

GST-One Nation, One Tax, One Market

CA. Ashok Batra

B.Com (Hons), LL.B, FCA

Introduction

‘Nothing in this world is permanent’ is an ancient adage. In the context of Indirect Taxes, the aforesaid maxim hold true on 01.07.2017 when one of the most eagerly awaited tax reforms in the history of independent India namely Goods and Services Tax [**GST in short**] has come into effect. Before discussing GST, it shall be worthwhile to outline that in the earlier regime of Indirect Taxes the Central Government used to levy many Indirect Taxes such as Central Excise Duty, Service Tax, and Central Sales Tax [CST] etc. Similarly, State Governments used to levy many Indirect Taxes such as Value Added Tax [VAT], Entry Tax, Luxury Tax and Purchase Tax, etc. Consequently, multiple taxes were being levied in the same supply chain.

Further, in the pre-GST regime **Taxable Event** used to be ‘manufacture’ ‘sale’, and ‘services provided or agreed to be provided’ under erstwhile Central Excise Act, Central Sales Tax Act/ Local VAT Act and Service Tax Law respectively. Similarly in other Indirect Taxes, different prescribed events used to be taxable events. In general, the earlier regime was broadly suffering from following **drawbacks**:

1. Lack of uniformity in Taxation Laws, Rules and Rates
2. Lack of Automation in many Acts
3. Different Taxable Events
4. Different Exemption Levels
5. Lack of uniformity in the same form under different Acts
6. Lack of cross-verification with other Tax Administration

New Features of GST

GST, as the name suggests, is a tax on goods and services. It is an activity based tax. The new features of GST are as under:

(A) Taxable Event

In the pre-GST regime **Taxable Event** used to be 'manufacture' 'sale', and 'services provided or agreed to be provided' under erstwhile Central Excise Act, Central Sales Tax Act/ Local VAT Act and Service Tax Law respectively. Similarly in other Indirect Taxes, different prescribed events used to be taxable events. However, in the GST, taxable event shall be supply of goods or services or both.

(B) Change in the scope of Goods or Services

Meaning of Goods and Services is not to be taken in conventional sense. The subject matter of earlier indirect taxes and GST shall continue to be Goods and Services but in GST the meaning of Goods and Services has to be derived with reference to **Schedule II of CGST Act, 2017**. For instance, execution of works contract as defined in section 2(119) of CGST Act is deemed to be supply of service even though in such contract transfer of property in goods either as goods or in any other form is also involved. Similarly, supply of goods without transfer of ownership for specified period for a consideration shall also be considered supply of service irrespective of the fact whether effective control or possession is parted to the lessee or not. In the earlier law where effective control and possession was transferred, it was considered as deeming sale in terms of Article 369A of the constitution. However in GST deeming sales of this kind is also considered as service as provided in Schedule-II to the CGST Act, 2017.

(C) Destination based consumption Tax

GST is based on destination based consumption tax principle. On the contrary, erstwhile Central Sales Tax is **origin based tax**. **Destination Based Taxation** as the name suggests is the taxation based on destination or consumption of the goods or services. This principle seeks to tax the goods and services on simple theory that the goods or services should be taxed at the place where their consumption takes place rather than the point where their origin takes place. The entire revenue relating to the goods or services shall accrue in the jurisdiction where they are being ultimately consumed. **For example**, if Mr. A in Delhi produces the goods and sells the goods to Mr. B in Haryana, then in such case the tax shall accrue to the State of Haryana and not to the State of Delhi. On the other hand, **Origin Based Taxation** as the name suggests is the taxation system where the tax accrues to the State from where the transaction originates. Therefore, in case of origin based taxation, the revenue accrues to the jurisdiction from where the transaction originates. **Continuing the above**

Example, under Original Based Taxation, the Central sales Tax would be levied and collected in the State of Delhi and not in the State of Haryana.

(D)Self-supply of goods or services or both shall become taxable

Under former indirect taxes two separate legal entities were required to complete the transaction. Whereas in GST in specified situations self-supply shall also subject to tax. Transfer of goods from one office of a person located in one State [say Punjab] to another office located in another State [say Andhra Pradesh] shall also be subject to tax under the GST Regime.

