



An Analysis of Goods and Services Network (GSTN)- The Technological Backbone of GST

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ABSTRACT

It has been half a decade since the implementation of the Goods and Services Tax (GST) on July 1, 2017, which was hailed as India's revolutionary indirect taxation reform. GST revamped the entire Indian indirect tax scenario. Goods and Services Tax is a comprehensive tax on goods and services. Through GST the entire indirect tax system of India was restructured by subsuming many Central and State taxes, by avoiding the cascading effects and ensuring the free flow of Input Tax Credit. While remodelling the Indirect Taxation Regime through the radical reform, prime importance was given to transform the Indian indirect taxation system into a completely technological-based one. A fully equipped technological-based tax system with fewer human interventions was a projected aim of GST. The administration of the entire proceedings was entrusted to the Goods and Services Tax Network (GSTN), a private non-profit company that administered it through a common portal. Through the common portal, GSTN provides front-end services to the tax payers and back-end services to the department and also provides electronic integration of the entire indirect tax scenario. GSTN provides the technological platform for registration, returns, payment, refunds, assessment, e-way bills, e-invoices and all other connected matters of GST. GSTN has faced the challenges of stringent time limits and criticism. From the initial month of implementation, the common portal faced many glitches. This paper analyses the functioning of GSTN through these five years and its role in transforming the indirect taxation regime of India into a technologically prudent one.

I. INTRODUCTION

In the pre-GST era, India's indirect taxation regime was struggling with many crucial problems such as cascading effects, rate war between States, absence of uniformity in procedures, high and varied tax rates, lack of availability of Input Tax Credit (ITC), and complexities in administration. The lack of an integrated market system prevented India from advancing in international trade and economic growth. Almost all the tax reform committees like the Jha Committee in 1976, Raja Chellai Committee in 1991, Expert Group on Taxation of Services, 2001, Dr Vijay Kelkar Committee in 2003 etc recommended a unified taxation system.

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Apart from the intricacies of the Indian indirect taxation regime and the recommendations of the committees, India was also under an obligation to follow the regulations of the Organisation for Economic Co-operation and Development (OECD). Even though India is not a member of OECD, India works in cooperation with OECD in all economic developmental matters. Accordingly, India was under obligation to transform from the origin-based tax system to destination-based taxation, to implement zero-rated exports etc.

The idea of Goods and Services Tax (GST) which was mooted in India by then Prime Minister Shri Atal Bihari Vajpayee in 2000² materialised in 2017 after seventeen long years of efforts to overcome socio-economic challenges and also enact a constitutional amendment. Article 246A of the Constitution of India which was inserted by the Constitutional Amendment Act, 2016 provided provisions for levying tax by the Centre and the State on the common tax base. Thus India's unique dual structure of Goods and Services Tax was drafted. GST is a comprehensive destination based, broad based tax levied on the goods and services levied at each stage of transaction and allows Input Tax Credit in the subsequent stage of transaction.

One of the main objectives of GST was to transform the indirect tax system of India into a digitalised one, which is inevitable in this technological era. An efficient information technology structure was essential to administer the indirect tax regime through a common portal which equally deals with the Centre and State GST. The administration of a unified taxation regime required a prudent technological platform.

For these purposes, the Goods and Services Network, a non-government, non-profit, private limited company was incorporated on 28th March 2013. The main responsibility of the GSTN was to provide an information technology platform for the smooth execution of GST.

GSTN is expected to manage the entire GST common portal, a reservoir of database which maintains entire GST transactions from the registration, return filing, invoices, ITC claims, refunds and everything related to it.³

The vision of the GSTN highlighted regarding the portal is it will become a trusted National Information Utility (NIU) thereby ensuring transparency and will work as a backbone for the implementation and functioning of GST to ensure One market with minimum expenses.⁴ But their journey in the last five years does not seem to fully substantiate this. This paper attempts to analyse the functioning of the GST Network in the last five years. Certain data were collected on the basis of replies to applications under the Right to Information Act, 2005 issued by GSTN from 2017 to 2021⁵. This paper analyses the transparency quotient of the GSTN on the basis of these RTI replies.

