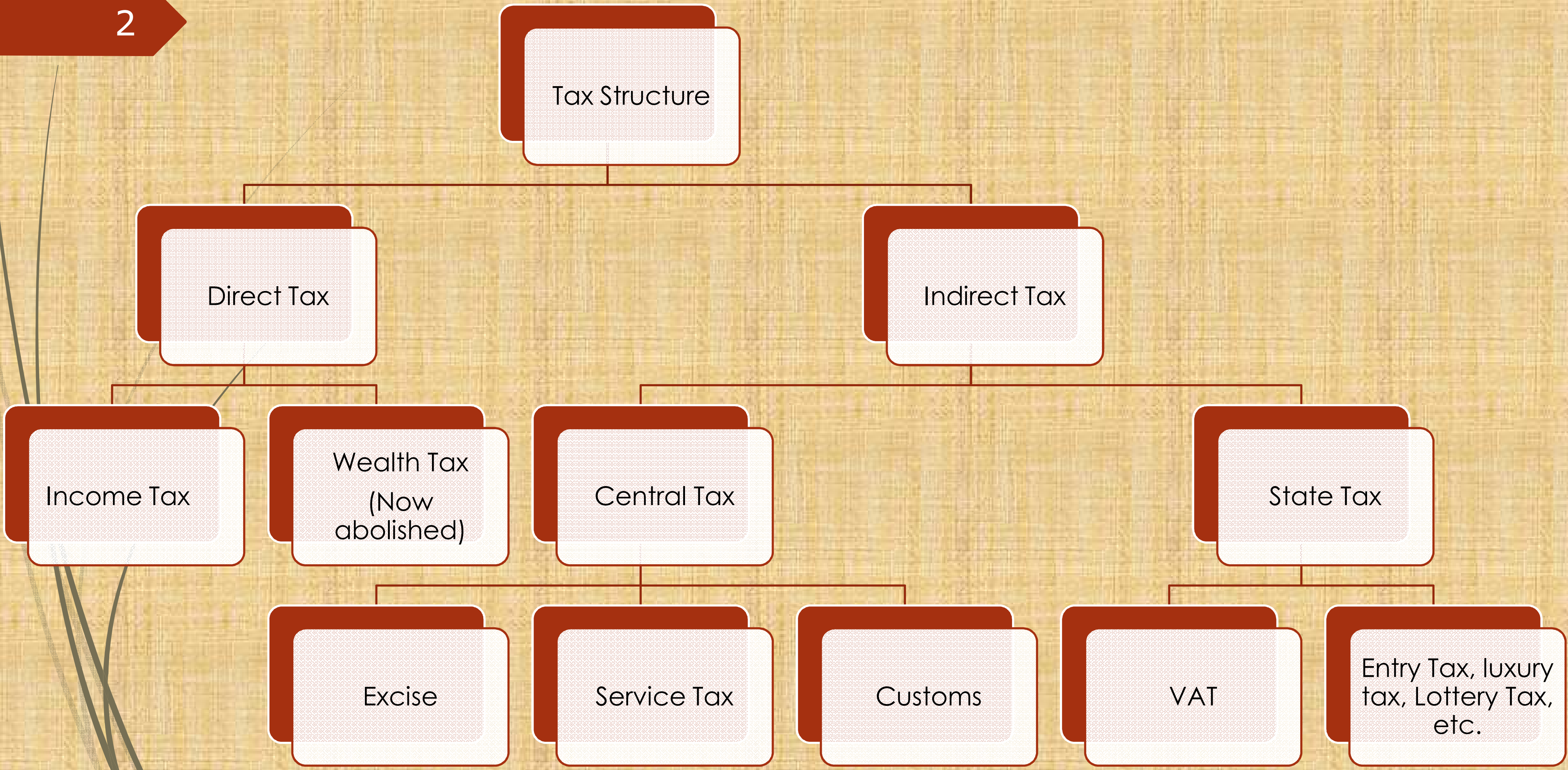
