

ISSUES, CONCERNS, COMMENTS
&
SUGGESTIONS ON
FIRST DISCUSSION PAPER
ON
GOODS AND SERVICES TAX(GST)

1. Your kind attention is drawn to the first discussion paper on the subject matter, released by the Empowered Committee of State Finance Ministers, on 10th Nov. 2009.
2. At the outset we convey deep appreciation for the healthy practice to hold interaction with Trading Community an important matter, perused by you before giving final touch to formulate the policy.
3. On the basis of an in-depth study of the said publication, coupled with views ascertained from the Trade Organizations all over the country, we beg to submit this memorandum with comments in brief as follows:-

4. THEME OF INTRODUCTION OF GST:

- 4.1 Apparently, an underlying idea to merge all the present taxes imposed by the Central and State Governments into the Central GST and State GST, is laudable but a picture of utter confusion arises in as much as in the aforesaid Discussion Paper it is not specified as to precisely which type of taxes imposed by the Central Government and the State Government and /or local Authorities, shall be eliminated to merge into GST.
- 4.2 It will be appreciated that the above points require elucidation as to understand clearly that by introduction of GST, which section of society shall be beneficiary and to what extent.
- 4.3 Though the concept mooted behind the proposed legislation, is based on theory to dispense with multiplicity of Authorities, multiple taxes, to bring Inspector Raj and corruption to an end, to simplify law and procedure and to widen tax base, practical aspect does not seem to have been given the consideration.
- 4.4 Because of operation of GST at Central and State Govt. level, it is apprehended that aforesaid basic object is not likely to be achieved.

- 4.5 In the wake of recent statement of the Union Finance Minister that only one slab of tax shall be prescribed, an impression is created that under the garb of new GST policy, and chief aim of the Govt. is to augment revenue resources.

5. PROPOSAL FOR CONSIDERATION

5.1 GST Structure :

(a) Dual GST has been conceptualized with one simultaneous levy by the Centre (Central GST or CGST) and the other by the respective States (State GST or SGST) and one IGST for inter-state transactions. Therefore, multiple state laws have been proposed to continue. Moreover, the basic provisions relating to chargeability, taxability, valuation, classification etc. will continue. The States, however, have been provided with certain degree of flexibility in formulating their respective SGST laws.

(b) As per our considered view, the concept of GST was brought with an idea of simplification, removal of complexity in tax administration, reduction in red-tapism, reduction in paper work and compliances, reduction in filing of returns etc. However, after going through the discussion paper, it seems very clearly that Government is in no mood of simplification etc., rather to impose additional burden in order to boost further the tax coffers. The monitoring of above taxes by various authorities will increase burden of additional paper work and will also encourage Inspector Rule. Further, since multiple Authorities will be monitoring different set of taxes as above, it will be difficult for the traders to keep track of the amendments, issuance of circulars and notifications and ruling by Competent Authorities which will be made from time to time, it is strongly suggested that there should be one Single legislation of GST to cover all transactions throughout the Country.

(c) We take liberty in proposing a formula of Single GST, as under for the consideration of the Committee.

“States are objecting to a single GST on the assumption (rightly) that then they will lose their sovereignty and will become totally dependent on Centre for revenue. Therefore, we suggest that :

1. There be a single GST as was originally proposed.
2. The entire revenue goes to the states and states give a certain percentage to centre.
3. Since Centre will have huge revenue from Direct Taxes, from which some percentage will be due to states, it can always withhold/adjust this amount if any state does not pay in time.

4. This arrangement will strike a sort of balance between States and Centre on revenue sharing and will save Industry and Trade from the miseries and hassles of a dual GST.”
5. This will drastically reduce the administrative cost for both the state/centre and Industry & Trade resulting in enormous national savings.
6. It will immediately overcome whatever resistance to states is having to GST at present.

It is therefore urged that a Single Rate GST system will have far better consequences in terms of voluntary compliance and revenue generation.

5.2 UNIFORMITY

- (i) On the pattern of policy framed under the VAT Tax Law, State Governments should not be allowed latitude to conceive independent policy, so as to ensure uniformity throughout all the States in respect of all relevant aspects.
- (ii) It will be advisable if a Model draft of legislation is compiled by the Empowered Committee, for adoption by every State Government.
- (iii) Any amendment in GST Act or procedure by any State, if any time, must have the prior concurrence of the Empowered Committee of State Finance Ministers.

