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ONE NATION ONE TAX- CHALLENGES AHEAD

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ABSTRACT

As GST has its seeds in the soil of Indian economy w.e.f. 01.07.2017, the need to study the subject has become imperative. The author has attempted to bring out the challenges which are likely to be faced by different stakeholders in the GST regime and discuss the drawbacks in the implementation of the new tax system. The last day of June, 2017 marked the beginning of a new era in Indian economy as Prime Minister Narendra Modi rolled out GST which was not only one of India's biggest economic reforms but a social reform too, that was all set to transform the country by increasing tax compliance and dramatically reducing the burden on the poor. Finally the dream of "One Nation, one tax" had become a reality and GST became the tax of new India, a digital India. GST is mark of Cooperative federalism which has seen the Centre and State coming together and joins hands for a noble cause, for the biggest tax reform in the history of Indian economy. But this bundle of joy comes with its own share of sorrows–the tax is a welcome feature but the administration of tax and its implications are a big challenge. Questions like was it the right time?, Was it imperative? Is it going to benefit the economy at large, is it really one tax for the nation? Is the business community equipped for GST and likewise have cropped up ever since GST got implemented w.e.f. 01.07.2017. So is the time to pause and think, and reflect on the challenges ahead, soon after the launch of GST.

KEYWORDS: *GST, STT, Indian Economy, Economic Reforms, Social Reform,* Anti-dumping Duty.

Introduction

One Nation One Tax–A Myth

GST had been promulgated to abolish all indirect taxes and bring in vogue only one indirect tax, cutting down on the cascading effect of taxation and thereby checking inflation and making domestic consumer market to be more competitive. It was aimed at introducing a uniform taxation base for goods as well as services and creates a common platform to charge tax on both, thus creating single indirect tax structure across the nation. However, as of now, GST is not the only tax prevalent in India. Levies like, Basic Customs Duty, Surcharge on Customs duty Customs Cess, Safeguard duty, Anti-dumping duty, State Excise, Stamp Duty, Property Tax levied by Local Bodies, Central Excise as respects goods included in entry 84 (Alcohol for human consumption) of the Union List of the Seventh Schedule to the Constitution, Central Excise on Petroleum Products, VAT on Petroleum Products, Profession Tax, License fee on entry of vehicles, Securities Transaction Tax (STT) and municipal levies continue to exist, making compliances difficult for the businessmen. The aim of One Nation One Tax can be achieved only when all the indirect taxes are subsumed into GST and the assesses are not required to pay multiple taxes.GST has attempted to show a mirage of single taxation, whereas the fact is that One tax for whole nation is only a myth till all the indirect taxes are subsumed.

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Technical Glitches

The implementation of GST requires the use of computer technology and internet to a very great extent. For this purpose, GST Network has been established to provide easy solutions to maintenance of records and filing of returns and other compliances. The GSTN is expected to process as many as 3.5 billion invoices every month and the assesses are required to file a minimum of 37 returns every year. Seamlessly matching billions of credits, facilitating tax collections and providing refunds and checking evasions is a big challenge for the GSTN. India being a developing country and not fully resourced with dependable technology throughout the nation, technical glitches are unavoidable and the failure of the GSTN portal even for a short while is likely to create trouble to the business community. Government needs to look into equipping the nation with non failing technology before throwing the responsibility of compliances over the GSTN.

Lack of Resources and Education

The GST is expected to impact approximately Eight million tax payers in India, with a completely IT driven tax administration which also requires a robust IT interface to be set up internally by all the major tax payers. . The Business community, more specifically the Small and Medium Scale Enterprises are not yet equipped to handle the GST compliances and are likely to make mistakes. The bigger organizations can afford to make use of the available software's and employ highly technical staff and resources for achieving the purpose, but doing so for the SMEs is a direct charge on their costs which shall result in increasing the cost of their Goods and Services. The problem likely to be faced by rural business community is going to be all the more, owing to both lack of knowledge and lack of technical resources. Much needs to be done to educate the businessmen in this direction before reaping the benefits of GST.

