GST

-Good Start-up Tax-

An Impact analysis of GST on Start-ups

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arise from the believe that a business can’t be fully empowered unless it is able to generate the money it need to perform extra-ordinary.

OUR DREAM IS TO UNLOCK THE POTENTIAL OF YOUNG ENTREPRENEURS OF INDIA

by consulting them by way of idea validation, business model analysis, advising on fund raising, marketing and deliver initiatives that results in value addition.

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We provide consulting to startups in the area of mentoring, venture acceleration, funding assistance, digital marketing, etc. Startups, if not properly guided are doomed while expansion. Our services are exclusively built for those in infant or sophomore stage. It often happens that founders lose interest in their business and look out for sale, we help these founders to not just to find a reason to stay but also bridge entrepreneurs looking out for buying and selling their ventures.

Introduction

On July 01, 2017, the much-awaited tax reform, Goods and Services Tax (GST) has been rolled out. And the motto of Modi Govt “One Nation One Tax” has been came to reality. This tax reform is a turning point for the economy and would benefit all stakeholder i.e. Government, Businessman and consumers. GST would boost the economy by reducing cost of goods & services and making them globally competitive.

Moreover, Start-ups have been the flavour of the season over the last few years for the Indian markets. This has resulted into the emergence of a number of home grown unicorns across the country.

Although New Tax system, come with no direct benefits to these home-grown unicorns, but drastically effected them which may require them to reconsider them about their mode of business, business structure, market etc.

This report has been compiled in the form of a handbook with the intention of providing the reader key insights into this space, covering various aspects mentioned above.

GST: An Introduction

GST is a destination based tax and levied at a single point at the time of consumption of goods or services by the ultimate consumer. GST is based on the principle of value added tax. GST law emphasizes on voluntary compliance and on accounts based reporting and monitoring system. It is a comprehensive levy and envisages tax collection on both goods and services at the same rate.

Internationally, GST was first introduced in France and now more than 160 countries have introduced GST. Most of the countries, depending on their own socio-economic formation, have introduced National level GST or Dual GST.

India has implemented dual GST. In dual GST regime, all the transactions of supply of goods and services made for a consideration would attract two levies i.e. CGST (Central GST) and SGST (State GST).

What is subsumed and Not subsumed

State Taxes

Subsumed	NOT Subsumed
State Value Added Tax	State Excise Duty
Purchase Tax	Stamp Duty
Entry Tax, Octroi, LBT	Professional Tax
Sales Tax	Motor Vehicle Tax
Entertainment Tax	Electricity Duty
Luxury Tax	Sales Tax on certain petroleum products
Betting, Gambling and Lottery Tax	
Surcharges and State Cesses	

Central taxes

Subsumed	NOT subsumed
Central Excise Duty	Customs Duty
Additional Duties of Excise	

Excise on Medicinal and Toiletries Preparation	
CVD	
SAD	
Surcharge and Cesses	
Central Sales Tax	

Levy and Collection

GST will be levied on all supplies of goods and or services and shall be paid by the taxable person. However, supply of alcoholic liquor for human consumption.

Tax payable: SGST & CGST on all intra-state supplies and IGST on all inter-state supplies, imports and Exports

Rate of Tax: GST have 4 tax structure [5%, 12%, 18% and 28%]. Maximum tax rate will be 40%

Reverse Charge: on certain supplies of goods and services as notified by govt or supplies by an unregistered person, to a taxable person.

Tax payable by E-Com Operator: on certain supplies, tax shall be paid by E-com operator, if such services supplied through it.

Composition: A person may choose to pay tax at reduced rate (2% in case of manufacturer, 5% in case of restaurant services and 1% in case of traders) if he is not claiming tax credit on its purchases. Certain person like service providers, inter-state suppliers, making supplies through e-comm shall not be eligible for composition.

Tax Credit

Any registered person who is not exclusively engaged in supply of exempted goods, shall be eligible for credit of tax paid (except some block credits) at the time inwards supplies. Such credit may be use him for making payment of tax on his outward supplies.

In Certain situation, these tax credits may be refunded to the registered person.