5.3 THRESHOLD LIMIT

- (a) It is matter of common knowledge that a large number of petty traders, in particular self employed do not possess means and resources to comply with technical formalities of law. As such, to safeguard their genuine interest, in the matter of fixation of threshold limit, precaution should be exercised to ensure that above class of traders enjoy an immunity from operation of law, in consonance with policy of exemption laid down under the Income Tax Act.
- (b) The reasonable limit should be provided keeping into consideration inflationary constantly rising cost index, which should be open to review in the light of prevailing trend.
- (c) However to avoid frequent amendments this thresh hold limit should be linked to inflation/consumer price index. Such inflation index should be announced in March every year to be applicable for subsequent year. The threshold limit for Small Scale Industry, Small Service Provider and small traders should be minimum at least double the limit prevailing under Central Excise law, Service tax and VAT Act respectively.

- (d) The said policy should be applicable for Trade as well as Industry.

6. COMPOSITION OF OFFENCES

- (i) While appreciating provision to compound offences, it is suggested that the ceiling should be revised appropriately in view of limitations and restraints of Small Traders.
- (ii) Clear guidelines should be laid down so as to avoid a situation of exercise of discretionary power by Bureaucrats.

7. PENAL PROVISIONS

- (i) As a matter of policy, preliminarily, an effort should be made to educate tax collectors about features of new law and to inculcate a sense of self and voluntary compliance.
- (ii) Scale of Penalties should be suitably laid down by giving utmost consideration to malafide or bonafide action of the Traders.
- (iii) A lenient view is called for in such type of offences of technical nature which do not effect revenue of the Government.

8. REGISTRATION OF DEALERS

- (i) For the Dealers who are already registered under the VAT Tax Law, there should be no necessity to submit an Application for registration.
- (ii) The provision should be applicable for new entrants and in that case simple Application Form should be prescribed.

9. TAXES TO BE SUBSUMED

- (i) Though the aforesaid Discussion Paper gives clue that all the current taxes levied by the Central and State Government shall be merged with GST, as stated above, to bring a situation of chaos and surmises, to an end, paramount necessity demands that the nature of taxes which are sought to be merged must be distinctly specified.
 - (a) It appears that Central Excise and Service Tax, is being replaced by Central GST and State Vat is being converted into State GST and there is no reference about abolition of Taxes levied by Local Governments.
 - (b) It is suggested that the holistic approach has to be taken. After introduction of GST all the taxes levied by Central, State as well as Local Bodies has to be subsumed.

- (c) Accordingly all Cess, Duties etc levied by Central Govt. has to be subsumed in Central GST.
- (d) Accordingly Purchase tax, Mandi tax, Royalties, Road tax, Vehicle Registration Tax, Taxes on Mineral, and Forest Produce etc. Stamp duty, House Tax on Commercial Properties, License Fee for Trade and Industry, Tax on Petroleum products, and Octroi, Entry tax, Property tax, Electricity duty etc. and all the levies by whatever named called needs to be subsumed in GST.
- (e) The list of taxes levied by Municipal Corporation/local bodies should be drawn and the position must be clarified to avoid any confusion. We have firm view that all sorts of commercial taxes levied by the Municipal Corporation/local bodies should be subsumed with GST with a view to remove impediments and tolls for corruption.
- (f) It is not clarified whether States' Purchase tax on agriculture produce etc., Levies on natural gas and Stamp Duty on real estate transactions are part of the GST or not ? We are of the firm view that all such taxes should be included in proposed GST.
- (g) In the matter of Petroleum products, distinction must be drawn in use made by the Industry and Vehicles.
- (h) Petroleum products used as raw material in the industry should be defined separately with Petrol and Diesel and needs to be subsumed in GST so that the manufacturing units may get input tax credit for such products and the cost of production may come down to a lower level.

10. INTER STATE TRANSACTIONS

- (i) The proposed provision seek E-Registration by Dealers engaged in inter-state business transactions runs counter to concept of abolition of all taxes, besides causing unintended hardships to small Dealers.
- (ii) As per declaration made by the Central Government, Central Sales Tax Act must be brought to an end prior to enactment of GST.
- (iii) Requirements of Declarations Forms/ Statutory Forms must be dispensed with.
- (iv) The proposed model of IGST appears to be a new concept. It needs further deliberation and discussions on its long term

implications. The need to have E-registration by dealers engaged in Inter State Transaction will prove to be very harsh for small dealers. Proper ground has to be created for small and medium enterprises and specially enterprises in District and Taluka places. Thus the provision of E-compliances as pre-condition for Inter State Transactions should be deleted.