Blow to Small Enterprises

GST creates headwinds for small-scale industries with more than Rs. 75 lakh in annual turnover, because they will be put in direct competition with giant companies. They can hardly claim to have the competitiveness of products like their bigger counterparts. Their cost of production will be higher yet they are supposed to pay taxes at par with the big companies. The GST has slashed the limit of exemption for excise duty from Rs. 1.5 crores to Rs. 75 lakh.

Difficulties in Shifting Over

The economic reforms in India have been taking place on a rapid scale. As far as Indirect taxes are concerned, not much time has lapsed since the imposition of Central Excise & Customs duties, introduction of proforma credit scheme, MODVAT followed by CENVAT, Service Tax, VAT and so on. Before one gets used to a system of indirect taxes, the same gets modified considerably. The change from present VAT system to GST has surpassed all. The business community is going to face short term pains and the production processes will take some time to align with the new framework as they will adjust to the input tax credit system and get a handle on working capital requirements. Thus there may be some disruption in the economic growth for some time. It is expected that with the new GST framework, advanced technology infrastructure and systems, greater transparency, simplicity in tax administration and compliance, the Indian economy is likely to move towards a common Indian market, reducing the cascading effect of multiple tax layers and increasing the revenue buoyancy for the Central and the state Governments.

Problems in Distribution of Revenue between States

The major hurdle in implementation of GST, ever since the first decided deadline in April 2010 has been the distribution of revenue between centre and states and the fear of the states of losing revenue as most of the state taxes like State VAT, Central Sales Tax, Luxury Tax, Entry Tax (all forms), Entertainment and Amusement Tax (except when levied by the local bodies), Taxes on advertisements, Purchase Tax, Taxes on lotteries, betting and gambling, State Surcharges and cessses so far as they relate to supply of goods and services etc. are being subsumed into GST. It has been proposed that the Government shall compensate the states for the loss of revenue over the next five years and the imposition of compensation cess in view of the GST (Compensation to States) Act, 2017 is a step towards this. However, the true benefit of this legislation and its effectiveness is yet unknown. Time shall reveal how far the compensation provisions will benefit the states and which states shall be major sufferers. The states are yet apprehensive about the revenue loss they are likely to incur while few states are also going to be benefitted. The quantum of loss of gain is a big stake for the economy. The GST law has made provisions for compensating few states but there is no mechanism to deal with the windfall gains made by other states. His is likely to cause disparity between the states and the major hurdle in implementation of GST will continue to exist.

Complex Compliances

Simplicity in compliances and ease of administration were projected as the key benefits of GST. However, as the law is being understood by the business community, the compliances are being found to be complex. With at least 37 different kinds of returns, recording of each and every invoice, passing on the benefit of input tax credit etc. seems to be more complex as compared to earlier systems. The multiple registration of GST in different states is leading to tedious compliances in each state. Assessees like Banking, Insurance, and Logistics enterprises etc. having numerous places of business all across the nation and are required to seek registrations in each state and accordingly make the compliances. This is a big challenge to such enterprises as not only will this enhance the burden of cost on the assesses, but also it is also going to give birth to complexities of distribution of credit.

Interpretation of Definitions and Legal Compliances

The scope of turnover in various laws like Companies Act, Income Tax Act and GST legislations is quite different. The turnover which so far comprised of sales turnover will have to be redefined to include turnover of supplies. While 'Supply' of goods and services is not recognized in other laws and, there is bound to be difference in value of supply and sale. While all 'sales' would constitute a 'supply', all 'supplies' may not be a 'sale' and this will create disparity for accounting and different taxation purposes. The ICAI / MCA shall have to make necessary amendments in the Standards / Companies Act to recognize 'supply' as revenue further, the Disclosure requirements also need to undergo a change from SEBI's view point. Moreover, the treatment of excise duty as a tax on production or manufacture of goods will be no longer be there and it would no longer be a tax on sale or supply. This would make the figures non-comparable and result in reduction of top line of companies dealing in goods. The disclosure of supplies in Books of accounts and financial statements and 'supplies not being sale' is going to be a major challenge. The returns under Income Tax will be based on 'sales' whereas returns under GST will be based on 'supplies'. These will never match as such. Thus, the business entities will be burdened with one more statement or reconciliation between figures as per financial statements, as per Income Tax returns and as per GST returns. The auditors shall have to device a way to comply with the various tax / corporate laws. The issues need to be addressed soon failing which, much of litigation is likely to happen.