Exemption to Start-ups

Following exemptions/relaxation that a start-ups may enjoy:-

- Higher Threshold limit of ₹20 Lac (₹10 in certain state) for registration
- Common Law and procedure at PAN India level

- Services provided by an incubatee up to an amount of ₹50 lac for first three years
- No GST on service provided by skill development agencies
- No GST on Legal services received by them in case where turnover does not exceeds ₹20 lacs.
- No GST on Services received from Govt, where turnover does not exceeds ₹20 lacs.

Above exemptions and relaxation has been discussed in detailed in next chapters.

Compliances under GST

"With great power comes great responsibilities."

These lines of an American comic books fit with the compliance requirement of GST laws. The Govt has drafted GST with an intention to pin point the tax leakage. Since Law has been drafted by Tax officers, therefore at some place it seems to pro revenue but not the business.

While implementing GST Govt has tried to facilitate the "Ease of Doing Business" but as said Once bitten twice shy. Learning from loopholes of existing laws, in some provisions govt wants to double sure on granting exemption from registration, allowing input tax credit and making supplies etc.

In this chapter, common provisions which are applicable to each sector has been discussed in detailed.

Registration

GST law provides a threshold limit of ₹20 (₹10 in specified states[1]) for registration. However such limit is not applicable in following case:-

a) inter-State taxable supplier;
b) persons required to pay tax under RCM;
c) e-com operators
d) NRTP/CTP/ISD;
e) persons who are required to deduct tax;
f) persons who supply goods or services or both on behalf of another RD whether as an agent or otherwise;
g) persons who supply through such electronic commerce operator,
h) electronic commerce operator;

[1] Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand

i) person supplying OIDAR from a place outside India to a person in India;

Participation in Expos etc.

Where a start-up planning to take part in any exhibition hosted in another than home state, where it is proposed to make supplies, it shall be required to take registration in such state as casual tax payer (CTP) prior to participation in such expo.
Such registration is required to obtain irrespective of turnover.

E-Com Transactions

In the era of digital revolution, every business including start-ups would have its digital presence, e-com is like a launch pad for start-ups to reach globally with minimal or no-cost. In such case, start-ups shall be required to take registration under GST irrespective of its turnover.
Same with, in case of a start-up engaged as e-com operator, it shall be required to take registration under GST from day one.

Interstate Supplies

GST come up with a motto of “One Nation One Tax”, since pot implementation of GST, India become a single market, no one would like to be restricted in a particular state. Under GST law, start-ups shall be required to take registration where it involved in inter state supplies from day one.

Importation of Services

As compared to other developed countries, India is not that much advance in technologies, a start-up would need to take technical support or consulting, GST law requires tax need to pay under RCM on such services, in such case registration is required to obtain under GST.

Job Work

Subject to certain conditions, GST law exempt tax on supplies made from principal to a job worker, however language of law provides that principal must registered, in case principal is not registered a registered job worker would require to pay GST on such supplies under RCM. Therefore, were a start-up wish to get some work to be done by a registered job-worker than it must be registered to claim exemption.

Tax Credit Chain

GST is implemented to smooth line the credit of tax paid on earlier stage, in case, where any unregistered person acquired any tax paid goods/services, tax credit chain gets broken. Therefore, a start-up engage in B2B business would required to take registration under GST to pass the credit of tax paid at earlier stage.

Based on above analysis it is very much clear that, although govt has provided a threshold limit, but such limit is not applicable in case of most of start-up business.

Multiple Registration

GST law provides that a person need to take separate registration in each state, from where it is making any taxable supplies. Therefore, a start-up having pan India establishment would required to take registration in each state and UT.

Start-ups, within state, may take separate registration for each business verticals.

Return & Payment of Tax

Under existing tax law there were separate tax return under each law with different tax periods.

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and auto reversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, NRTP, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is NOT required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

Summary of Returns are as under:-

Return Form	Description	By Whom
GSTR-1	Return of Outward supplies	A regular registered person
GSTR-2	Return of Inward supplies	A regular registered person
GSTR-3	Monthly consolidated return	A regular registered person
GSTR-4	Quarterly Return	Composite Supplies
GSTR-5	Monthly return by NRTP	NRTP
GSTR-6	Monthly return of ISD	ISD
GSTR-7	TDS return	Tax Deductor
GSTR-8	Monthly statement of E-Com operator	E-Com Operator
GSTR-9	Annual Return	Registered person
GSTR-10	Final Return	Registered person whose registration is being cancelled

Any amount deposited under GST shall be made through online portal and it shall be credited to its Electronic Cash Ledger (A pre-paid wallet). Such amount may be used to make payment of amount dues under this act.

