GST
Tax of 21st Century

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Welcome

Background of Indirect Taxes

- Present structure of indirect taxes is based on Constitutional Provisions giving bifurcation of powers between Union (list I) and State (list II)
- These lists are based on Government of India Act, 1935
- It is as if we are driving in 2015 in a 1935 model car

Present system of taxation

- Tax on goods upto manufacturing level by Centre
- Service tax only by Centre
- Tax on sale of goods by State Government
- Many other taxes like luxury tax, entertainment tax, cesses

Problems in present taxation

- State Government cannot impose tax on services
- Central Excise duty is on manufacture. Central Government cannot impose tax on sale of goods beyond manufacturing
- It is as if a blind man and lame person are running a race together

Inter State movement of goods is not tax free

- Cascading effect of taxes
- Since Central Sales Tax is production based, the movement of goods from one State to other is not tax free
- Partial refund of sales tax is obtained when goods are sent inter-state, but there are tremendous delays, corruption and harassment

Stock transfer v. Inter State Sale

- There is thin line of distinction between stock transfer and inter state sale
- Often dealer treats a transaction as stock transfer but department treats it as sale
- Judgment of Supreme Court in *A & G Projects and Technologies* has created problems in E-I/E-II transactions.

Overlapping of State and Central Taxes

- Distinction between service and goods is hazy in cases like works contract, food related services, software, Intellectual Property Rights (IPR), telecom
- SIM Card – goods or service?
- Ambiguity in taxation on service tax on supply of tangible goods for use and Vat on transfer of right to use goods

E-commerce

- Taxation on E-commerce is very difficult – both for tax payers and tax collectors
- Quick movement of goods inter-state is essential for efficient e-commerce
- Payment made to one – sale by another
- Taxation of downloading of software

GST to overcome some of these defects

- GST is being introduced to overcome many of these defects
- The GST as proposed is not ideal, but is the best that can be achieved in given circumstances and political situation

Roadmap to GST

- Not a super highway but a typical Indian narrow Road with potholes, encroachments and diversions
- Still road is motorable and hopefully better than existing tax structure
- Modi-fied GST

GST should be GST

- Let us hope that GST is Good and Sensible Tax
- The things are so bad that it cannot be made worse. Now only improvement is possible

Kelkar Committee

- Kelkar Committee first recommended national GST in 2004
- Cenvat credit of service tax and excise duty made inter-changeable w.e.f. 10-9-2004. Thus there is Vat at centre level
- Vat at State level implemented
- GST will merge both Central and State Vats and ensure seamless transactions

Empowered Committee

- Empowered Committee consisting of 29 State Finance Ministers – Mr Mani of Kerala is present Chairman
- Empowered Committee which had designed State Vat has designed GST
- Many compromises and variations from principles of Vat/GST
- Discussion Paper on 10-11-2009

Constitution Amendment Bill

- Amendment Bill passed by Lok Sabha on 7-5-2015
- In Rajya Sabha, it could not be passed in July/August 2015 session
- Government thinking of calling special session of Parliament in September 2015
- Then 15 States have to ratify – the Act, Rules, Notifications etc.

Constitutional Background

India, that is Bharat, shall be a Union of States [Article 1(1)]

Article 246 read with Seventh Schedule gives bifurcation of powers between Union and State -

- List I – Union List
- List II – State List
- List III – Concurrent List

Taxation in Union List

List I – Income Tax (Entry 82), Customs duty (Entry 83), Excise Duty (Entry 84),Inter State Sales (Entry 92A), Tax on Services (Entry 92C – not yet effective).

Entry 97 – Any other matter not included in List II, List III and any tax not mentioned in list II or List III (These are residual powers)

State List relevant for taxation

- Entry No. 46 - Taxes on agricultural income.
- Entry No. 49 – Taxes on lands and buildings
- Entry No. 50 – Tax on mineral rights
- Entry No. 51 - Excise duty on alcoholic liquors, opium and narcotics.
- Entry No. 52 - Tax on entry of goods into a local area for consumption, use or sale therein (Entry Tax or Octroi)

(Continued)

State List (Continued)

- Entry No. 54 - Tax on sale or purchase of goods other than newspapers except tax on interstate sale or purchase.
- Entry No. 55 – Tax on advertisements other than advertisements in newspapers
- Entry No. 56 - Tax on goods and passengers carried by road or inland waterways
- Entry No. 59 – Tax on professions, trades, callings and employment

Deemed Sale – Article 366(29A)

- Compulsory Sale
- Hire purchase and Lease
- Transfer of right to use (Hire)
- Goods Involved in works contract
- Sale of food articles
- Sale among unincorporated bodies

GST - Overview

- State will levy SGST (State GST) and Central Government will levy CGST (Central GST) on **supply** of goods and services within the State
- Central Government will levy Integrated GST (IGST) on **supply** of goods and service in inter state trade or commerce and similar CVD on imports

Categories of Supply of goods and services

Supply of goods and services can be broadly classified in following categories

- (*a*) Inter-State – pay IGST (equal to CGST + SGST)
- (*b*) import – pay customs duty and IGST
- (*c*) Exports – zero rated – no tax
- (*d*) Intra-State – SGST and CGST

GST consumption based tax

- GST is principally consumption based tax.
- CST is production based tax
- Producing States will suffer as revenue will go to consuming States
- Producing States gain indirectly

ATSG @ 1% to continue for two years in different form

- Additional Tax on supply of goods (ATSG) @ 1% will continue for at least two years – to compensate possible loss to producing States
- Tax on stock transfer also as it is on supply of goods. No set off (input tax credit) of this additional tax. Thus it will be cost to company
- Tendency will be to avoid inter-state movement of goods
- Only once or every inter-state sale?

