Existing Law to GST Law-A Transformation A study on Implications of GST in construction Industry

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Abstract: *The introduction of the Goods and Services Tax (GST) is a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, GST will mitigate ill effects of cascading or double taxation in a major way and pave the way for a common national market. The author discussed in detail about the GST, its implications on various industries and in particular about construction industry. The author describes the path of GST, its salient features and various components of GST, which will help the readers to understand the basic concepts. The objective of this paper is to create awareness on GST and its implications in construction industry. The author took intensive effort to ascertain various factors affecting the construction industry and its causes and a possible solution.*

Keywords: *GST - Implications of GST – Construction industry etc,*

Introduction: Goods & Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition. In simple words, GST is an indirect tax levied on the supply of goods and services. GST Law has replaced many indirect tax laws that previously existed in India. So, before Goods and Service Tax, the pattern of tax levy was as follows:

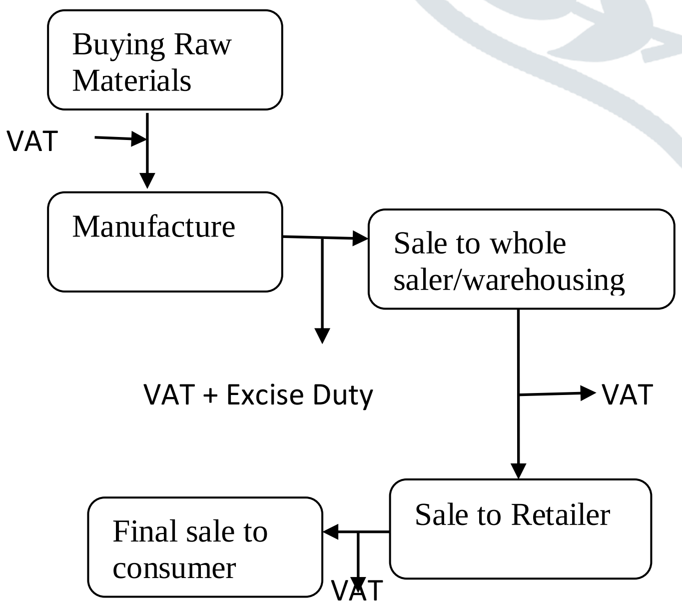

Figure 1: Under the GST regime, tax will be levied at every point of sale. (Courtesy clear tax)

From the consumer's point of view, the biggest advantage would be in terms of reduction in the overall tax burden on goods, which is currently estimated to be around 25%-30%. It would also imply that the actual burden of indirect taxes on goods and services would be much more transparent to the consumer. Introduction of GST would also make Indian products competitive in the domestic and international markets owing to the full neutralization of input taxes across the value chain of production and distribution. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing character, would be easier to administer. It would also encourage a shift from the informal to formal economy.

History of GST in India: In 2000, the central Government started discussion on GST by setting up an empowered committee. The Kelkar Task Force on implementation of the FRBM Act, 2003 had pointed out that although the indirect tax policy in India has been steadily progressing in the direction of VAT principle since 1986, the existing system of taxation of goods and services still suffers from many problems and had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle untenable. A proposal to introduce a national level Goods and Services Tax (GST) by April 1, 2010 was first mooted for the financial year 2006-07. Since the proposal involved reform/ restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road Map for the implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC). A dual GST module for the country has been proposed by the EC. This dual GST model has been accepted by centre. Under this model GST have two components viz. the Central GST to be levied and collected by the Centre and the State GST to be levied and collected by the respective States. Central Excise duty, additional excise duty, Service Tax, and additional duty of customs (equivalent to excise), State VAT, entertainment tax, taxes on lotteries, betting and gambling and entry tax (not levied by local bodies) would be subsumed within GST. A draft of the Constitutional Amendment Bill has been prepared and has been sent to the EC for obtaining views of the States. The Goods and Service Tax Bill or GST Bill, officially known as would be a Value added Tax (VAT) also passed from Rajya Sabha on 3 August 2016 with amendments. After moving to Loksabha it approved on 08 August, 2016.

Salient features of GST: The salient features of GST are as under:

(i)GST is applicable on 'supply' of goods or services as against the present concept on the manufacture of goods or on sale of goods or on provision of services.

(ii) GST is based on the principle of destination-based consumption taxation as against the present principle of origin-based taxation.

(iii) It is a dual GST with the Centre and the States simultaneously levying tax on a common base. GST to be levied by the Centre would be called Central GST (CGST) and that to be levied by the States would be called State GST (SGST).

(iv) An Integrated GST (IGST) would be levied an inter-state supply (including stock transfers) of goods or services. This shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by Law on the recommendation of the GST Council.

(v) Import of goods or services would be treated as inter-state supplies and would be subject to IGST in addition to the applicable customs duties.

(vi) CGST, SGST & IGST would be levied at rates to be mutually agreed upon by the Centre and the States.

(vii) GST would replace the Excise duty, customs duty and other taxes currently levied and collected by the Centre:-

(viii) Many State taxes would be subsumed within the GST

(ix) GST would apply on all goods and services except Alcohol for human consumption.

(x) GST on five specified petroleum products (Crude, Petrol, Diesel, ATF & Natural Gas) would by applicable from a date to be recommended by the GSTC.

(xi) Tobacco and tobacco products would be subject to GST. In addition, the Centre would have the power to levy Central Excise duty on these products.

(xii) A common threshold exemption would apply to both CGST and SGST

(xiii) The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as well as across States as far as possible.

(xiv) Exports would be zero-rated supplies. Thus, goods or services that are exported would not suffer input taxes or taxes on finished products.