Unlike under existing tax systems, date of payment tax shall be date when such amount gets credited in the account of govt.

Accounts and Records

Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period i.e. the period for which return is required to be filed. The compliance verification is done by the department through scrutiny of returns, audit and/or investigation. Thus the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records

A person is required to maintain following records:-

i. Production of goods manufactured
ii. Inward and outward supplies of goods or services
iii. Stock of goods
iv. Input credit availed and utilised
v. Output tax payable and paid
vi. Advance received, paid & adjusted
vii. Details of goods sent to and received from job workers

Including invoices, bill of supply, delivery challan, credit note, debit note, receipt voucher, payment voucher and refund vouchers.

In case of multiple places of business (as specified in the certificate of registration), the accounts relating to each place of business shall be kept at the respective places of business concerned. Hence, all records are to be maintained at each place of business.

Every registered person whose turnover during a FY exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit to the proper officer a copy of the audited statement of accounts together with the electronic reconciliation statement

Persons who own/ operate any warehouse, godown, etc. for storage of goods and every transporter should maintain the records of the consigner, consignee and other relevant details of the goods, even if such persons are not registered under the Act – i.e., both registered and unregistered persons shall be required to maintain such records/ details.

Tax Deduction

GST Law provides that, govt may mandate any person or class of person to deduct tax @1% on supplies received by them.

Tax Collection

Every E-Commerce Operator shall collect TCS at a rate not exceeding 1% on the net value of transaction in which he collects consideration of the supply. (Discussed in detail in e-com chapter)

Sector Wise Impact of GST on Start-Ups

Impact on Ecommerce

In recent years, e-commerce in India has managed to capture the eye-balls and also the mind-space of the consumers at large such as never before and with this unprecedented growth, India has become the second largest market for e-Commerce. E-commerce is expected to cross $ 100 billion mark within next 5 years making significant contribution in GDP. Further despite of covering 2% of India market, E-commerce gives a secure and cost-efficient contribution in the growth of SME's and SME's contribute 17% of the Nation's GDP and 40% in the total exports from the country.

As a result, number of new e-commerce business are launching everyday, It is important to analysis the impact of GST on these unicorns to avoid any non-compliance that result in Heavy penalty and other consequences.

Requirement under Existing Law

E-commerce transactions in India suffered from lots of complexities in regard to indirect taxation. One of the major concern for e-Commerce operator was the implementation of Value Added Tax (VAT) on online marketplace companies in some States Further Service tax were applicable on OIDAR and transaction fees. In case of Web-aggregator e-com operator were required to pay service tax on service provide through its portal.

Apart from above, in some state entry tax required to pay by such e-com operator on supplies made on such state.

Requirements under GST

No threshold for GST registration

Government has specified a threshold limit for all the businesses. A business is liable to register under Goods and Services Tax once such threshold limit is breached. However, such limit is not applicable in case of E Commerce operator or person supplying through e-com portal.

No Benefit under Composition Scheme

Scheme is primarily aimed to reduce the burden of compliance for small and medium businesses. Under this scheme, businesses are required to file returns quarterly instead of monthly and pay taxes at nominal rates up to 2%.
However, GST law has explicitly excluded e-commerce operators from this scheme.

Supply of Services of which shall be paid by the electronic commerce operator

GST law requires that following specified categories of services the tax on supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the person liable for paying the tax in relation to the supply of such services.

a. services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle
b. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes,

Above provision create an obligation on e-com operators to pay tax on supplies provided through it portal, such obligation is not limited to payment of tax, it also including raising Tax Invoice and maintenance of records.

Stock held on consignment basis

Some of E-Com operator provide warehousing facilities, where they hold the stock of supplier on consignment basis and provide speedy delivery of goods. Under existing VAT regime, such inter-state transfer of material from the location of supplier to e-com operator's warehouse were tax free.

Whereas, under GST regime such inter-state transfer will be liable from tax and supplier needs to take registration in such state and required to show warehouse address as additional place of business.