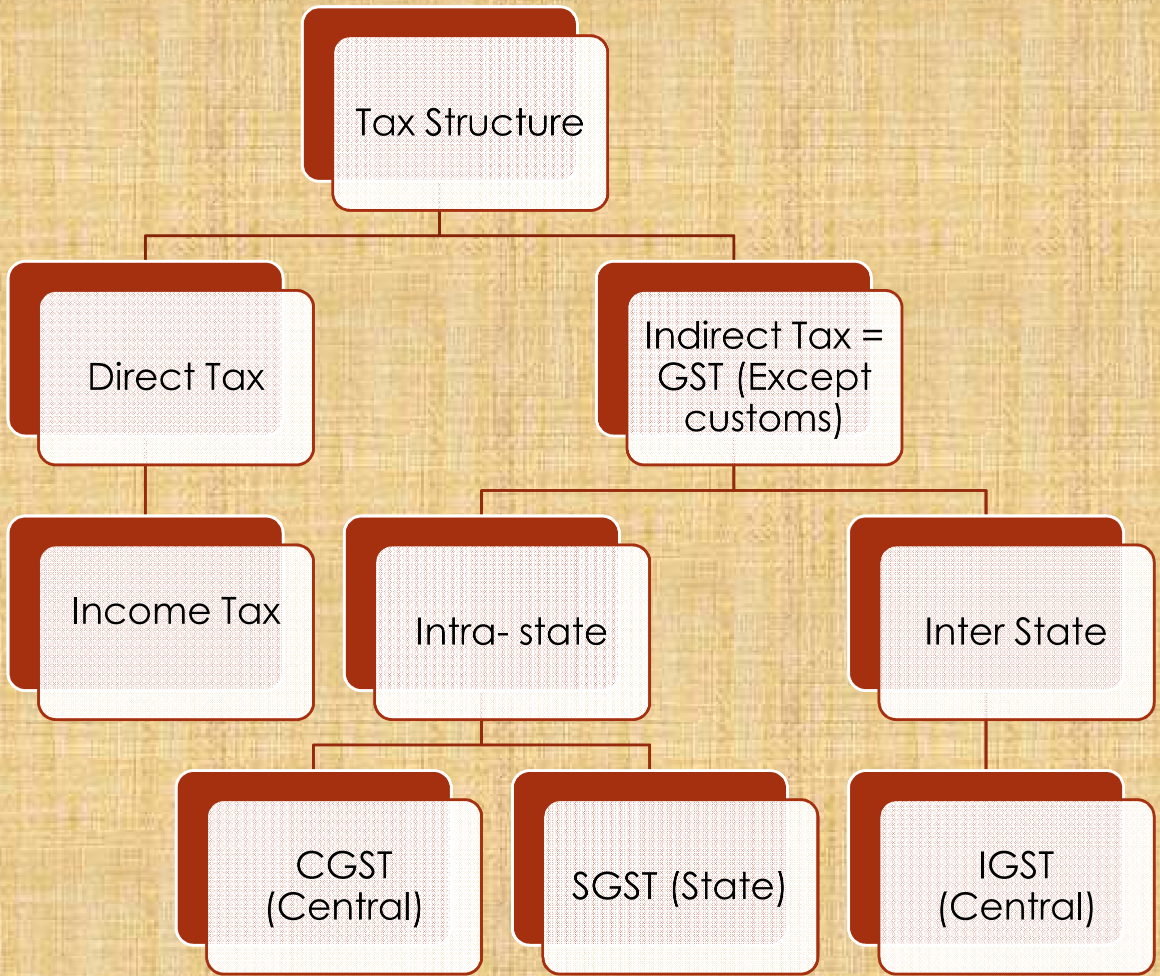
Goods and Service Tax (GST) in India