(xv) Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST paid on inputs may be used only for paying SGST.

(xvi) Accounts would be settled periodically between the Centre and the States to ensure that the credit of SGST used for payment of IGST is transferred by the Exporting State to the Centre. Similarly, IGST used for payment of SGST would be transferred by the Centre to the Importing State.

(xvii) The laws, regulations and procedures for levy and collection of CGST and SGST would be harmonized to the extent possible.

Components of GST: There are 3 applicable taxes under GST: CGST, SGST & IGST.

CGST: Collected by the Central Government on an intra-state sale (Eg: Within Tamil nadu)

SGST: Collected by the State Government on an intra-state sale (Eg: Within Tamil nadu)

IGST: Collected by the Central Government for inter-state sale (Eg: Karnataka to Tamil Nadu) In most cases, the tax structure under the new regime will be as follows:

Transaction	New Regime	Old Regime	
Sale within the state	CGST+SGST	VAT+Central Excise/Service tax	Revenue will be shared Equally between the centre and the state
Sale to another state	IGST	General sales tax+ Excise service Tax	There will only be one type of tax (Central) in case of interstate sales. The centre will then share the IGST revenue based on the destination of goods

Table 1: comparison between pre and post GST

Impact of GST and its implications

1. Price reduction
2. Less Compliance and Procedural Cost
3. Pricing and Profitability
4. Government Revenue
5. Cash Flow
6. Redress Location Bias.
7. Uniform Per Capita Taxation
8. Fight Tax Evasion

Construction industry after GST: The Goods and Services Tax (GST) rates have been finalised for various sectors including the Construction and Real Estate. The impact of GST on both the key sectors of the economy is largely expected to be neutral. As per the Indian Credit Rating Agency (ICRA), the construction sector is likely to benefit from the availability of input tax credit under the goods and services tax (GST) despite falling under the higher rate slab of 18%. Under the current tax regime the benefit of input tax paid is not fully available; the benefits arising out of input tax credit on the raw materials available under the GST regime would result in an overall neutral tax incidence for construction services. For infrastructure projects under implementation also, the GST rates could result in an increase in cost, if there is insufficient built in contingency factor and limited scope for contract renegotiation. However, since under the GST regime, there is credit available for input taxes paid, it can counter-balance the higher GST rates. Thus the higher GST rates should get neutralised if the contractor passes on the benefit of higher input tax credit available to them. The service tax applicable for construction companies is generally around 6%, assuming 40% services portion of the contract. The value added tax (VAT) payable varies across states ranging from 1-15% and is applicable on the supply of goods portion of the contract.

GST Impact Works Contract: Works contracts consist of three kinds of taxable activities as per the current law. It involves supply of goods as well as supply of services. If a new product is created during the works contract, then such manufacture becomes a taxable event. Thus GST with its "One Nation One Tax" has removed the confusion regarding the tax treatment. This means works contract will be treated as service and tax would be charged accordingly (not as goods or part goods/part services). This treatment of works contract as service and not as supply of goods will bring in much needed clarification to the works contracts. Under the current regime, different states have different schemes for VAT. There are different composition schemes with different VAT rates. Service tax too is complex with 60% abatement on new works and 30% abatement on repair contracts. GST will solve such with a much simpler straightforward calculation.

GST impact neutral for construction and infra sector: GST tax regime, will be beneficial for the construction and infrastructure sector. While prima facie, the GST rate does appear higher than the current taxation regime, the availability of input tax credit under the GST will neutralise the impact of higher taxes. "Under GST, the composite supply of works contracts falls under the 18 per cent GST rate with full input tax credit (ITC). The service tax applicable for construction companies is generally 6 per cent (assuming 40 per cent services portion of the contract).

Defects of GST: The first implication of the Goods and Services Tax (GST) implementation will be "some inflation" and nobody can deny that. It remains to be seen what steps the government will take to tackle price rise. Micro Small and Medium Enterprises (MSMEs) will be affected by the GST. The present arrangement meant that both old and new tax systems will continue to be in place together, Stating that the government has fixed a standard rate of 18 per cent, he said when compared to GST-rate followed in other countries, it was "very high.". Another 'defect' was in respect of tax administration (supervision), A business based here with a turnover of about Rs. 2 crore does not know if it came under the purview of the Centre or state. On filing returns, he said, monthly three returns have to be filed, which means 36 in a year, besides an annual return. If a firm has operations in seven states, it has to file 37 returns in each of these states. Another 'defect' was that the government could not decide whether the state or Centre will have jurisdiction over the kind of business. "Tax (GST) may have come down but several things like rent, freight and salaries could have gone up.". "This (anti-profiteering) is a weapon in the hands of officials. I need not say what will happen if officials get a weapon." Areas like petroleum were out of GST purview, "If we exclude petroleum and electricity, approximately 35-40 per cent of economy does not come into the purview of GST". Many things have not been brought under the GST ambit, including petroleum, electricity and alcohol products.

Conclusion: The proposed GST regime is a half-hearted attempt to rationalize indirect tax structure. More than 150 countries have implemented GST. The government of India should study the GST regime set up by various countries and also their fallouts before implementing it. At the same time, the government should make an attempt to insulate the vast poor population of India against the likely inflation due to implementation of GST. No doubt, GST will simplify existing indirect tax system and will help to remove inefficiencies created by the existing current heterogeneous taxation system only if there is a clear consensus over issues of threshold limit, revenue rate, and inclusion of petroleum products, electricity, liquor and real estate. Until the consensus is reached, the government should resist from implementing such regime.

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