Tax Collection at Source

Currently, ecommerce websites do not collect tax in any form. However, under the GST structure, they will collect TCS at a fixed 1% rate (tax collected at source) while paying to the sellers listed on their websites. This is likely to impact prices and make online shopping more expensive.

Explanation to section clarify that tax need to collect on net value of supplied i.e.

Aggregate value of supplier through E-com
Less: Returns
Less: Supplies on which Tax paid by E-com operator

Returns and cancellations will become trickier. TCS collected on such orders may be bear by ecommerce players on their own and will only get refunds. More so, more than two-thirds of the transactions are on COD, reconciliation for which happens about 7-15 days later. This would pose a burden on the operators seeking refund, in case of cancelled or returned orders on which tax has already been deducted. This puts them at a major cash-flow disadvantage, which might make them reconsider the terms and conditions around these policies

Though the latest notification issued by the government stated that the provisions of “TDS (Section 51 of the CGST/SGST Act 2017) and TCS (Section 52 of the CGST/SGST Act, 2017) will be brought into force from a date which will be communicated later.

Impact on Logistics & Warehousing

Logistics & Warehousing are the backbone of manufacturing and trading activities in the economy. It has a critical role to play for developing countries like India wherein consumption is growing and demand is always high. We can fairly assume that a well-organized and mature logistics industry has the potential to leapfrog the "Make in India" initiative of the Government of India to its desired position.

The one sector which will benefit under the GST is logistics, as retailers will not have to file a separate paperwork for each state. This means deliveries will become faster as the extra paperwork imposed by states will no longer be imposed, making deliveries seamless. The usual turf wars between the Centre and State governments due to the current differential tax regime will also decrease leading to reduced logistic inefficiencies, slow transit times, red tape and disruption in the overall business climate. Thus, movement of goods will be seamless leading to faster turnaround times, lower costs, and overall faster business growth. This will enable India to become one single market.

Despite of having important role in Indian economy, this sector was remained bottleneck of supply chain management due to old school operations. However, in last few years several start-ups come up with technology backed solutions like online booking, GPS tracking of trucks, support to drivers etc.

Requirements under GST

Registration

Under earlier tax systems, a logistics/warehouse provider was not required to take registration under VAT/Excise laws. Neither they were required to maintain any specific records under these act.
Under GST regime, registration will required in each state from where services is being provide or where the warehouse is located.

Records to be Maintained

In addition to requirement of maintenance of common records logistics player is required to maintain following records :-

1. Engaged in Transportation of Goods
    a. Records of Goods Transported
    b. Records of Goods Delivered
    c. Records of Goods stored in transit
    d. GSTN of Registered Consigner and Consignee
2. Engaged in Warehousing
    a. Particulars of Goods
    b. Particulars of Receipts, Movement, dispatch and disposal
    c. Needs to store goods in such manner that they can be identified item wise and owner-wise

E-Way Bill

Currently, states have different VAT laws. For example, online websites (like Flipkart, Amazon) delivering to Uttar Pradesh, have to file a VAT declaration and the registration number of the delivery truck. Tax authorities sometimes seize goods when there is a failure to produce documents. Again, they are treated as facilitators or mediators by states like Kerala, Rajasthan, West Bengal not requiring them to register for VAT. Under the GST, differential treatment and confusing compliances will be eradicated.

According to research done by TCIL, a truck in India typically covers between 250-400 kms a day, compared to 700-800 kms in the US and Europe. This is mainly due to the check posts and entry tax collection points on state borders.

As approved by GST council that new e-waybill rules will be implement w.e.f October 01, 2017. New E-Way bill will be much more simpler than existing under VAT systems.

As per draft e-way bill rules, person causing movement of goods of consignment value exceeding Rs. 50000/- in value is required to furnish information relating to such goods before commencement of movement in Form GST INS-01 or GST INS-02 electronically on the common portal. An option to generate e-way bill is permissible even if the value of the consignment is lower than Rs. 50000/-.

A person in charge of transportation is required to carry with him an Invoice/bill of Supply or delivery challan and a copy of e-way bill no.

E-way bill will be required to generate by consignor, if for any reason the Consignor does not generate an e-Way bill, the transporter can generate an e-Way bill based on Tax Invoice/Bill of Supply/Delivery Challan or any other document in FORM GST INS-01.

