

GST – THE ALMIGHTY

(By S. Jaikumar & R. Subramanya, Advocates, Swamy Associates)

"And God said, Let there be light: and there was light"

- 1.3 The Holy Bible

And the light is sighted at the end of the tunnel! The First Discussion Paper on GST has been released by the Empowered Committee on 10.11..2009, which explained the skeleton of the GST for India!

GST – MADE IN INDIA!

The proposed model of GST has been attempted to make it seamlessly implementable and a win – win model for all the stake holders of the Indian Indirect tax eco system, with the following fundamental propositions:

- There would be a DUAL GST regime in India in consonance with the federal structure of the country.
- There would be a Central GST (CGST) which would be levied by the Center
- There would be a State GST (SGST) which would be levied by the States.
- The Centre and the State would have concurrent jurisdiction over the levy. In other words, the CGST would be administered by the Centre and the SGST would be administered by the respective States.
- An Integrated GST (IGST) would be levied by the Centre for all inter-State transactions.

CGST:

CGST would be a tax levied and collected by the Centre for all the transaction of goods and services across the value chain, made for a consideration, by a separate Central Statute. CGST would not be levied on exempted goods and services, if any and transactions below the prescribed threshold limits, if any. CGST would also not be levied on the goods like alcohol, which are to be kept out of the GST. The CGST is proposed to subsume the following Central taxes, namely:

- Central Excise Duty
- Additional Excise Duties
- The Excise Duty (M & TP Act)
- Service Tax
- CVD
- SAD
- Cesses
- Surcharges

SGST:

Similarly, SGST would be a tax levied and collected by the States on all the transaction of goods and services across the value chain, made for a consideration, by a separate Statute. To administer SGST, every State would legislate their own separate SGST. The Empowered Committee has strongly recommended that, despite having a separate Statute for SGST, a uniformity has to be maintained on the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc, as far as possible and practicable. The SGST would be paid to the accounts of the respective States.

Further, like CGST, SGST also would not be levied on exempted goods and services, if any and transactions below the prescribed threshold limits, if any. SGST would also not be levied on the goods like which are to be kept out of the GST. The SGST is proposed to subsume the following State levies, namely:

- ✓ **VAT / Sales Tax**
- ✓ **Entertainment Tax (except if levied y local bodies)**
- ✓ **Luxury Tax**
- ✓ **Lottery Tax**
- ✓ **Betting Tax**
- ✓ **Gambling Tax**
- ✓ **State Cesses & Surcharges**
- ✓ **Entry Tax (not in lieu of Octroi)**

NON – GST:

The Empowered Committee has recommended the alcoholic beverages to be kept out of GST. States would continue to levy their taxes on these items. Same way, Petroleum products like crude, motor spirit including aviation turbine fuel, HSD are recommended to be kept out of GST. The Centre and States can continue their levies on these items.. Tobacco has found the wrath of being subjected to GST as well as any other extra levy by the Centre.

The GST on natural gas has not been decided and has been shelved to take a final view after deliberations Likewise, the Empowered Committee has not decided about the subsuming of "Purchase Tax" into the GST. In States processing food grains like Punjab, where the purchase tax is substantial, there may be negotiations for a suitable compensation if the purchase tax has to be subsumed into GST.

IGST:

The most innovative proposition in the recommendations of the Empowered Committee is the IGST, which has been devised to tax the inter-State transactions. We are sure that this would be definitely a celebrated scheme in Indian Indirect tax regime, next to that of the "reverse charge" mechanism introduced in the Service tax.

This IGST would be a tax levied and collected by the Centre for all the transactions of goods and services making appropriate provision to the consignment / stock transfers. The IGST would be a sum total of the CGST as well as the SGST payable on the transaction, if transacted within the State. In a transaction of sale between a seller in State A and the buyer in State B, the seller in a State A will have to pay the IGST to the Centre. While paying the IGST, the seller in State A can adjust the SGST,CGST and also the IGST accrued and lying with him against the payment of his IGST liability and pay the balance, if any, in cash. In this case, the State A would transfer to the Centre, an amount equal to the SGST credit used by the seller in State A to discharge the IGST liability.

Now the buyer in State B would receive the goods from the seller in State A alongwith the IGST paid on the same. The buyer in Sate B would take the credit of the entire IGST paid on the goods received from seller from State A. The buyer can use the IGST credit so earned to discharge either his CGST or SGST or his further IGST liabilities on his further transactions, if any. While doing so, if the buyer in State B uses such IGST credit to discharge any of his SGST liability, then the Centre would transfer the money equivalent to the credit of IGST so used by the buyer to discharge the SGST liability.

This scheme would be more lucid and clear, if explained with an illustration:

Let there be an inter- State transaction between Tamil Nadu (TN) and Andra Pradesh (AP) where the seller is in TN and the buyer is in AP. Let us presume the CGST rate for that transaction is 10% and the SGST for the transaction is also 10%. Let the value of the transaction be Rs.1,00,000/-. Now the seller in TN, upon his inter - State transaction to the buyer at AP, would be required to pay an IGST @20% (10% CGST +10% SGST) to the Centre on his sale value of Rs.1,00,000/-, which would be Rs. 20,000/-. Let us also presume that the seller in TN has a CGST credit of Rs.6000/-, SGST credit of Rs.6000/- and IGST credit of Rs.6000/- with him. Now to discharge his present liability of Rs.20,000/-, the seller in TN can use all the three credits of CGST,SGST and IGST available with him., i.e Rs.18,000/-(Rs.6000 CGST +Rs.6000 SGST+Rs.6000 IGST) and pay the balance amount of IGST to the tune of Rs.2000/- by cash.

In this case, TN would transfer an amount of Rs. 6000/- to the Centre being the SGST credit used by the seller to discharge his IGST liability.

Now coming to the buyer in AP, he would get a credit of Rs.20,000/- of IGST on his purchase from the TN seller. Here we can have two situations, namely, the AP buyer can resell the goods within AP or to a further buyer in Kerala. In case if the buyer in AP wishes to sell his goods in Kerala, then once again he has to pay an IGST for that goods, for which he would use the entire IGST credit. In such a case, as the IGST is levied and collected by the Centre and as the payment is also IGST and the credit used is also IGST, there would be no sharing issues. But in case, if the AP buyer wishes to resell the goods so received under IGST payment from the TN seller, to another buyer within AP itself, he would be require to pay SGST and CGST separately, @10% apiece.

Towing the same example, if the AP buyer is reselling the goods so purchased from the TN seller to another buyer for Rs.2,00,000/-, then he has to pay Rs.20,000/- as SGST (@10%) and also a CGST of Rs.20,000/- @10%. In that case, if the AP buyer uses the IGST credit of Rs. 20,000/- to discharge his SGST liability, then Centre would transfer Rs. 20,000/- to AP, being the IGST credit used to discharge the SGST liability.

The main gains of this novel model are:

- The input credit chain remains uninterrupted even in series of either Intra- State or Inter- State transactions.
- No requirement of any upfront payment of tax for the inter – State buyer / seller and hence no blockage of funds.
- Credit transfers are only between the Centre and the States.

The main concerns could be:

- Inter – State transfers to branches/consignment agents
- Job work transactions

To administer this Ramanujam's theory of advanced mathematics, a clearing house would be formed, which would monitor the transfers between the Centre and the States and would be netting of the funds according to the transactions.

Now to the features of GST like the set-off, rates, exemptions, schemes, threshold limits etc and lastly to the million-dollar question – TELL ME WHEN? **ALL IN PART III.**