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Introduction

The goods and service tax (GST) is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at a national level. Integration of goods and services taxation would give India a world class tax system and improve tax collections. It would end the long standing distortions of differential treatments of manufacturing and service sector. The introduction of goods and services tax will lead to the abolition of taxes such as octroi, Central sales tax, State level sales tax, entry tax, stamp duty, telecom license fees, turnover tax, tax on consumption or sale of electricity, taxes on transportation of goods and services, and eliminate the cascading effects of multiple layers of taxation. GST will facilitate seamless credit across the entire supply chain and across all states under a common tax base. In 1954, Goods and Services Tax (GST) was introduced in France for the first time. Today this tax has dispersed over 140 countries. GST is a consumer based tax and not origin based.

This leads to an increased number of cases when sale of goods does not eventually occur because the customer is either not satisfied with the product and refuses to pay or is not reachable at the address provided. Further, since the delivery time for goods is generally a few days, some customers may cancel the order before delivery. Given the above, the quantum of sales returns and order cancellations in the e-commerce sector is very high. There are also piecemeal returns and cancellations rather than bulk ones, as in the case of conventional sellers. In such situations, it is difficult to keep the paper trail intact for each case in each state as well as to appropriately claim adjustment for such returns from the VAT authorities. Even when such returns are duly adjusted, substantiating the amount of deduction claimed as sales returns at the time of VAT assessments becomes difficult.

While there are no clear laws in this regard, based on the principles laid down by the Supreme Court in the case of Tata Consultancy Services, given that such digital content is capable of being bought and sold, transmitted and delivered, and has inherent utility, such content may be deemed to be goods liable to VAT/CST. Further, if a position that VAT/CST is payable is adopted, and then there will be ensuing concerns such

transaction and in which state.

Given the complex transaction structures, credit blockage at each stage of the transaction (leading into higher cost for the online marketplaces as well as increased cost for the final consumer.)

• Objectives of the Study

- To understand the Concept of Goods and Service Tax
- To understand the Merits and Demerits of implementing GST in India
- To understand the features of GST
- To understand the implications of implementing GST in India

Background and relevant provisions

Excise duty is payable on the manufacture of goods in India. Under excise legislation, the definition of the term 'manufacture' includes a number of activities.

Further, activities such as packing, repacking and labeling with respect to certain goods have been 'deemed' to be manufacture under excise legislation. Thus, any entity undertaking an activity that amounts to manufacture is liable to pay excise duty at the applicable rate on any such activity and to undertake all compliance in this regard. Excise duty in the case of manufacture of certain goods covered by the Metrology Act, 2009, is based on the maximum retail price (MRP).

The activities undertaken need to be analyzed in light of the definition of manufacture under excise legislation. If such activities qualify as manufacture, then online marketplaces will be required to obtain registration and undertake related compliance. The e-tail giant Amazon received a favorable ruling from the Authority for Advance Rulings (AAR) with regard to this issue in the case of the warehousing model.

Food Impact

The main issue in the application of GST to food is the impact it would have on those living at or below subsistence levels. In 2005, data, food accounted for one-third of total private final consumer expenditure. For those at the bottom of the income scale, it doubtless accounts for an even higher proportion of total expenditures and incomes. Taxing food could thus have a major impact on the poor. By the same token, a complete exemption for food would significantly shrink the tax base. There are additional considerations that are pertinent to the treatment of food.

Food includes a variety of items, including grains and cereals, meat, fish, and poultry, milk and dairy products, fruits and vegetables, candy and confectionary, snacks, prepared meals for home consumption, and restaurant meals, and beverages. In most jurisdictions where reduced rates or exemptions are provided

food, their scope is restricted to basic food items for home consumption. However, the definition of such items is always a challenge and invariably gives rise to classification disputes. In India, basic food, however defined, would likely constitute the vast bulk of total expenditures on food. (3)

Non-profit Sector and Public Bodies

Public enterprises are involved in a wide range of industrial and commercial activities. As deregulation proceeds, the dividing line between public administration and industrial/commercial activities becomes increasingly blurred. For example, postal and telecommunication services were historically viewed as public administration, but this is no longer the case. Government agencies/enterprises provide such services in competition with private firms. The same is true for other activities such as local and inter-city transit, operation of airports, radio and television broadcasting, and provision of water, sewer, and sanitation services. Moreover, the public sector in India, as in many other countries, is large and pervasive.