Warehousing

So far, logistics players in India have been maintaining multiple warehouses across states to avoid CST levy and state entry taxes. Most of these warehouses are operating below their capacity and thus adding to their operational inefficiencies. However, under GST, most of the current challenges of this industry will be a story of the past as India will become one single market wherein goods can move freely inter-state without any non-creditable levy.

This will further bring warehouse consolidation across the country and we can witness mega logistic hubs and high investments in infrastructure wherein 100% FDI has already been allowed.

Interestingly, the unified regime also affords businesses a higher flexibility in determining where to set up their business and which markets to serve considering the transit of goods would be a more painless process, henceforth. Businesses can, therefore, base themselves where they can gain long-term competitive advantage in terms of resources and won't be driven solely by short-term benefits of tax breaks provided by states.

Impact on Entertainment

Entertainment is a big part of our lives. Most of us who work 10-12 hour jobs through the entire week want to go out, watch movies or visit some new places to relax on our days off. In this article, we will discuss the impact of GST rates on the entertainment industry and whether or not it is becoming expensive under GST.

India is globally the fifth largest media and entertainment market. n 2015, the industry grew at 11.76 per cent with a market size of $19 billion. Overall, the industry is expected to grow at CAGR of 13.98 per cent till 2018. The report said by 2025, the industry is expected to attain a market size of $100 billion.

Under Pre-GST regime there were a complex environment due to multicity of taxes, elaborate compliance obligations and tax cascading.

In addition of Service tax levied by central govt, the entertainment tax is levied by states and the rates range from 0 to 110%, with an average of 30%

Further There are certain transactions in rights to distribute or right to use a copy mark. There has been a debate whether that's a transaction in goods or services. This is relevant because if this is a transaction in goods then VAT would apply and if it's in service, service tax will apply. There have been situations where service authority says it's liable to service tax and VAT authorities will contend for VAT. With GST that debate will be resolved because then the classification is immaterial. Whether it's services or goods same tax will apply. It will reduce the taxation in fact. All these kinds of litigation will go away.

Multiplexes and Film Production Houses, Cable & DTH

GST will do away with the entertainment tax levied by the state govt, but put movie tickets in highest tax salb of 28%. (18% where price is upto Rs 100/-)

It will hit regional films harder than Bollywood films, as they currently pay either noting or subsidised entertainment tax.

Further many state including Maharashtra, Madhya Pradesh, Gujrat and Rajasthan have said that they will levy an additional entertainment tax as local body entertainment tax.

Circus, dance, or theatrical performance, award function

Under Service Tax regime, access to these events are exempted where charged were below ₹500/- whereas under GST regime such limit has been reduced to ₹100/- only.

Further under earlier Tax systems these are also liable for state entertainment tax, under GST there will no such levy.

admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo is Tax Free.

Online Event Ticketing

Bookmyshow and like others are going to be big hited by the GST, as discussed in Fist chapter, a part from higher rate of tax on its services, there will be a requirement of collection of TCS or payment of tax on behalf of supper, if so ordered. In case State levy local body entertainment tax, then they will be endup paying higher tax with complex tax reporting.

Impact on Technology and Services

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Rate of Tax: 18%

Clarity of Nature of Supply

GST law provides that development, design, programming, customization, adaptation, upgradation, enhancement, implementation of Information Technology software shall be treated as service. This explanation removes the uncertainty as to whether such software is goods or service. As Information Technology software has been declared as service, place of supply of IT software can easily be determined. Place of supply of software shall always be the location of the recipient.

Registration Requirement

Under earlier tax system, IT companies were have centralised registration under Service Tax, under GST they have to take separate registration is each state from where it is make supplies. Further where there is a Research & Development in any other state separate registration will be required for such R&D center to take ITC.

Importation of Services

Occasionally the IT service provider may import services from outside India. In such situations, on these import of services IGST shall be payable and full credit of IGST shall be available. IGST need to pay irrespective of fact that whether such service has been import for a consideration or not.

Ambiguity may be arise that, in case where any start-up taken any services from any web-portal for free of cost like free source code or free web-hosting will be liable for GST? Further will be implication where any services has been received by such start-ups by redemption of coupon received by them for free of cost for example Free Ads credit offered by Google.