By CMA Sachin Kathuria

Existing Tax structure in India



Proposed Tax Structure in India



Subsuming of Existing Taxes

CGST

- Central Excise
- Service Tax
- Surcharges and all cess

SGST

- VAT/sales tax
- Entertainment Tax
- Luxury Tax
- Lottery Tax
- Octroi/Entry Tax
- Purchase tax
- Tax on lottery, betting & gambling
- Goods and passenger Tax

IGST

- CST
- Additional duties of Custom (CVD)
- SAD

Proposed Indirect Tax Structure

Intra State Taxable Supply	Excise and Service Tax will be known as CGST	Local VAT & Other taxes will be known as SGST
Inter State Taxable Supply	CST will be replaced by Integrated GST (IGST)	Approx. Sum Total of CGST and SGST
Import From Outside India	Custom Duty	In Place of CVD and SAD, IGST will be charged

Benefits to Assessee

- Reduction in multiplicity of taxes.
- Mitigation of cascading/ double taxation.
- More efficient neutralization of taxes especially for exports.
- Development of common national market.
- Simpler tax regime -
  - Fewer rates and exemptions.
  - Conceptual clarity (Goods vs. Services).

Benefits to Exchequer/Govt.

- Simpler Tax system.
- Broadening of Tax base.
- Improved compliance & revenue collections (tax booster).
- Efficient use of resources.

FEATURES OF PROPOSED GST MODEL

Features of Proposed GST

- Destination based Taxation
- Apply to all stages of the value chain
- Apply to all taxable supplies of goods or services (as against manufacture, sale or provision of service) made for a consideration except –
  - Exempted goods or services – common list for CGST & SGST
  - Goods or services outside the purview of GST
  - Transactions below threshold limits
- GST rates - to be based on RNR – Four rates
  - Merit rate for essential goods & services
  - Standard rate for goods & services in general (with a band of 0-2% for SGST)
  - Special rate for precious metals
  - NIL rate

Features of Proposed GST contd.

- Dual GST having two concurrent components –
  - Central GST levied and collected by the Centre
  - State GST levied and collected by the States
- CGST and SGST on intra-State supplies of goods or services in India.
- IGST (Integrated GST) on inter-State supplies of goods or services in India – levied and collected by the Centre.
- IGST applicable to
  - Import of goods and services
  - Inter-state stock transfers of goods and services
- Export of goods and services – Zero rated.

Features of Proposed GST contd.

- HSN Code likely to be used for classification of goods.
- Present Accounting codes likely to be used for Services
- All goods or services likely to be covered under GST except :
  - Alcohol for human consumption - State Excise plus VAT
  - HSD, Petrol, Crude Oil, Natural gas & ATF (to be brought under GST from date to be notified on recommendation of GST Council)
- Tobacco Products under GST with Central Excise duty.

Illustration to Showcase Tax Benefit under GST

Present Scenario (Intra-State Trade of Goods)

State Tax = 13.31
(11 + 1.10 + 1.21)

VAT = 11

VAT = 12.10
ITC = (11)
1.10

VAT = 13.31
ITC = (12.10)
1.21

Input Manufacturer → Output Manufacturer → Dealer → Consumer

Excise = 10

Excise = 11
ITC = (10)
1

Central Tax = 11
(10 + 1)

Tax Invoice (A)

