. The amount apportioned to a State under clause (I) shall not form part of the Consolidated Fund of India (Article 266(I) - Definition of Consolidated Fund of India).
III. Where an amount collected as tax levied under clause (I) has been used for payment of the tax levied by a State under article 246A, such amount shall not form part of the Consolidated Fund of India.
IV. Where an amount collected as tax levied by a State under article 246A has been used for payment of the tax levied under clause (I), such amount shall not form part of the Consolidated Fund of the State(A.266(I)).
V. Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

1. Supplier of taxable goods and services are required to obtain registration from each state separately from where they are providing taxable services. Supplier is deemed to be registered within 3 days unless objected.
2. Now the Taxable event will be supply of goods and services.
3. Exemption Threshold limit: Rs. 20Lacs (exemption limit for special category State fixed at Rs. 10 Lakh)
4. Compounding threshold limit: Rs. 50Lacs (This exemption not available to interstate suppliers, Service Providers and those manufacturers as specified by government)
5. Government was given power to convert area based exemption schemes into reimbursement based scheme.
6. In order to promote and ensure single interface, it was decided that all administrative control relating to 90% and 10% of taxpayers with turnover below Rs. 1.5 Cr. will vest with State government and central government respectively. Those taxpayers having turnover above Rs. 1.5 Cr. will be divided equally between central and sales tax administration.
7. Four rates of taxation finalized viz. 5%, 12%, 18% and 28%. Some goods and services will placed in exempt list, Precious metals will be taxed at separate rate, cess over and above peak rate i.e. 28% will be imposed for taxation of specified luxury and sin goods.
8. CGST and SGST will be levied by the central and state government respectively on intra state trade and commerce, IGST shall be levied by central government on interstate supply of goods and services at the rate to be prescribed but maximum rate i.e. 28% is fixed by law.
9. Where the location of Supplier and place of supply are in same state, Supply will be treated as intra-state supply of goods and services but if location of supplier and place of supply are not in same state, supply will be considered as inter-state supply of goods and services.
10. Point of taxation will be based on the earlier of the following:
    A. Date on which supplier issues invoice
    B. Date on which supplier receives the payment.
11. Tax to be paid on actual price paid or payable for the supply of goods and services.
12. Input Tax Credit (ITC) is available for taxes paid of supply of goods and services used in the course or furtherance of business. Negative list approach will be used for non allowance of ITC. ITC on capital goods is allowed to be adjusted in one go. ITC will be allowed on proportionate basis if supplies are used partly for business purpose and partly for non business purposes.
13. ITC of tax paid is allowed subject to fulfillment of below listed four conditions:
    a. Invoice Possession
    b. Receipt of Goods and Services
    c. Tax actually paid by supplier to government
    d. Return Filled.
14. Earlier states were reluctant to ratify the GST Act, in order to pacify them and bring them on the equal front provision relating to giving compensation to states for 5 years also added in the act. Under compensation mechanism Revenue from taxes during F.Y 2015-16 accumulated together and growth @14% added to this amount to ascertain the approximate revenue for the next financial year, actual revenue of the state in year under GST is deducted from the approximate revenue to calculate the amount to be awarded as compensation. Compensation to be provided through cess.

On 1st July 2017 at midnight when the whole world was asleep, In India a historic midnight (30 June – 1 July) joint session of both the houses of parliament convened at the Central Hall of the Parliament for the introduction of The Central Goods and Services Tax by the then President of India, Mr. Pranab Mukherjee, and the person who worked day and night for its introduction the Prime Minister of India, Mr. Narendra Modi[11].

CONCLUSION

GST is comprehensive tax structure, aims to eliminate double taxation, ensure automatic compliance, it will also harmonies the central and state tax administration. Practical difficulties are seen on regular basis and the government is sorting it out as early as it can , so much so that by the time this article was written and time it will get publish the provisions might be different and hence the overall performance can be evaluated only after a period of time. The good intentions of policy makers cannot be ignored as they have brought the act for the benefit of the suppliers and consumers equally. As it has only been recently introduced it will too early to comment on its effectiveness and efficiency. In future, Time will sketch the true picture of its success or failure, although it can be safely said that in long run it will benefit the Nation as it has benefited other Nations of the world. After France, the first country to introduce GST in the year 1954, more than 140 countries have introduced the Single taxation regime of GST and benefited from it. Nation look with full optimism at this initiative as it will not only improve the taxation regime and bring more sale and manufacturing activities within the domain of single tax structure but will also improve the ease of doing Business to a greater extent and thus will attract heavy foreign investments, which is quite evident if one observe the events taking place in and around the country.

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