Only change in name?

- Some say it is only changing State Vat to SGST and excise to CGST and IGST – implemented by people with same mindset
- It is not so – much beyond that
- IGST and concept of ‘supply’ instead of ‘sale’ are the game changers in new GST

Vat

- Valued added Tax (Vat) to avoid cascading effect of taxes
- Over 140 countries have Vat/GST
- Vat is consumption based tax with destination principle
- Vat does not require one to one relation
- Vat works best when minimum exemptions and rate variations

Conventional Tax System

Detail	A	B	C
Purchases	-	110	165
Value Added	100	40	35
Sub-Total	100	150	200
Add Tax 10%	10	15	20
Total	110	165	220

Tax credit System under Vat

	Transaction without VAT		Transaction With VAT	
Details	A	B	A	B
Purchases	-	110	-	100
Value Added	100	40	100	40
Subtotal	100	150	100	140
Add Tax	10	15	10	14
Total	110	165	110	154

Input Tax Credit (ITC)

- Input Tax Credit of input goods, input services and capital goods
- Capital goods – ITC may be given in stages
- Credit of SGST and CGST not inter-changeable
- Credit on basis of 26AS type return

Revenue Neutral Rate (RNR)

- RNR is the rate at which the Government revenue remains same as per previous tax provisions
- Expected RNR is - 5% each of SGST and CGST for merit goods, 10-11% each on other goods and services – will be higher for SIN goods (demerit goods) – finally – common rate 20-22%.

Zero Rated and Exempt transaction

- Zero rated transaction - tax not payable on sales, but Credit of input taxes is available (e.g. exports, inter-state transaction, stock transfers to other State)
- In ‘exempted transaction’, tax is not payable but input tax credit (ITC) is not available
- Inter State transactions (sale or stock transfer) to be ‘zero rated’ under GST.

Utilisation of ITC under IGST

- Exporting dealer to use SGST first for SGST and balance for IGST
- SGST cannot be utilised for CGST by selling dealer in exporting State
- CGST for CGST and IGST only
- Importing dealer to use IGST in sequence of IGST, CGST and balance for SGST

Variations from GST principle

- Petroleum products out of GST
- Tobacco products – Central Excise plus GST
- Area based Exemptions to continue – some option may be given

IGST is good idea for dealers

- Presently, refund application has to be filed with State Government
- Tremendous delays in refunds
- Corruption (rent seeking)
- C form and F form headaches
- Check posts at border can be eliminated (if there is political will)

Pay IGST to Centre

- IGST (SGST plus CGST) payable to Centre if goods are sent inter-state or stock transfer
- Dealer in importing State can avail ITC (Input Tax Credit) of IGST paid in exporting State
- State in which goods are imported will get credit from Centre and State from which goods are exported will get debit from Centre

Adjustment among States

- Dealers and exporting and importing States will file e-return to Central Agency.
- TIN (Tax Identification Number) and monthly return will be controlling aspects.
- If selling dealer uses SGST for payment of IGST, the amount will be debited to exporting State
- If purchasing dealer uses IGST for SGST, credit to importing State by Centre

Problems in IGST

- Inter State Movement of Goods for job work, repairs
- Valuation in case of stock transfer
- Dealers doing business in more than one States – dealing with 29 State Laws
- Check posts at border

Exemptions to small dealers

- Threshold limit of 10 lakhs for traders for SGST
- Threshold limit Rs 1.50 crores for manufacturers for IGST
- High limit for service providers for IGST (not specified – may be 30-40 lakhs)
- Optional composition scheme

Taxes that will continue

- Income Tax, Stamp duty to continue
- Basic Customs duty to continue. IGST instead of present CVD and SAD.
- Entertainment tax can be imposed only by Panchayat, Municipality or Regional Council or District Council – of course SGST will be imposed on entertainment

Taxes that will go

- Central Excise duty (except on tobacco and petroleum products), excise duty on medical preparations will go
- Central surcharges and Cesses will go
- State Vat will go except on petroleum products and alcoholic liquor – these two products out of GST
- Entry tax, entertainment tax, luxury tax will go

Ways of doing business will change

- Cost effective distribution channels – hub and spoke approach possible as credit of IGST is pass-through and transparent
- Inter State Trading Houses on line of Export Houses possible
- Purchase policies will have to change
- Taxes will move with goods

Effective date of GST

- Possible effective date is 1-4-2016 IST – but 1-4-2017 seems more probable
- IST (Indian Standard Time) means time announced ‘plus’. That plus depends on importance of dignitary
- GST seems unavoidable, but when – that is uncertain – depends on congress

Role of Professionals

- Professional has pivotal role as he is expert in areas of material accounting, taxation in general and management accounting in particular
- Role as auditor
- Role as Management Consultant for proper implementation of GST

Thanks

- Thank you very much.
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