Value	=	100
Excise	=	10
VAT	=	11
		121

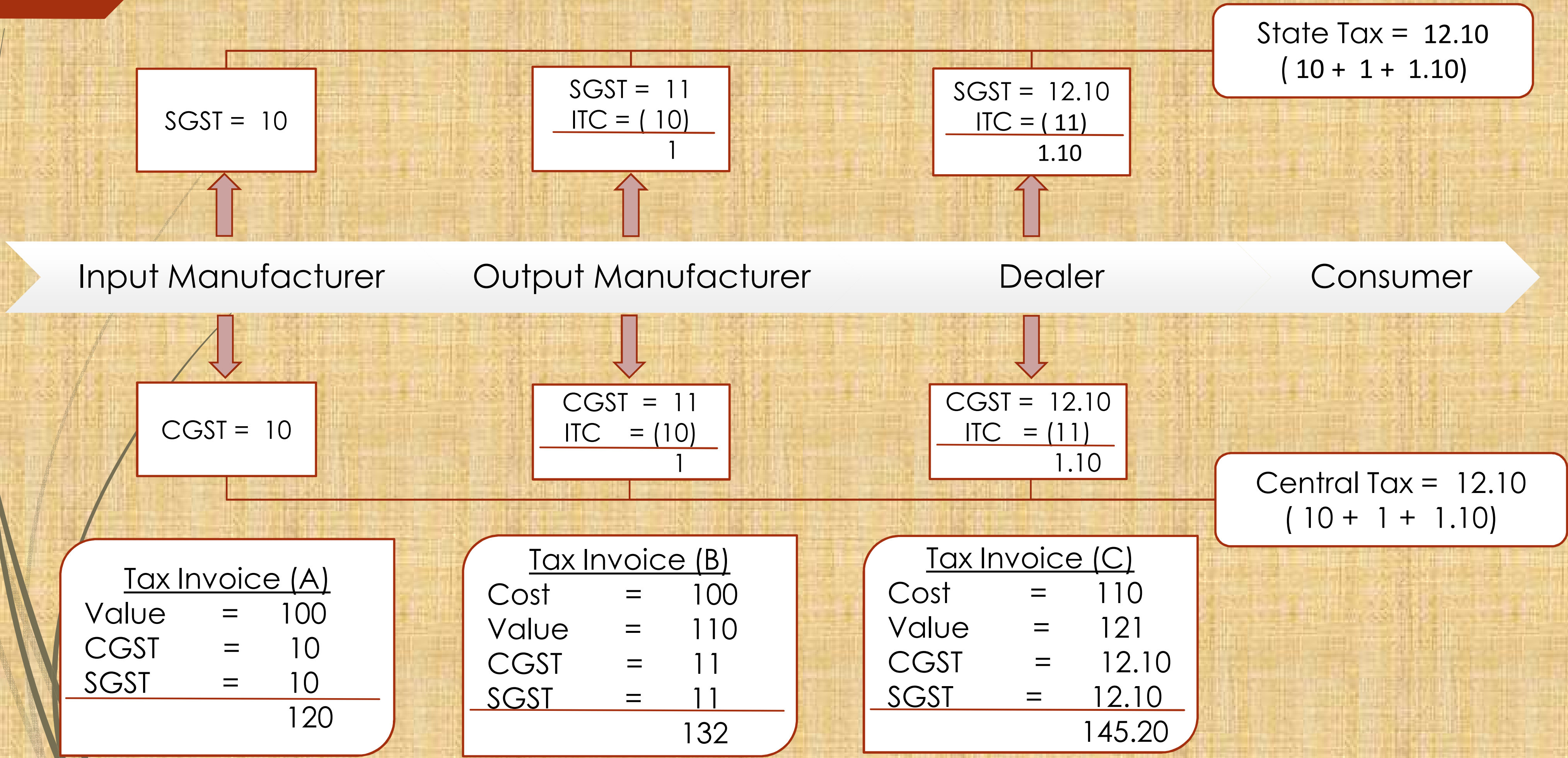
Tax Invoice (B)

Cost	=	100
Value	=	110
Excise	=	11
VAT	=	12.10
		133.10

Tax Invoice (C)

Cost	=	121
Value	=	133.10
VAT	=	13.31
		146.41

GST Scenario (Intra-State Trade of Goods)



Present Scenario (Inter-State Trade of Goods)

State Tax (X) = 11
- Refund Claim

VAT = 11

CST = 2.42
ITC = (2.42)
0

Entry Tax = 3

VAT = 13.91

State Tax (Y) = 16.91
(13.91 + 3)

Input Manufacturer → Output Manufacturer → Dealer → Consumer

Excise = 10

Excise = 11
ITC = (10)
1

Central Tax = 11
(10 + 1)

Tax Invoice (A)

Value	=	100
Excise	=	10
VAT	=	11
		121

Tax Invoice (B)

Cost	=	100
Value	=	110
Excise	=	11
CST	=	2.42
		123.42

Tax Invoice (C)

Cost	=	126.42
Value	=	139.06
VAT	=	13.91
		152.97

GST Scenario (Inter-State Trade of Goods)

State Tax (X) = 10-10=0

SGST = 10

State Tax (Y) = 12.20
(2.40 + 9.80**)

SGST = 12.20
ITC = (9.80)
2.40

Input Manufacturer → Output Manufacturer → Dealer → Consumer

CGST = 10

IGST = 22
CGST = (10)
SGST = (10)
2

CGST = 12.20
IGST = (12.20)
0

Central Tax = 12.20
(10 + 2 + 10* - 9.80**)

Tax Invoice (A)

Value	=	100
CGST	=	10
SGST	=	10
		120

Tax Invoice (B)

Cost	=	100
Value	=	110
IGST(20%)	=	22
		132

Tax Invoice (C)

Cost	=	110
Value	=	122
CGST	=	12.20
SGST	=	12.20
		146.40

Present Scenario (Intra-State Trade of Service)

Input Service Provider | Output Service Provider | Consumer

Service Tax = 10

Service Tax = 11
ITC = (10)
1

Central Tax = 11
(10 + 1)

Tax Invoice (A)

Value	= 100
Service Tax	= 10
	= 110

Tax Invoice (B)