Flaws in Laws

Due to strict matching principle, CENVAT credit under GST can be taken only if the suppliers of Goods and / or Services have discharged their liability under GST. Therefore, no cushion is available to the output supplier against the delays in payment of GST by its suppliers. The change from self assessment system, of credit to electronic matching of credit is likely to complicate things across the industry. GST is to be paid at the time of supply of goods on the date of issue of invoice or the date of receipt of payment. However, the credit is allowed only when all the conditions of credit are satisfied. This is likely to result in gap of days between actual payment of GST by the supplier and the allowance of credit to the recipient. Furthermore, where the goods against an invoice are received in lots or installments, credit is eligible on the receipt of the last lot or installment which could result in significant delay in availing of credit.

The threshold limit of Rs. 20 Lakhs (Rs. 10 Lakhs for special category states) has been fixed for the purposes of levy. Yet another beneficiary feature under GST law is the Composition levy which is applicable to tax payers whose yearly aggregate turnover of goods in the preceding financial year did not exceed Rs. 75 Lakhs (Rs. 50 Lakhs in case of special category states). Such taxpayers can pay composition tax at fixed rates which are as meager as 1% to 5% including CGST and SGST, subject to conditions and restrictions. Presently the rates of GST are as high as 28%. Such high tax rates and availability of easier options is likely to tempt the big enterprises to break their businesses into multiple smaller units in order to avail the benefit of exemption and Composition levy. It would result in mushrooming of small business enterprises for the purpose of avoidance of tax and ultimately cause a loss to the revenue.

For exporters, the most significant impact would be the increased requirement and blockage of working capital. For manufacturing a product, a firm buys locally or imports raw material and machinery. The current export schemes allow firms to buy these without payment of applicable duties through *ab-*

initio exemption or subsequent refund of duties. The proposed GST system mandates that all duties must be paid at the time of a transaction while refund for these can be obtained after exports. This means the exporter will have to arrange money for the inputs, manufacturing and payment of duties and taxes. This will swell the coffers of Govt. and will help top-line increase of Tax collection, but will put immense pressure on Exporters and will also make Indian markets non-competitive in International markets. GST is levied merely on supply of goods and if goods are moved to the showrooms/dealers, the GST will be levied even though there is no actual sale to the consumer. This would prevent the dealers and stockiest from investing in heavy inventory and result in slowdown of movement of goods. The differential rate structure providing at least six rates of levy is bound to create classification disputes as the stakes are high. Rates as high as 28% will force the assessees to make a shift to lower rate Goods/services by incorrect classifications, especially in borderline cases. This shall give rise to disputes which could have been avoided by adopting a single rate in place of multiple rates.

Problems in Administration of GST

More than 90% of the taxpayers under GST have turnover below Rs. 1.50 crores and the administrative control thereof has been made the responsibility of the State Tax administration and over the balance 10% , the Centre shall have the responsibility of administration. The states do not have much experience of handling issues related to services tax and shall be facing such issues for the first time. This is likely to create unwarranted litigation and cause harassment to the assessees. The tax administration staff is required to be trained properly in terms of concept, legislation and procedure. The administrators would have to unlearn more than what they would learn, in order to implement GST

Conclusion

With the implementation of GST, the Indian economy seems to be in a dilemma as regards the cost-benefit of this newly introduced scheme of taxation. The small business entrepreneurs are expected to benefit from the introduction of input tax credit, exemption limits and composition levy and the abolition of multiple layers of taxation is also going to benefit the business community. However GST being in a nascent stage presently needs to be looked after and nurtured carefully. The challenges are numerous and with the joint efforts of all the stakeholders, the industry, Government, Professional Bodies like ICAI, ICSI etc., MCA, GST Council, Suvidha Providers, software contributors, Banking Channels etc. need to come closer and device ways and means for a swift implementation of GST in India. If all the goals of this system of taxation are met out efficiently, GST shall surely be a big boon for the Indian economy making it internationally competitive.

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