- (v) It must be kept into consideration while no framing the law that neither upfront payment of tax is required or significant blockage of funds occurs for the inter-state seller or buyer.

11. GST RATE STRUCTURE

- (i) Two slabs should be prescribed for the Articles of (a) luxury and (b) general merchandise of use of a common man.
- (ii) Scope of exemption should be enlarged to cover all the essential commodities.
- (iii) Under the formula of 'lower the taxes-higher the Revenue'-precaution must be taken to prescribe lower rate of tax for general merchandise which will contribute much in achieving the object of self compliance. At the same time a situation of temptation of avoidance of payment of tax and resistance on the part of Consumer to purchase without Bill or Csh Memo, shall be avoided to a great extent.

12. SPECIAL INDUSTRIAL AREAS

- (i) It may be recalled that the Industrial Units operating in backward areas, have been allowed tax incentive for specified period.
- (ii) Interest of above class of Industrial Units must be safeguarded by maintaining status quo.

13. Declaration Forms :-

There should not be any sort of declaration forms or way bills etc. for transit of merchandise from one State to another State. There should be smooth flow of Goods and services across the country and therefore all sorts of Declaration Forms, Statutory Forms, Way Bills and Road Permits should be abolished to make India as a 'Free Trade Zone'.

14. CLOSING STOCKS

- (i) If the Act is proposed to be effective from April, 2010, the carry over stock should be allowed to enjoy immunity from purview of the Act.

- (ii) To clarify, the Act should be made applicable for transactions materialized from the date of commencement of the Act.
- (iii) The mandatory provision of maintenance of Stock Register should be dropped in recognition of genuine practical problem faced by Small Traders.
- (iv) Stock Transfers should be given benefit of input credit.

15. Penal Provisions :-

- (a) The Govt. is taking a major step for indirect tax reform. A confidence & trust between dealers and taxing authority has been developed. The dealers are agents of govt. doing work of tax collection. By including penal provisions in the law, it appears that dealers are viewed as out side person. This creates mis-trust. It is suggested that there should be nominal monetary penalty for any violation of law which does not involve any malafide intention.
- (b) Further the first two years of GST implementation should be treated as ` transition period' and assessing authorities should be advised to take a lenient view in respect of violations and lapses in particular with regard to such shortcomings, if any, which do not affect revenue of the Government. We suggest that there should be immunity for procedural lapses and minor defects during the period of first two years of GST implementation.

16. REFUND

- (i) Due to bitter experience, gained in respect of refunds claimable under the Income Tax Act and VAT Tax Law, it is suggested that time bound schedule should be laid down for expeditious disposal of refund cases.
- (ii) Preferably, self filed return should be made a base to process refund case, with a provision of adjustment at the time of final assessment.
- (iii) The Traders should be entitled to claim interest at the Bank rate in the case of delayed payments of refunds by the Department.

17. DEBIT AND CREDIT NOTES

- (i) While filing the Return, the Dealer should be allowed to claim adjustments arising out of return of sold goods so as not to be deprived of privilege to enjoy input credit.

18. TRAINING AND EDUCATION TO STAFF :

- (a) It is our experience that officers from administrative cadre are posted as senior officers to administer taxation dept. They don't have adequate training in handling important matters concerning taxation matters. It is requested that on the lines with National Academy of Direct taxes a separate National Academic of Indirect Tax should also be established to adjudicate upon such matters which are conflicting in nature. Since GST will be uniform throughout the Country, Standard Code for Cadres of all States can be designed.

19. ADMINISTRATIVE REFORMS

- (i) As far as possible, such officers should be assigned duty to implement the law who are well versed with taxation laws.
- (ii) It is suggested that on the pattern of IAS and IPS services, a dedicated services, the Indian Taxation System (ITS) should be formed and the officers from ITS should be deployed in taxation department.
- (iii) Appellate Authority should be preferably consists of a retired High Court Judge so as to ensure sound judicial judgments.
- (iv) All the Bureaucrats comprising of lower or higher rank, must be made answerable for their performance.
- (v) There should be a Central law to check the deviations, if any, made by any State and such deviations should be dealt firmly with severe penalty.