Cost	= 100
Value	= 110
Service Tax	= 11
	121

GST Scenario (Intra-State Trade of Service)

State Tax = 11
(10 + 1)

SGST = 10

SGST = 11
ITC = (10)
1

Input Service Provider | Output Service Provider | Consumer

CGST = 10

CGST = 11
ITC = (10)
1

Central Tax = 11
(10 + 1)

Tax Invoice (A)

Value	= 100
CGST	= 10
SGST	= 10
	120

Tax Invoice (B)

Cost	= 100
Value	= 110
CGST	= 11
SGST	= 11
	132

Present Scenario (Inter-State Trade of Service)

State Tax (X) = 0

State Tax (Y) = 0

Input Service Provider → Output Service Provider → Agent → Consumer

Input Service Provider

Service Tax = 10

Tax Invoice (A)

Value	=	100
Service Tax	=	10
		110

Output Service Provider

Service Tax = 11
ITC = (10)
1

Tax Invoice (B)

Cost	=	100
Value	=	110
Service Tax	=	11
		121

Agent

Service Tax = 12.10
ITC = (11)
1.10

Tax Invoice (C)

Cost	=	110
Value	=	121
Service Tax	=	12.10
		133.10

Central Tax = 12.10
(10 + 1 + 1.10)

GST Scenario (Inter-State Trade of Service)

State Tax (X) = 0
(10 - 10*)

SGST = 10

State Tax (Y) = 12.10
(2.20 + 9.90**)

SGST = 12.10
ITC = (9.90)
2.20

Input Service Provider → Output Service Provider → Agent → Consumer

CGST = 10

IGST = 22
CGST = (10)
SGST = (10)
2

CGST = 12.10
IGST = (12.10)
0

Central Tax = 12.10
(10 + 2 + 10* - 9.90**)

Tax Invoice (A)

Value	=	100
CGST	=	10
SGST	=	10
		120

Tax Invoice (B)

Cost	=	100
Value	=	110
IGST(20%)	=	22
		132

Tax Invoice (C)

Cost	=	110
Value	=	121
CGST	=	12.10
SGST	=	12.10
		145.20

Comparison (Trade of Goods)

Sr. No.	Particular	Intra-State		Inter-State	
		Present	GST	Present	GST
1.	Initial Value	121.00	120.00	121.00	120.00
2.	Centre's Tax	11.00	12.10	11.00	12.20
3.	State (X)'s Tax	13.31	12.10	11.00	0
4.	State (Y)'s Tax	-	-	16.91	12.20
5.	State's Total	13.31	12.10	27.91	13.30
6.	**Total Tax paid to Govt.**	**24.31**	**24.20**	**38.91– Refund Claim**	**25.54**
7.	**Non-Vatable Tax borne by Business**	**11.00**	**0.00**	**25.00**	**0**
8.	**Final value paid by Consumer**	**146.41**	**145.20**	**152.97**	**146.40**

Comparison (Trade of Service)

Sr. No.	Particular	Intra-State		Inter-State	
		Present	**GST**	**Present**	**GST**
1.	Initial Value	110.00	120.00	110.00	120.00
2.	Centre's Tax	11.00	11.00	12.10	12.10
3.	State (X)'s Tax	0.00	11.00	0.00	0.00
4.	State (Y)'s Tax	-	-	0.00	12.10
5.	State's Total	0.00	11.00	0.00	12.10
6.	**Total Tax paid to Govt.**	**11.00**	**22.00**	**12.10**	**24.20**
7.	**Non-Vatable Tax borne by Business**	**0.00**	**0.00**	**0.00**	**0.00**
8.	**Final value paid by Consumer**	**121.00**	**132.00**	**133.10**	**145.20**

What is supply – Section 3 of Model GST Law

All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

Importation of service, whether or not for a consideration and whether or not in the course or furtherance of business.

A supply specified in schedule-I which comprises of the matters which are treated as supply without consideration.

Transactions without consideration

Supplies specified in Schedule I

- Permanent transfer/disposal of business assets
- Temporary application of business assets to personal use
- Services put to personal use
- Assets retained after deregistration
- Supply by taxable person to any other person in course or furtherance of business

Deemed Supply

- Sub-section (2A) of section 3 provides that person acting as an agent for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be a deemed supply

- Sub-section (4) of section 3 states that the supply of any branded service by an aggregator under a brand name or trade name owned by him shall also be deemed to be a supply of said service by the said aggregator.

