

NATIONAL

Published: July 26, 2016 09:29 IST | Updated: July 26, 2016 13:10 IST July 26, 2016

GST Bill: Chinks in the armour



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Why has the government not yet managed to pass the Constitution (122nd Amendment) (GST) Bill, 2014, popularly known as the GST (Goods and Services Tax) Bill in Parliament? If the benefits of having a single taxation system across the country, as proposed by the Bill, can indeed improve governance, it must after all be welcome by one and all, correct? Bringing about a uniform, indirect tax regime will no doubt benefit the industrial class by improving the ease of doing business. But there seem to be some bones of contention, which are keeping the Bill from seeing through Rajya Sabha where the BJP doesn't have the requisite numbers to push the legislation through.

Bones of Contention

1. Cap on tax

The Opposition Congress party has demanded that a cap be fixed on the tax that can be levied under the GST and include this in the Constitution Amendment Bill. Their demand is that the overall GST rate be capped at 18 per cent.

The Arvind Subramanian panel proposed a standard countrywide GST rate of 17-18 per cent. However, the National Institute of Public Finance and Policy (NIPFP) later arrived at a rate of 23-25 per cent. But the final tax rate is yet to be decided and though a Constitutional provision on this is being sought, only after the law is passed can the nitty gritty of the tax rates be drawn up, in consultation with States.

"The rate that is being discussed right now is the revenue neutral rate," explained C. Rangarajan, chairman of the Madras School of Economics and former chairman, Economic Advisory Council to the Prime Minister. "This rate is to ensure that the total revenue after GST is not lesser than what it was before. Whether it is one rate or many rates, one rate above the revenue neutral rate or one above essential commodities is not decided as of now," he said. Therefore, until the various GST rates at the Centre and the State are finalised, a cap cannot be fixed as per the Opposition's demands.

2. States losing revenue

The Congress has also demanded that the additional one per cent tax to compensate manufacturing States for possible loss of revenue is scrapped. The additional one per cent tax levied on goods that are transported across States dilutes the objective of creating a harmonised national market for goods and services, an analysis put out by PRS Legislative Research notes. The Bill permits the centre to levy and collect GST in the course of inter-state trade and commerce. Instead, some experts have recommended a modified bank model for inter-state transactions to ease tax compliance and administrative burden, the think-tank reports in its analysis.

"Whether State revenues will be impacted as feared by some like Tamil Nadu, will depend upon what is included in the GST. Both petroleum products and alcohol are currently excluded from the purview of the GST," Mr. Rangarajan said. "If you look at Tamil Nadu, excise duty from these two goods alone is more than 50-60 per cent of the total revenue. Only if you have a full GST subsuming all other taxes, will there be uniformity in the tax regime. Some important taxes will continue to be excluded from the currently proposed Bill. This will lead to an uneven situation," Mr. Rangarajan pointed out.

The question that naturally follows then is which States win and which States lose if the proposed GST law came into being? States that are strong in manufacturing will naturally stand to lose out, as they currently earn revenue from Central Sales Tax when goods manufactured in their States are consumed across the country.

Gujarat, for instance, had opposed the GST Bill during the previous Congress-led UPA regime for similar reasons, in that being a manufacturing-heavy state, it will stand to lose out on revenue. All India Anna Dravida Munnetra Kazhagam (AIADMK) in Tamil Nadu has opposed the GST Bill tooth and nail due to its fears over revenue loss in Tamil Nadu. In fact, the Communist Party of India (Marxist), in a statement released last week has spelt out exactly the same points as the reason why it objects to the passage of the GST Bill. The party has noted that whatever federal powers were bestowed upon States by virtue of their powers to tax, will be lost once the GST Bill becomes law. They have demanded a mechanism by which those States that stand to lose revenues are compensated adequately.

However, GST will benefit manufacturers or industries (not the State government) by reducing their tax liability.

3. Dispute Resolution Mechanism

What if there are disputes arising out of sharing of tax benefits between States once the GST is implemented? Another chink in the armour for passing the GST Bill is the nature of the dispute resolution body that will arbitrate in the case that States have differences on how they are taxed or GST revenues distributed. The Bill in its current form makes provisions for a First Appellate Authority before which aggrieved parties who wish to challenge orders under the GST Act may appeal.

The Congress has demanded that an independent dispute resolution mechanism headed by a retired judge be put in place. The Bill in its current form empowers the GST Council, tasked with implementation of the law, to decide as to how disputes arising out of its recommendations will be resolved. "Arun Jaitley wants that parties to the GST dispute get to adjudicate over the dispute. But how is that even possible? You will need an impartial dispute settlement mechanism," Rajya Sabha MP and Congress leader Jairam Ramesh told The Hindu, explaining his party's stance.

The GST Dispute Settlement Authority in the proposed Bill will only comply with the jurisdiction of the Supreme Court, if challenged. State governments have opposed this as such a proposal would mean that dispute settlement would be subjected to lengthy court procedures, if the Council is opposed.

The government can push the Bill through Parliament only if these issues are resolved.

Printable version | Jul 27, 2016 9:45:23 AM | <http://www.thehindu.com/news/national/gst-bill-chinks-in-the-armour/article8900320.ece>

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