(E)Supply of goods or services or both without consideration shall be subject to tax in GST

The activities specified in Schedule-I to the CGST Act shall be treated as supply even if made without consideration. **For example,** permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

(F)No Centralised Registration under GST in the case of supplier of services

Keeping in view the destination based principle, concept of Centralised Registration has been dispensed with in GST Regime which can work satisfactorily when tax revenue go to one Government only irrespective of the place of supply. In GST, it has been specifically provided that every supplier has to seek registration in all those states from where they are supplying goods or services or both.

(G)Anti-profiteering measure

Anti-profiteering measure has been introduced vide Section 171 of the CGST Act in GST to ensure that any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on the recipient by way of commensurate reduction in prices. Though the aforesaid provisions are likely to be litigated between revenue and registered persons, there is no doubt that it is a new feature and has been introduced in the interest of public at large though prone to litigation.

Advantages of GST

The broad advantages of GST have been outlined below:

(A)For Business

- Less number of laws to be complied with

- Uniformity in the application of provisions
- Removal of cascading effect
- Availability of greater Input Tax Credit
- Least physical interaction with tax administrators

(B) For Government

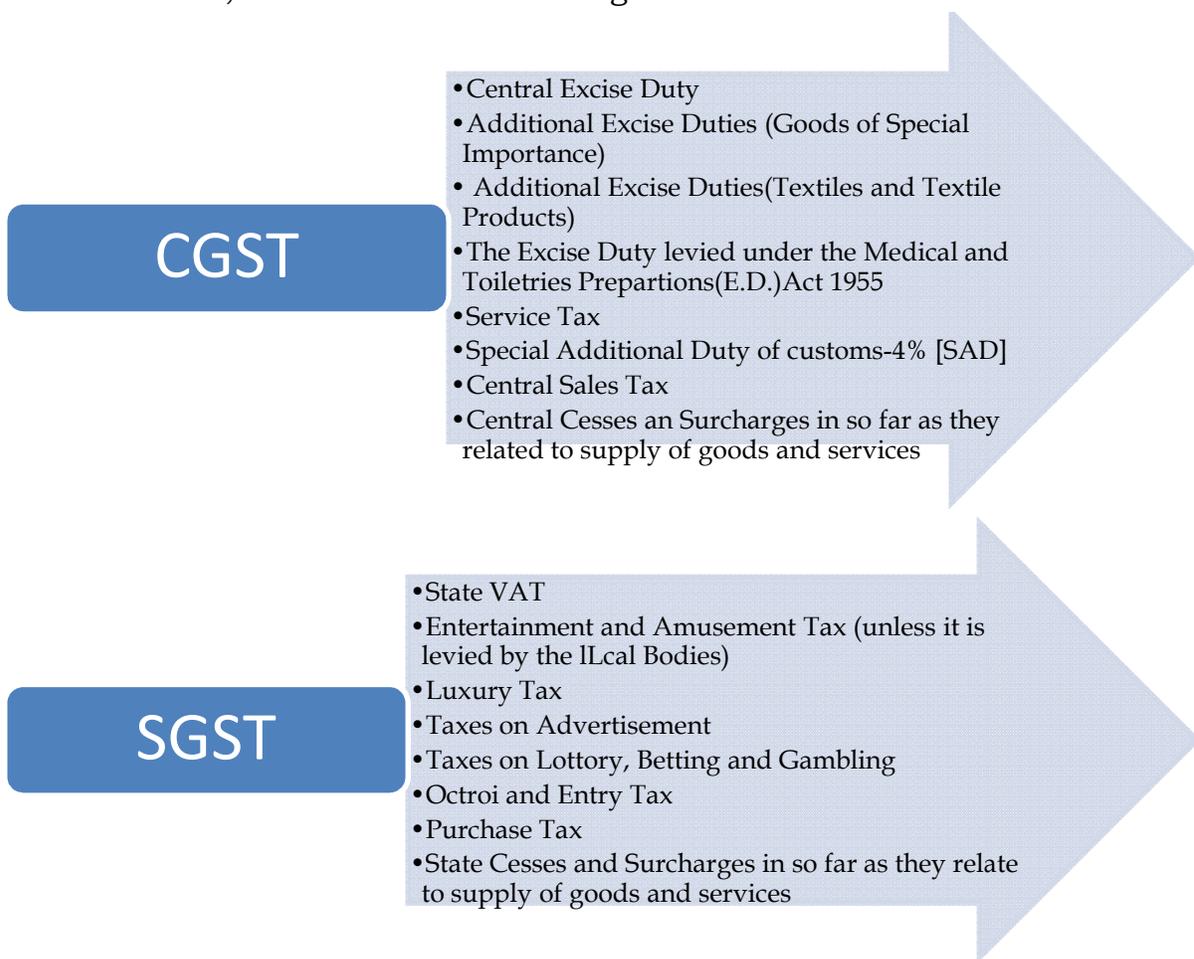
- Simple and easy administration
- Stricter control on revenue leakages
- Higher revenues
- Broad tax base