Registration under GST

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Every person who is liable to be registered under Schedule III of this Act shall apply for registration in every such State in which he is so liable within 30 days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed

- Registration is required if his aggregate turnover in a financial year exceeds Rupees **Nine Lakh &** Rupees **Four Lakh** for North Eastern states including Sikkim.
- Categories of persons who shall be required to be registered under this Act irrespective of the threshold
  - persons making any inter-State taxable supply
  - casual taxable persons
  - persons who are required to pay tax under reverse charge
  - non-resident taxable persons
  - every electronic commerce operator
  - an aggregator who supplies services under his brand name or his trade name
  - input service distributor
  - persons who are required to deduct tax under section 37 (Tax Deduction at Source)
  - persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise
- Each taxpayer would be allotted a PAN based taxpayer identification number called GSTIN with a total of 13-15 alphanumeric digits.

Valuation of taxable supply

"Where price is the sole consideration of supply & the supplier and recipient of the supply are not related, the value of supply shall be transaction value".

- Inclusion in the value of supply provided
  - Free/ Discounted Supply
    - Any tax, duties, fees & charges levied under any statute other than the SGST Act or the IGST Act
    - Incidental expenses such as commission & packing charged by the supplier to the recipient of the supply
  - Royalties & license fees related to the supply of goods and/or services.
    - Subsidies provided in any form or manner, linked to the supply.
  - Any overriding discount/Incentive
    - Any amount incurred by the recipient of supply
  - Any reimbursable expenditure or cost incurred by or on behalf of the supplier.

Returns under GST

Return for Outward supplies (GSTR-1)

- Would be filed by 10 of following month
- For all B2B supplies (whether inter-state or intra-state), invoice level specified details will be uploaded
- For all inter-state B2C supplies (including to non-registered Government entities, Consumer / person dealing in exempted / NIL rated / non GST goods or services), the suppliers will upload invoice level details in respect of every invoice whose value is more than Rs. 2,50,000/-. For invoices below this value, Statewise summary of supply statement will be filed covering those invoices where there is address on record
- HSN code (4-digit) for Goods and Accounting Codes for Services will be mandatory initially for all taxpayers with turnover in the preceding financial year above Rs. 5 Crore
- For taxpayers with turnover between Rs 1.5 Crores and Rs 5 Crores in the preceding financial year, HSN codes may be specified only at 2-digit chapter level as an optional exercise to start with
- HSN Codes at 8-digit level and Accounting Codes for services will be mandatory in case of exports and imports.

Returns under GST

Return for Inward supplies (GSTR- 2)

- The information submitted in GSTR-1 by the Counterparty Supplier of the taxpayer will be auto-populated in the concerned tables of GSTR-2. The same may be modified i.e. added or deleted by the Taxpayer while filing the GSTR-2. The recipient would be permitted to add invoices (not uploaded by the counterparty supplier) if he is in possession of invoices and has received the goods or services For all B2B supplies (whether inter-state or intra-state), invoice level specified details will be uploaded
- There will be separate tables for submitting details relating to import of Goods/Capital Goods from outside India and for the services received from outside India
- Auto-Population in this return from GSTR-1 will be done on or after 11th of the succeeding month. Addition or Deletion of the invoice by the taxpayer will be permitted between 12th and 15th of the succeeding month. Adjustments would be permitted on 16th and 17th of the succeeding month
- The return (GSTR-2) would be filed by 17th of the succeeding month

Returns under GST

Return for Input Service Distributor (GSTR-6)

- Every Input Service Distributor (ISD) shall, for every calendar month or part thereof, furnish a return, electronically, in prescribed form and manner within 13 days after the end of such month

TDS Return (GSTR-7)

- Should be filed by 10th of the succeeding month

Annual Return

- Section 30 provides that Every normal registered taxable person, other than an input service distributor, a deductor under sec 37, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form & in such manner as may be prescribed on or before the 31st day of December following the end of such financial year.
- Every taxable person who is required to get his accounts audited under subsection (4) of section 42 shall furnish, electronically, the annual return along with the audited copy of the annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the year with the audited annual financial statement, and such other particulars as may be prescribed

Steps for return filing

1. Upload the final GSTR-1 return form either directly through a data entry mode in GST common portal
2. Auto-draft of provisional GSTR-2 based on supply invoice details reported by the suppliers
3. Taxpayer to accept/reject/modify such auto drafted provisional GSTR-2
4. Add a additional purchase invoice in GSTR-2 which have not been uploaded by the counter-party
5. Reconcile the inward supplies with counter-party taxpayers
6. Finalize the GSTR-1 & GSTR-2 by using online facility at common portal or using GSTN compliant off-line facility
7. Pay the amount as shown in GSTR-3 return generated automatically post finalization of activities mentioned in step-6
8. Debit the ITC ledger & cash ledger and mention the debit entry no. in the GSTR-3 return and submit the same.