Exportation of Services

Under GST export of goods and services on the same footing. Export of IT services shall be treated as zero rated supply. The supplier can either export services after paying IGST and claim refund or can export services without payment of IGST under bond or under letter of undertaking.

Further there is are certain conditions which needs to satisfy to treat a supply as export:-

(a) the supplier of service is located in India,
(b) the recipient of service is located outside India,
(c) the place of supply of service is outside India,
(d) the payment for such service has been received by the supplier of service in convertible foreign exchange,
(e) the supplier of service and the recipient of service are not merely establishments of a distinct person

Export of Service are not easier as it was under earlier tax law, export either should pay tax first and take refund this will leads to blockage of fund

Although the GST rate for services has increased to 18%, IT industry will definitely benefit from GST, thanks to the immense boost in the sale of the software. Other factors like availability of ITC will bring down the operating costs and thus, it will increase the overall profitability of the IT sector.

Impact on Manufacturing Industry

The manufacturing sector has been a major economic driver for many developing economies across the world, however, unlike most others, India's manufacturing performance has been lacklustre. Even though India enjoys a favourable demographic and geographic position, it has not been able to capitalise on this advantage. Manufacturing in India has been plagued by a complex tax structure, inadequate infrastructure and bureaucracy, halving its ability to perform well on a global scale. With only a 16% share in GDP, India's manufacturing sector has been close to stagnant for the last two decades. However, now manufacturing may be revived with the focused efforts of the new government. India, traditionally an agrarian economy, could even experience a paradigm shift from an agricultural economy to a manufacturing and service based economy.

The Indian government recognises the significance of the manufacturing sector in the country's economic development and is taking prudent steps to increase investments in the sector. Following India's desire to become a manufacturing hub, the government launched its much publicised "Make in India" initiative. A pet project of the Modi government, it proposes to provide domestic entrepreneurs and international players with various opportunities and transparency in the compliances required for investing and manufacturing in India.

The government also realises that becoming a manufacturing hub will need several strategic reforms to simplify manufacturing in India. One of the proposed reforms, in line with Make in India, is the implementation of the Goods and Services Tax (GST). The new GST regime will trigger a transformational shift from a complex multi-layered indirect taxation system to a unified indirect taxation system. GST will also propagate a positive change by ensuring cascading of taxes is reduced, thus leading to manufacturing synergy in India.

The new GST regime will be a modern tax reform which will usher in growth and opportunities for businesses in India. It will have a far-reaching impact on business avenues, compelling organisations to realign bottlenecks such as production cost, production time, supply chain, compliance, logistics, etc. with the changing indirect tax structure. Furthermore, all major business dynamics will have to be thoroughly analysed to assess the impact of GST on business

State incentives

Companies have set up units with significant investment outlays based on incentives offered by States under their respective investment promotion policies. These incentives are usually in the form of tariff incentives (lower tax rates, refund /deferment of taxes etc.) and non-tariff incentives (economical land lease terms, lower electricity duty etc.). At present, States have the flexibility to offer such incentives. However, under the GST regime, such flexibility given to the States is likely to be curtailed to achieve the intended effect of uniformity..

The implementation of GST will also signal a move away from the producer State tax system to a consumption State tax system. Producer States will have a lower financial incentive to offer such concessions, as GST will only be credited to the State where the supplies are consumed, as opposed to the earlier situation where the producer State is credited with central sales tax on inter-state sales. This would lead to a loss of revenue for the producer States and therefore such States may not be in a financial position to continue offering such incentives, even though there may be other compelling reasons such as generation of labour, improvement of infrastructure, market creation etc. However, it seems likely that future incentives may only be non-tariff based.

Area based incentives

Manufacturing units enjoy exemption of taxes based on their location in specified backward areas, capital investment etc. There is no such exemption under GST Law.

Increased working capital

Impact on working capital may be significant for the manufacturing sector. Under the VAT regime, stock transfers are not subject to tax. However, under the GST regime, stock transfers are deemed to be supplies and are subject to GST. Though GST paid at this stage would be available as credit, realization of this GST would only occur when the final supply is concluded. This would likely result in cash flow blockages and therefore companies would have to rethink their supply chain management strategies to minimize this impact on their cash flows.

Free supplies

Under the earlier indirect tax regime free supply of goods were not subject to VAT. The ST Law stipulates that specific transactions without consideration would also be treated as supplies. Supplier will have to reverse the input credit availed on such goods.

