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Basic Concepts of GST

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ABSTRACT

GST is indirect tax imposed by government on goods and service, which is proposed on 1st July 2017 and GST was brought to unify the tax system in whole India. India follows dual GST where both centre and state has the right to impose tax on goods and services and GST is destination based tax this paper brings out basic concepts of the GST which includes history of the GST in chronological order, definitions only GST Supply and goods has been defined as these are basic definition one has to understand to have better view towards GST, advantage and disadvantage of GST after implementation is looked to understand what is strength and weakness of GST, needs of GST in India and types of GST to understand concepts of GST.

I. INTRODUCTION

GST came into existence on July 1, 2017. GST is indirect tax that is one tax for one nation and it is one of the most significant tax reforms. This replaced the old tax system of India. GST came into existence to remove defects under tax system and to make tax system more productive. As India follows dual GST, central Government and state government has separate taxes both taxes are applied on consumer. Some products have been excluded in GST. GST has to be paid by the consumer.

History

In first, France introduced the GST in 1954 and the same is followed by more than 160 countries including United Kingdom, Australia, Canada, India, etc... Canada has dual GST system. GST is uniform tax paid on basis of destination.

II. IN INDIA

- In 2000, Atal Bihari Vajpayee suggested adoption of GST and state finance minister formed an empowered committee to look about adoption of GST and to create structure Of GST based on VAT which was later included in the GST. Both state and central bodies were asked to examine various concepts of GST proposal and to make report on

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the concept of GST by representatives of both. The committee was headed by Asif dasgupta (finance minister of West Bengal) till 2011.

- In 2004, A task force headed by the L. Kelkar(Advisor to Finance Minister) recommended GST for which he said that the existing tax structure has many issues that would be solved by implementation of GST.
- In 2005, the finance minister P. Chidambaram intimated that the government's long term goal is to implement uniform GST structure across the country which include whole production and distribution chain and same was discussed in budget session for the financial year 2005-2006.
- In 2006, The finance minister informed that date on which GST will be introduced and Parthasarthy shome (Advisor to Finance Minister) stated that all the states should prepare and make reforms for GST Regime.
- In 2007, The deadline of 1st April 2010 for GST implementation was retained in union budget for 2007-2008
- In 2008, Finance Minister said there is a progress in the preparation of roadmap of GST and deadline was confirmed.
- In 2009, New finance minister Pranab Mukharjee announced the skeleton of GST system and the empowered committee puts the first discussion paper describing the GST Regime and same was expected to start debate.
- In 2010, Mission-mode project was proposed by government which gave foundation to the GST.
- In 2011, The 115th amendment of constitution bill introduced in lokasabha for levy of GST on all goods and services except specific goods and following the protest of opposite party and bill was sent to standing committee for examination.
- In 2012, when standing committee started discussion on bill the opposite party concern about clause 279B which offers more and additional powers to the centre over the GST dispute authority and P. Chidambaram and finance minister holds meetings and said to solve issue regarding implementation of GST before 31st December 2012.
- In 2013, Finance minister informed that government will provide RS 9000 crores as compensation to states and asked the state finance ministers to work with the government for the implementation of GST. Standing committee submitted report to parliament and the panel approved the regulations with some amendments to provisions of GST and mechanism of resolution. State of Gujarat opposed the bill as it would loss Rs. 14000 crores per annum as it is destination based tax.

- In 2014, New Finance Minister Arun Jaitley submits 122nd amendment of constitution of India bill in the parliament opposition party asked to send bill for discussion before standing committee.
- In 2015, The finance minister informed that the government is looking forward to implement GST on 1st April 2016 and same bill was not passed in rajyasabha and the finance minister said that this disapproval does not have any specific cause.
- In 2016, The minister of finance released the draft model law on GST to public for suggestions and reviews and the bill was passed in rajyasabha with 43 broad amendments to bill. The honourable president of India gave consent for constitution amendment bill to become an Act.
- In 2017, Bills related to GST became acts with approval and president's consent. The bills are CGST bill, IGST bill, union territory bill and GST (compensation states bill). The GST council finalised the GST rates and rules and same was introduced on 1st July 2017 in India.

III. DEFINITIONS

(A) GST

Goods and service tax means a tax on supply of goods or services or both except some of goods which are exempted under this law.²

(B) Supply

As per Sec 7 (1) of CGST, It includes-

- All forms of supply of goods or service or both such sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- important of services for a consideration whether or not in the course or furtherance of business and;
- The activities specified in schedule I made or agreed to be made without consideration.

(C) Goods

Goods include all material, commodities and article.³ goods means every kind of movable property other than money and securities but includes actionable claims, growing crops, grass and things attached to or forming part of land which are agreed to be severed before supply or

² V.C.DATEY, GST READY RECKONER 31(Taxmann's 2019)

³ INDIAN CONST. article 366 (12)

under a contract of supply.⁴ goods is article must be bought and sold in market.⁵ goods includes all movable property including steam⁶, standing trees are not goods and not taxable but standing timber is taxable⁷, master copy of film songs and music⁸, drawings⁹, Films and programmes on disk¹⁰, intangible are also be goods like sale of copy right¹¹, carbon credit (certified emission reduction)¹², electricity¹³.

(D) Service

Service means other than goods, ¹⁴¹⁵money, securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currently or denomination for which a separate consideration is charged¹⁶.

IV. ADVANTAGES AND DISADVANTAGES

(A) Advantages

This brought more efficiency in business and this became an opportunities to industries redefine supply chain, customised IT process and evaluates the internal and external arrangements regarding safeguard. It reduced the tax payable.