Integrated Goods And Service Tax (IGST)

Integrated Goods and Service Tax (IGST)

- Basic Fundamental to discuss in IGST:

- GST in India envisaged on destination/consumption principle.
- Place of supply to determine the place where the supply of goods/services will take place and to determine whether supplies are inter state or intra state.
- In sub-national taxation, determining the place of supply is important as tax revenue accrues to the State where the supply occur or deemed to occur.
- IGST model envisage levy of IGST by the Centre on all transactions during inter state taxable supplies.
- Tax revenues accrues to the destination/importing State based on <u>Place of Supply Rules.</u>

Integrated Goods and Service Tax (IGST) contd.

- IGST model permits cross-utilization of credit of IGST, CGST & SGST for paying IGST unlike intra-State supply where the CGST/SGST credit can be utilized only for paying CGST/SGST respectively.
- IGST credit can be utilized for payment of IGST, CGST and SGST in sequence by Importing dealer for supplies made by him.
- IGST Model envisages that the Centre will levy tax at a rate approximately equal to CGST+SGST rate on inter-State supply of goods & services.
- It would basically meet the objective of providing seamless credit chain to taxpayer located across States.

Integrated Goods and Service Tax (IGST) contd.

- IGST model obviates the need for refunds to exporting dealers as well as the need for every State to settle account with every other State
- The Exporting State will transfer to the Centre the credit of SGST used for payment of IGST
- The Centre will transfer to the importing State the credit of IGST used for payment of SGST
- Thus Central Government will act as a clearing house and transfer the funds across the States

Illustration for IGST Model

- Mr. A (based in Maharashtra) supplied Goods to Mr. B (based in Gujarat) and paid 17% IGST. Mr. A has Input credit of CGST 8% and SGST 8% from local Purchases. So he paid only 1% to Central Government Account i.e. in IGST code of that product. Maharashtra will transfer to Centre 8% SGST used for payment of IGST.
- Mr. B (based in Gujarat) who had purchased those goods supplied the same locally to Mr. C (based in Gujarat) and liable to SGST 10% and CGST 8%. He will utilize Credit of IGST of 17% first for CGST (8%) and balance for SGST (9%) and will pay 1% in cash. Gujarat Government where goods are consumed is entitled to get destination based tax i.e. SGST. Centre will transfer 9% IGST Credit used for payment of SGST to Gujarat. In this example, few important points may be noted:

Illustration for IGST Model

- Maharashtra Government in this transaction will not get any tax since it is inter state supply from Maharashtra to Gujarat
- Gujarat Government will get 10% SGST for Import of Goods (9% from central Government and 1 % paid as cash by Mr. B)
- Central Government will get 9% IGST on inter-state supply of goods to Gujarat (8% from Maharashtra Government and 1% paid as Cash by Mr. A)
- Important to note is that while Central Government got 9% as tax, at the same time Mr. B (based in Gujarat) has been allowed full credit of IGST paid by Mr. A (based in Maharashtra)

ADVANTAGES OF IGST MODEL

For Taxpayers

- Maintenance of uninterrupted ITC chain on inter-State transactions for dealers located across States
- No refund claim for suppliers in exporting State, as ITC is used up while paying the Tax
- No substantial blockage of funds for the inter- State supplier or buyer
- No cascading as full ITC of IGST paid by supplier allowed to buyer
- Model handles ‘Business to Business’ as well as ‘Business to Consumer’ transactions

ADVANTAGES OF IGST MODEL

For Tax Administrations

- Upfront tax payments by suppliers in exporting State
- No refund claims on account of inter-state supplies
- Tax gets transferred to Importing State in accordance with Destination principle
- Self monitoring model
- Result in improved compliance levels
- Effective fund settlement mechanism between the Centre and the States

Key Enablers for IGST

- Uniform e-Registration
- Common e-Return for CGST, SGST & IGST
- Common periodicity of Returns for a class of dealers
- Uniform cut-off date for filing of Returns
- System based validations/consistency checks on the ITC availed, tax refunds
- Effective fund settlement mechanism between the Centre and the States

Role of Dealers in GST Framework

- Every dealer has to submit one single GST return consisting information about all his purchases/sales at Invoice level along with line item.
- Accordingly necessary records, registers are to be maintained and consolidation for return will require automation and standard procedures.