While this approach may have provided the EU Member States with the needed flexibility in dealing with their domestic environment, it falls short of achieving the principal criteria of an efficient VAT system identified above. The exempt or nontaxable status of a wide range of supplies by public bodies violates the criterion of economic neutrality. Biases are created in favor of the self-supply of services within the public sector to minimize the amount of non-deductible VAT on inputs. Consumers may be influenced in their purchasing decisions by the fact that the VAT does not apply to certain public sector goods and services. The non-deductible input VAT embedded in the prices of public sector goods and services is passed along to persons in the production distribution chain who are not final consumers. (4)

Consumer impact

We see consumer behavior changing in response to GST. Our econometric analysis spanning 26 years of data illustrates that higher taxes act as a headwind to gold demand. But the tax should also change the industry to the benefit of the consumer. Consumers currently get a bad deal. The industry is highly fragmented, dominated by small independent retailers where under-carating is rife. While most analysts think of India's jewellery market as being dominated by 22k, the reality is that most of the jewellery sold has less gold in it than advertised. GST will bring greater transparency to the supply chain, and bring more of the gold market into the formal sector. We expect this to make it harder for retailers to under-carat their customers.

And separately, a slew of measures from the Bureau of Indian Standards is pushing the industry towards mandatory hallmarking, which will also tackle the issue of under-carating. The direction of travel seems clear to us: India's gold market is becoming more organised and transparent, and it is likely GST will accelerate this process. This should be good for consumers. They can have more faith in the gold products they are buying, and this in turn can support gold demand in the years to come. (5)

Impact on Real Estate

Indian real estate sector is estimated to account for about 5% of India's gross domestic product and is considered the second-largest employer in the country. Real estate sector is already subject to multiple taxation, the implementation of GST is theoretically expected to help the consumers and builders. The GST regime will be a game changer for real estate sector and the 12% GST on construction projects meant for sale to buyers will boost the sector.

Ambit of GST under real estate is likely to result in more transparency, which will significantly reduce tax evasion through more efficient transaction-tracking methods and improved enforcement and compliance. Since GST may be levied on a single value, the current issue of levying tax on tax (VAT on central excise duty) is likely to be removed. Transfer of (completed) properties may continue to be outside the purview of GST and be liable only to applicable stamp duties. However, on procurement of materials for civil construction, GST will be applicable. (6)

The implementation of GST will broadly benefit real estate sector by ensuring a uniform tax structure and improve tax compliance by developers. It looks at bringing in greater transparency for the sector and may minimize unscrupulous transactions. GST will have a cascading effect for the home buyers, as developers with more margins in their hands will be able to restructure the cost of the products in favor of consumers thereby reducing the property prices.

Results and Discussion

A) GST and Agriculture

Through a comprehensive and wider coverage of input and service taxes setoff, subsuming of several Central and State taxes in the GST and phasing out of CST, it is expected that the GST could increase the prices of agricultural produce between 0.61 and 1.18 per cent and this would be a boon to millions of farmers in India (Thirteenth Finance Commission, 2009).

B) GST and Manufacturing Industry

The incidence of the present multistage taxation increases the manufacturing cost of most of the production units in India. But a flawless GST can help this sector to reduce their cost to the extent of almost 50 per cent. This will help them to compete with their counterparts in the west. "Even a two per cent reduction in production cost will increase profits by over 20 per cent, giving headroom for reducing prices and benefiting end-users" (Kelkar, Vijay, 2009). It is estimated that the implementation of GST would reduce the overall prices of all manufacturing sectors between 1.22 and 2.53 per cent (Thirteenth Finance Commission, 2009). (7)

C) GST and Housing

At present, the value of a constructed property form part of stamp duty on land and other indirect taxes on inputs. On registration of the property, stamp duty is payable on the entire cost including the embed-

ded taxes. There is no mechanism for complete off-set of these taxes. This results in an increase in the overall cost of the property. The GST provides for including within its scope the transactions in real estate. Therefore, for a registered real estate builder, all taxes on inputs (including that on land) will be off-set against the tax payable on the constructed property. This will reduce cost of housing to the extent of embedded taxes and hence will benefit the poor.

