

GST – A FIVE-YEAR JOURNEY

The idea of GST was initiated to create a national market and to avoid cascading effect of taxes. Considering the experience of five years, we can say that GST has been considerably successful.

However, as we have to learn to live with Corona, we have to learn to be more proficient with GST, considering the fact that the initial problems have been resolved over the last five years to a great extent.

Achievements in last five years of GST

Following can be summarised as achievements of GST in last five years.

- ▶ National Market – about 70% achieved
- ▶ Avoid cascading effect of taxes – about 60% achieved – seamless Input Tax Credit is an area where efforts need to be put in
- ▶ Problems due to overlapping of Vat and service tax – more or less eliminated
- ▶ Abolition of check posts

Unique features of Indian GST

Following are unique features of Indian GST.

- ▶ Concept of IGST is a unique idea – nowhere else tried – it is a game changer
- ▶ GST on supply and not on manufacture or sale. This changes entire structure of tax.
- ▶ Dual structure of GST – SGST/UTGST and CGST in transactions within State/Union Territory.
- ▶ Uniform law on goods and services all over India – great achievement
- ▶ Centre State Cooperation at unprecedented level. All the decisions so far (except one) in GST Council by consensus and not by voting
- ▶ Most complex GST law in the world.
- ▶ No concept of ABC analysis in trying to bring every transaction under



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GST and in case of allowability of Input Tax Credit

- Ease of doing business – More simplified processes are needed

Improvements are suggested in GSTN

One major reason for problems in GST is due to the problems in GSTN. Almost 50% problems in GST are due to system, which is law in itself. There were numerous difficulties in getting GST registrations, filing returns and amending them. It is impossible to find out and keep track to know whether supplier has paid tax GSTN is master. It often acts against law but assessee is helpless.

Refund Related Issues

- In case of exports, it is much easier to pay GST and claim refund. Getting refund of input tax on exports is very difficult. There is no refund of GST paid on capital goods while claiming refund of Input Tax Credit. The new provisions w.e.f. 1-10-2022 will make refunds more difficult.
- LUT (Letter of Undertaking) is a big source of problems and may become obstacle towards the aim of ease of doing business and reducing corruption.
- Refund in case of inverted duty structure. There is no provision for refund of ITC of GST paid on capital goods.

Blocked Credit

- Concept of seamless Input Tax Credit is yet to be achieved and requires more efforts.
- Many hurdles in taking Input Tax Credit – particularly after 1-10-2022
- Vast powers to tax officials to block availment and utilisation of Input Tax Credit
- Some legitimate business expenditure disallowed like travel and food to employees, medical facilities to employees are blocked.
- Gifts and Free Samples – ITC involved is negligible but compliance cost is heavy.

- Motor vehicles for legitimate business purposes are not eligible for ITC
- Construction services is really legitimate expenditure, but is blocked.
- In case of Goods lost in fire, ITC is required to be reversed. Really, it is genuine business expenditure and ITC should be allowed.
- Services received in other State like hotel, rent. Office expenses are not eligible for ITC. Thus, against the objective of 'one nation, one tax'.

Some burning issues in GST

Following are some burning issues in GST, which may be big source of litigation.

- Cross charge
- Registration mandatory to those exempted from GST if some of their input goods and services are covered under RCM. This increases compliance costs.
- Vast powers to tax officials to suspend and cancel GST Registration
- Definition of Intermediary under Place of Supply is very litigation prone. Really. Definition of 'intermediary' should only cover commission agents, but in view of broad definition, many transactions are getting covered under 'intermediary' definition.
- Tribunal needs to be constituted.

Conclusion

If GST is to be ranked, I will give Basic structure GST 80% of marks, Drafting of law 65% marks, Implementation of GST law 40% marks. Tax Officials are expected to be facilitators.

Despite all the hurdles, the efforts put in by the Government over last five years to simplify and stabilise the GST in India gives a hope for a happy and safe journey in the era of GST.