Role of Central/State Government in GST framework

- Central Government to act as clearing house for accounts settlement across States.
- Handling disputes between states over jurisdictional and enforcement issues.
- Develop and maintain GSTN with best of facilities for uninterrupted flow of credit, less litigation and facility to register, file return and in future inbuilt other features like refund, scrutiny of returns.
- Draft model Legislation for CGST, IGST and SGST which will act as a Boundary wall, binding in nature both on Centre and States to legislate their respective GST Acts.
- Affix rate of SGST, within the parameters of band recommended by GST council.
- Formulate mechanism for reconciliation of tax payments.
- Develop systems for scrutiny of returns and record of assesses for GST.
- Establish dispute resolution mechanism for issues relating to levy of GST.

Salient features of Proposed Place of Supply Rules

- Place of Supply Rules should be framed keeping in view the following principles:
  - Rules for B2B Supplies and B2C supplies should be different.
  - Place of supply for B2B supplies should normally be the location of recipient of goods or services and not where services is actually performed.
    - This is required to maintain smooth flow of credit. To illustrate, Mr. A (located in Rajasthan) participates in exhibition organized by Mr. B (located in Delhi). Normally place of supply will be Delhi and Mr. A located in Rajasthan will not be eligible for input tax credit.

Salient features of Proposed Place of Supply Rules contd.

- Rules for B2B supplies should be such so that input tax credit should be available to recipient.
- Place of Supply Rules should be guided by the principles that tax revenue at intermediate stage does not accrue to any tax administration as they are merely wash transactions.
- Place of Supply Rules should be guided by the principles that tax revenue accrues only when the goods/services are consumed by the final consumer.
- Place of Supply Rules should take care of the situation where intangibles are ordered from locations other than the locations where they are consumed.

Revenue Neutral Rates (RNR)

- Rate which will give at-least the same level of revenue, which the Centre and States are presently earning from Indirect taxes.
- How to achieve this rate -- require analysis of GDP, Consumer Consumptions, exclusion and desired level of collection of Centre/state.
- We may derive the same by way of an illustration.

Illustration

- Country A desires to collect Rs. 3000 Crores of revenue from Indirect Taxes. The total Consumer Expenditure on Purchases/services is Rs. 30000 Crores.
- Now in case taxes are applicable on every product then a uniform rate of 10% will suffice the collection.
- In case certain products say foods, petroleum, tobacco, electricity are excluded from tax regime and the consumer expenditure on them is Rs. 10000 Crores, then to achieve the same level of taxes, rate need to be 15%.

Exclusion Vs. Zero Rated

- Exclusion while immune a product/Services from levy of taxes on the other hand disallow the benefit of CENVAT/Input Credit of taxes paid which in turn inflate the cost of production/services. Buyer of these products/services while paying this additional cost could not claim any benefit of taxes so paid and hidden in the cost. To illustrate Electricity company while paying 5% excise duty on coal has no option but to add the same into cost of generation while claiming electricity charges from a builder who in turn may have claimed credit if such duty is charged as input taxes from him.
- Zero rated good on the other hand enable the producer/service provider to claim the refund of input taxes paid from department, hence will not form part of cost of production/services.

GST PLANNING

Impact Areas for Businesses

- Pricing, Costing, Margins
- Supply-chain management
- Change in IT systems
- Treatment of tax incentives
- Treatment of excluded sectors
- Transition issues
- Tax compliance

Role of Professionals

- Tracking GST development
- Review of draft legislation and impact analysis
- Industry Consultation for improvement in business process
- Review of final legislation and impact analysis
- Implementation assistance
- Post implementation support
- Supply chain management
- IT Infrastructure
- Departmental Audit & Compliances
- Tax impact on Cost sheet need to rework for new pricing

Thank You

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