(C) For Consumers

- Reduction in overall tax burden particularly in case of goods in the long run

GST- One Tax

Consequent upon subsuming of following Indirect Taxes in GST with effect from 01.07.2017, GST has become one big Indirect Tax:



How GST shall make our country as One Nation

India is one vast nation, having 29 States and 7 Union territories. Ideally, the entire nation should be one at least on the economic and taxation fronts. However, practically there were many economic and taxation disparities amongst different States or Union Territories. The aforesaid disparities were causing a major hurdle in inviting adequate **Foreign Direct Investments [FDIs]** which are urgently required by our country for its rapid economic development, particularly in the Infrastructure Sector which requires huge long-term investments. Besides, there was a long-time demand from various International Financial Institutions and other big stakeholders that taxation disparities amongst the various States/Union territories must be removed at the earliest. In GST Regime, there shall be Indirect Taxation uniformity amongst various States/ Union Territories. The foregoing uniformity shall go a long way in projecting the image of our country as one Nation not only geographically but from standpoint of Indirect Taxation also.

How GST shall help in Creating One Market

The pre-GST indirect taxation system created borders within borders and tax laws, tax rates differed from one State/Union Territory to another State/Union territory. The erstwhile system did not provide tax credits for certain types of Indirect Taxes, for example, while discharging VAT liability, no Credit was allowed either of Central Excise Duty or Central Sales Tax. This led to distortions in the allocation of resources and indirect taxes, which was a major concern while taking business decisions.

However, GST shall integrate India's economy into one market which, in turn, shall avoid tax cascading scenarios. It is also worth adding here that GST shall be neutral to various factors of production, business processes, business models, organizational structures and geographical locations. Resultantly, decisions in GST regime shall be taken purely on business terms. Thus, taxation impact on the business decisions will not play a decisive role. In simple words, quantum of GST [indirect tax] on any particular goods or services or both shall remain the same throughout the country unlike pre-GST Regime when indirect taxes used to vary from place to place, for example, VAT on Cars in Haryana used to be lower than corresponding VAT in Delhi. Thus, people preferred to purchase the cars from Haryana.

In addition, GST is expected to increase India's Gross Domestic Product [**GDP**] and as well as its tax revenue collections. In the long run, GST shall also boost export of goods and services. Besides, GST by attracting FDIs shall increase employment opportunities in our country. Further, GST shall help the Government in realizing its dream project of "**Make in India**" which in turn, will benefit smaller businesses in India.

Conclusion

At present, "GST- One Nation, One Tax and One Market," may appear to an attractive slogan to some short-sighted and pessimistic people. However, in the long run the aforesaid slogan can unquestionably become a pleasing and satisfactory reality if all stakeholders namely Central Government, State Governments, suppliers of goods or services or both, Tax Administrators, Consumers play their respective roles with full honesty and keeping the interest of our motherland uppermost in their minds. There shall be certain difficulties, obstacles and setbacks in the realization of aforementioned slogan which can be undoubtedly surmounted with strong will-power, honest endeavours and rising above paltry political gains. Finally, GST is not a "**Gabbar Singh Tax**" as alleged by some politicians. On the contrary, it shall eventually prove to be a "**Good and Simple Tax**" and surely create a win-win situation for everyone.