If the turnover is less than 20 lakhs then they are exempted and in case of north eastern states threshold limit is 10 lakhs this helps the small scale industries and businesses where they need not to worry about the lengthy taxation procedures. GST is wider tax base it eliminate the cascading effect of multiple indirect tax, it created rationalisation of tax structure it harmonised centre and state administrations.

Companies with up to Rs. 75 lakhs turnover can get benefits from composition scheme and they have to pay only 1% of tax its aim is to reduce corruption and sales without receipt. the small companies need not to comply with excise, service tax and VAT and this brought accountability and regulations to unorganised sectors like textile industry it has reduced tax 2% on certain goods and 7.5% on other goods such as smart phone, cars etc...

⁴ V.C.DATEY, GST READY RECKONER 63(Taxmann's 2019)

⁵ UOI V. Delhi Cloth Mills, AIR1963 SC 791

⁶ Nizam Sugar Factory Ltd V. CST (1957) 8 STC 61 (AP HC)

⁷ State of Odissa V. Titaghur paper mills co. ltd, AIR 1985 SC 1293

⁸ CIT V. Giza Impex, (2008) 166 taxman 30 (mad HC DB)

⁹ Associated cements company Ltd V CC, 2001 (4) SCC 593

¹⁰ Ushakiran Movies V. State of AP, (2006) 148 STC 453 (AP HC DB)

¹¹ Bharat Sanchar Nigam Ltd V. UOI, (2006) 3 SCC 1, AIR 2006 SC 1383

¹² Notification No. 256/CDVAT /2009/ 43dated 13-1-2010 issued by Delhi government [28 VST 29 (St)]

¹³ CST V. MPEB (1970)25 STC 188 (SC),AIR 1970 SC 732

¹⁴ INDIAN CONST. art 366 (26A), amended by the constitution (hundred and one amendment) Act, 2016.

¹⁵ V.C.DATEY, GST READY RECKONER 07(Taxmann's 2019)

¹⁶ CGST Act, 2017,S2(102) , No.2, Acts of Parliament, 2017(India)

It uniformed taxation process and allows centralised registration and it reduces the multiplicity of taxes and no need of hiring tax expert. it helps in administration of tax as it is one for one nation and increases production. it created notional market and created transparency of tax collection process and it helps in corrupt free administration.

(B) Disadvantages

Industries faced many challenges which ranged from new and unique concept, high tax rate on certain goods and services unclear treatment of transaction complex documentation ambiguity on aspects related to anti-profiteering, GST Refund etc...

It increases software purchase which assist in GST filing process. Trade-off cannot claim credit for input tax when the SMEs with total income of Rs.75 lakhs. This affects the consumer as manufacturer suspends their reward program. Financial sector became expensive as there is increase of 3% from 15% to 18%, it increased the real estate market by 8% to 12% fall on demand after implementation. GST increases operational cost SMEs have higher tax rate. Adaptation of complete online taxation is bit difficult and this may incur some cost. The officials who works in taxation in India have inadequate training regarding GST. GST has been applied on many products which are necessary in nature like wheelchair, Braille paper Etc... GST has not covered all the products or goods.

V. NEEDS OF GST IN INDIA

The GST will add value and will set off rates in both state and central level and it increases the efficiency of taxation and improves economic growth and brought one market to whole nation.¹⁷ The GST rationalised the tax system in India and reduces tax burden of many organization. It helped in economic distortions which caused by present complex tax structure and it will increase the volume of tax collection.¹⁸ Tax structure will be simple tax revenue will increase competition pricing boots to exports.

- Tax structure will be simple – before GST there was many taxes were imposed on one product so it was bit difficult, GST is the single tax imposed on goods so its much easier to understand and calculate the tax.
- Tax revenue will increase – GST brought more tax payers then that of VAT so this brought more revenue to the state.

¹⁷ [advanto.io](http://www.google.com/amp/s/advanto.io/learn/complete-guide-goods-service-tax-gst-india/need-gst-india/%3famp), last visited 7march 2021, <http://www.google.com/amp/s/advanto.io/learn/complete-guide-goods-service-tax-gst-india/need-gst-india/%3famp>

¹⁸ GST Indiaexpert, last dated 5 March 2021, <http://www.gstindiaexpert.com/Home/AboutGST/need-for-GST>.

- Competitive pricing- GST made many products production cost less as there is no many taxes imposed which helped in demand of product. Competitive pricing helped foreign players came to invest which created increase in exports.

VI. TYPES/KINDS OF GST

There are 4 types of GST

(A) CGST

central goods and service tax which covers most of the provisions relating to GST that is tax liability, ITC, valuation for payment of tax, procedures etc... CGST rules are applied to IGST. This is levied by the central government on transaction of goods and services which is intra state transaction this tax will go to central government treasury and is charged with state and union territory GST with same rate and it includes the taxes that were paid to central government under VAT regime.

(B) SGST

State goods and service tax is Act which is passed by each state for its own state. SGST is levied by state government on transaction of goods and services which is intra state transaction, tax is collected by state government it is levied with CGST on goods and services and levied by all the states and two union territories (Delhi, Puducherry) has adopted.

(C) UGST

UGST (Union Territory Goods and Service Tax) is similar to the SGST. UGST tax paid once the goods is consumed and tax will be paid to the respective administration of Union territory and UGST is under supervision of the Central Government as there is no elected government. This is paid in same rates that of CGST and if the UGST is present/applied then SGST cannot applied.

(D) IGST

Inter-state goods and service tax is levied on the inter-state transaction of the goods and services by central government this is applied on transaction between the states and also on country. IGST is equal to CGST plus SGST and is shared in equal between CGST and SGST. IGST is same for all the states in India and there is a benefit of input tax credit of IGST to recipient in another state.