D) GST and Poverty Reduction

At present, primary food articles like rice and wheat are liable to tax by many States either by way of purchase tax or sales tax at a lower rate. But under the GST, all food items covered under the public distribution system including rice and wheat are proposed to be exempted. As a result primary food articles like rice and wheat would be exempted from GST. Since expenditure on food constitutes a large proportion of the total consumption expenditure of the poor, the GST is designed as a poverty reduction initiative. Like food, basic health and education services are also intended to be fully exempted. In any case, as at present, these services will continue to be exempted from tax and therefore no additional burden will arise on account of the switchover to GST (Thirteenth Finance Commission (2009)). (8

Non-profit Sector and Public Bodies

Historically, supplies made by governmental bodies and non-profit organizations (including religious institutions, social welfare agencies, and sports and cultural organizations) have been exempted from VAT on the grounds that such bodies are not engaged in a business and their activities are not commercial in nature. But this is often, and increasingly, not the case. Public enterprises are involved in a wide range of industrial and commercial activities. As deregulation proceeds, the dividing line between public administration and industrial/commercial activities becomes increasingly blurred. For example, postal and telecommunication services were historically viewed as public administration, but this is no longer the case. Government agencies/enterprises provide such services in competition with private firms. The same is true for other activities such as local and inter-city transit, operation of airports, radio and television broadcasting, and provision of water, sewer, and sanitation services. Moreover, the public sector in India, as in many other countries, is large and pervasive.(9

While this approach may have provided the EU Member States with the needed flexibility in dealing with their domestic environment, it falls short of achieving the principal criteria of an efficient VAT system identified above. The exempt or nontaxable status of a wide range of supplies by public bodies violates the criterion of economic neutrality. Biases are created in favor of the self-supply of services within the public sector to minimize the amount of non-deductible VAT on inputs. Consumers may be influenced in their purchasing decisions by the fact that the VAT does not apply to certain public sector goods and services. The

non-deductible input VAT embedded in the prices of public sector persons in the production distribution chain who are not final consumers.

Conclusion

To conclude, though the positive impacts referred above are dependent on a neutral and rational design of the GST, balancing the conflicting interests of various stakeholders, full political commitment for a fundamental tax reform with a constitutional amendment, the switchover to a 'flawless' GST would be a big leap in the indirect taxation system and also give a new impetus to India's economic change. It is also noted that, buoyed by the success of GST, more than 140 countries have introduced GST in some form to other and is fast becoming the preferred form of indirect tax in the Asia Pacific region.

However, these benefits are critically dependent on a neutral and rational design of the GST. The discussion of selected issues in this paper suggests that there are many challenges that lie ahead in such a design. The issues are not trivial or technical. They would require much research and analysis, deft balancing of conflicting interests of various stakeholders, and full political commitment for a fundamental reform of the system

References

- 1) Impact of GST on online marketplaces P- 13
- 2) I bid P- 15.
- 3) Actually, in Australia and New Zealand, this is not always the case. In New Zealand, land (like any other "goods") is the subject of a deemed input tax credit under the "second hand goods" scheme, which has the effect that the tax on a development of land acquired from an unregistered person is the margin of the supplier.
- 4) The Australian system is structured quite different from the New Zealand one, even though the net outcome is similar. New Zealand's GST is designed to tax all flows of money through the Government, whereas Australia's is complicated by the Federal Structure.
- 5) Please see the appendix in India's gold market: evolution and innovation.
- 6) Goods and Service Tax AJSH & Co LLP, MAS, P-4
- 7) Rajkumar S.Adukir (2009). A Study on Proposed Goods and Services Tax (GST) Framework in India, Paper presented at the National Tax Association, Annual conference of Taxation, New Delhi, Nov.10-11.
- 8) Thirteenth Finance Commission (2009). Report of the Task Force on Goods and Services Tax, New Delhi.
- 9) See Peter Barrant (1991), for a description of the New Zealand system. Aujean, Michel, Peter Jenkins and Satya Poddar provide an analytical framework for such a system.