Discounts

The GST Law stipulates that post supply discounts are to be excluded from the transaction value, provided such discounts are known at or before the time of supply of goods and are linked to the invoices for such supply. Companies may need to analyse existing post supply discounts/incentive schemes where the quantum of discount is not known at the supply stage. Example, secondary market incentive schemes, volume based discounts etc.

Valuation of self-supplies

Supply under the GST Law includes self-supplies such as stock transfers and branch transfers. As per GST valuation rule, in case of recipient is eligible for 100% ITC, GST will be payable on transaction value.

MRP valuation

Under Excise law, various pre-packaged products for retail consumption are subject to excise duty not on the ex-factory transaction value but on a specified percentage of the maximum retail price (MRP) printed on the package. The MRP based value (which is usually between 30%-35% of the MRP) is in most cases, much higher than the ex-factory transaction value leading to a higher excise duty liability than would otherwise be the case. This increased excise duty itself, results in a higher MRP, ultimately leading to a higher cost burden for the consumers. Under the GST regime, GST is payable by the manufacturer at the transaction value, and is creditable for all subsequent resellers up to the final consumer. Accordingly, the unnecessary tax burden of the MRP regime will no longer be relevant.

Reduction of cascading taxes

Under the earlier indirect tax regime, the manufacturing sector is able to set-off most input taxes levied in the production value chain. However, Central taxes cannot be set-off against State taxes and vice versa. This often leads to a situation where central or state levies. Further, central sales tax paid on inter-state procurements is also not creditable and are costs for the company.

Another issue faced currently is the cascading of taxes at the post manufacturing stage. Dealers, retailers etc. are subject to taxes on their input side which are not creditable (service tax on input services, excise duty on capital goods). This leads to an increase in the cost of goods, ultimately affecting the competitiveness of Indian manufactured goods vis-à-vis imports.

All of the above issues are addressed under the GST Law, which permits tax set offs across the production value-chain, both for goods and services. This will result in a reduction of the cascading effect of taxes and bring down the overall cost of production of goods.

Reduction of classification disputes

Under Earlier law, due to varying rates of excise duty and VAT on different products, as well as several exemptions provided under excise and VAT legislations, classification disputes are a regular cause for litigation under both central excise and VAT, especially for the manufacturing sector. It is expected that the inception of GST which is based on the principles of a simplified rate structure and minimization of exemptions will significantly reduce disputes regarding classification of products.

Supply chain restructuring based on economic factors

Current supply and distribution models are structured to optimize indirect tax impact arising at various levels of value addition. Transition to GST should hopefully result in such decisions being taken to optimize business efficiency (as opposed to indirect tax efficiency). Example, currently warehousing choices are often based on arbitrage between VAT rates in different States/ between applicable VAT and CST rates. With the advent of GST, it is hoped that such warehousing and logistics decision would be based on economic efficiency such as costs and locational advantages vis-a-vis key customers. However, a key hindrance could be the proposal to levy a 1% origin tax on inter-state supplies.

Exclusion of petroleum from GST

The Central government will continue to impose excise duty on five petroleum products (petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel), while the State governments will continue to impose VAT on these petroleum products.

Currently, credit of excise duty paid on specified petroleum products is available. However, exclusion of petroleum products from GST will add to the cost of manufacture as excise duty on such products would not be creditable under the GST regime. Petroleum products such as high speed diesel, are common fuels used in various manufacturing processes, as also for transportation of inputs and final products.

Therefore, industries that consume petroleum products as their main inputs (such as the fertilizer industry which use natural gas as an important input) will get significantly impacted by this exclusion.

The manufacturing sector stands to benefit significantly with the introduction of GST. The overall reduction of cascading effect of taxes, especially on the post-manufacture stage of the supply chain should have a positive effect on the cost of manufactured products in the hands of consumers. However, concerns remain on specific issues such as the additional 1% origin tax, increased cash flow issues on account of GST payable on stock transfers, and increased costs owing to exclusion of petroleum fuels from the ambit of GST.

The Government should look into these issues in more detail if its keen to promote its 'Make in India' initiative

Let's Talk

For a deeper discussion of how GST has impacted your business, please contact:-

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