20. WEBSITE OF STATE GOVERNMENTS

- (i) Website plays an important part in feeding important information.
- (ii) All the State Governments should be directed to keep their Websites up-to-date on regular basis so that no difficulty is faced by needy person to acquire knowledge about important judicial judgments, circulars and Notifications etc.

21. ACT & RULES

- (i) Rules are essential and integral part of the Act. As such draft Rules should also be drawn and thrown open for discussion.
- (ii) Joint Committee comprising of Officials and Trade representatives should be set up to hold discussion at the primitive stage of preparing model Draft of the Act & Rules.
- (iii) Above measure shall prove useful to avoid incidence of making amendments soon after enacting a Law & Rules.

- (iv) Once the Acts and Rules are framed, no frequent changes in the said Acts and Rules are allowed as such a practice destabilize the taxation system.

22. Committee

GST is fairly a new concept which is going to affect all sections of society. It is natural that initially there may be some confusion or practically issue, which may require timely intervention. It is also possible that because of ignorance or nor clarity about certain critical issues, it may lead to wrong compliances by larger section of society. It is suggested that the multiple level committees should be found at National level, State level as well as local level. These committees should meet at specified interval compulsorily. The decision taken in such committee meetings should be implemented in time bond period and the Empowered Committee itself should monitor the reports of such meetings.

23. WORKSHOPS

- (i) It is a matter of record that while replacing Sales Tax with VAT Tax, vigorous campaign was launched by way of Seminars, Conferences, locality wise distribution of publicity material.
- (ii) In the instant case similar effort is needed
- (iii) Cooperation of Trade Associations is always at disposal of the Government.

24. Computer Education:-

- (i) The concept of GST is quite new. GST is going to be a computer based on line compliances mechanism. Knowledge of law, rules and computer literacy amongst dealer of all classes are integral part of success of GST. Thus it is strongly recommend that a massive literacy campaign about GST and computer has to be launched. The standard software for accounting and compliances under GST should be prepared by govt.
- (ii) The GST software may be made available without any cost to the trader or else the traders may be allowed to download the software from the website of either the Empowered Committee or respective States Websites.
- (iii) Besides going for computerization system, manual system may also be kept operative as sizeable number of traders may not opt for computer process because of their limitations.

25. Tax Collector :-

The dealers are collecting tax on behalf of govt. Thus they should be termed as 'tax collector' under GST instead of tax payers. These dealers are required to maintain lot of record and also seek professional advice which is very costly. In view of this 5% of tax collected should be allowed to be retained as service charges by each dealer.

26. **Computer Facilities :-**

The dealers should be encouraged to purchase computer. For this purpose, computer should be made available at subsidized prices. In many areas policy of installing computer kiosks by the dept. which is authorized to process the return electronically should be installed.

27. **Dialogue with Trade :-**

GST is going to have far reaching consequences on internal trade. It is necessary that before finalizing the same detailed discussion and debate should be held with all stake holders including Confederation of All India Traders, New Delhi, in every State.

Onus to be devolved on Manufacturing Units

Some sort of effective mechanism has to be developed to ensure that benefit of reduction in cost must be passed to end consumer. The large manufacturers & companies may be advised by virtue of law to declare their Pre-GST & Post-GST cost of production to the respective State taxation department

Conclusion

By and large, the traders and other sections of the people are inclined to abide by the law but equally afraid of the lengthy process, victimization and harassment at the hands of officials who are crowned with discretionary powers, we suggest that in the larger interest of the economy, such a system must come to an end and a most simplified, transparent and responsible system may be placed which will certainly widen the tax base and will result into augmentation of much revenue.

Unfortunately, in our Country, the laws are made keeping in to consideration the minimal percentage of people those who offend the law and the rest of the traders have to suffer the wreath of the system. It is urged that since GST is ultimate tax reform in indirect taxes, the Acts and Rules may be made for those people who are abiding the law to encourage them to give better performance.

The proposed GST model has been devised to address the conflicting needs and concerns of the States and the Centre. However, both the Centre and

the States should have limited flexibility to change the tax rates so as to providing stability and certainty to trade and industry. In any case the internationally adopted and tested model of a single GST regime in India has been diluted and, therefore, results in cutting down the benefits of a single GST model. It is also certain that additional burden will be put on Services sector by making it costlier. The worry is looming large that improper implementation and failure to address the problems of various stakeholders may result in a complex and cumbersome GST. Various matters which have not been addressed in the discussion paper must be dwelt upon before doing final wrap-up for the GST.