II. HISTORY OF THE FORMATION OF GSTN.

For the successful implementation of Goods and Services Tax an information technology (IT) infrastructure which can provide a shared platform for the Central and State governments, tax payers and other stakeholders was

² Evolution of GST in India, GOODS AND SERVICES TAX, <https://www.gst.gov.in/about/gst/history> (last visited Sept.18, 2021).

³ What is GSTN (Goods and Service Tax Network)? CLEAR TAX, (Jan 04, 2021), <https://cleartax.in/s/what-is-gstn>.

⁴ *Vision Mission and Values*, GSTN, (June 19, 2022) <https://www.gstn.org.in/vision-mission-and-values>

⁵ The RTI Replies collected by Mr. Jacob Santhosh, GST Practitioner, a public-spirited person from GSTN from 2017 to 2021 is analyzed by the authors.

essential.⁶ The matter was taken up for discussion in the 4th meeting of the Empowered Committee of State Finance Ministers conducted on July 21, 2010.⁷ An 'Empowered Group on IT Infrastructure for GST' (EG) was created under the chairmanship of Dr. Nandan Nilekani to materialise this. The other members were the Additional Secretary of revenue, member of the Central Board of Excise and Customs (CBEC), Financial Advisor of the Ministry of Finance, Member Secretary Empowered Committee (EC) and five state commissioners of Trade Taxes (Assam, Gujarat, Maharashtra, Karnataka, and West Bengal).⁸

The EG recommended for creation of a Special Purpose Vehicle (SPV) for executing the GST System. To ensure effectual and reliable services, the EG recommended a non-government structure for the GSTN SPV. The EG recommended a strategic control of the Government over GSTN.⁹

An arrangement was evolved in which the Central and State governments 24.5% hold equity shares each and the balance 51% are held by the non-governmental institution, the GSTN. Apart from the 49% total share of the Central and State governments, 51% is with GSTN through private banks.¹⁰ The shareholdings of GSTN are in the proportion HDFC -10%, HDFC Bank- 10%, ICICI Bank-10%, NSE Strategic Investment Co-10% and LIC Housing Finance Ltd-11%.¹¹

Recommendations of EG were presented before the Empowered Committee of State Finance Ministers in its 3rd and 4th meetings held on August 19, and October 14 of 2011 respectively. The proposal of EG regarding the creation of GSTN a non-government company, with strategic control of the government, was approved by the Empowered Committee of State Finance Ministers (EC) in the 4th meeting. Union Cabinet approved the creation of GSTN on April 12th 2012.

The chairman of the company is appointed by the Government of India. The Chief Executive Officer (CEO) is entrusted with the overall responsibility of the working of the company and is assisted by three Executive Vice-Presidents and other employees from various fields.¹² A non-recurring grant of Rs 315 crores was approved for GSTN for developing the IT platform.

Thus, a robust technological backbone which was vital for the proper implementation of GST was ensured by the Government of India by creating a company, the GSTN¹³ in 2012-2013.¹⁴ GSTN was the first of its kind in the

⁶ What is GSTN? The Economic Times, (May 10, 2017)

https://economictimes.indiatimes.com/what-is-gstn/articleshow/58590470.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *What is GSTN (Goods and Service Tax Network)?* CLEAR TAX, (Jan.4,2021), <https://cleartax.in/s/what-is-gstn>. Shareholdings - Central Government-24.5%, State Governments & EC- 24.5%.

¹¹ *Id.*

¹² *Reply to Right to Information Act*, GSTN, (June 19, 2022) <https://www.gstn.org.in/rti>.

¹³ GSTN is a company incorporated under Section 25 of the Companies Act, 1956, GST INDIA (Dec. 23, 2016), <https://www.gstindia.com/infosys-wins-rs1320-crore-contract-to-build-gst-technology-network/>.

¹⁴ under Section 25 of the Companies Act, 1956 (Section 8 under the Companies Act, 2013).

The Board of Directors of GSTN comprises of 14 Directors with 3 Directors from the Centre, 3 from the States, a chairman appointed through a joint approval mechanism of Centre and States, 3 Directors from private equity stakeholders, 3 independent Directors who are persons of eminence and a CEO selected through an open selection process.

world. It developed an efficient platform where the Central and State Governments, shared IT infrastructure¹⁵ for the smooth harmonisation of India's highly complicated indirect taxation regime. Three teams' 'Technology', 'Support', and 'Services' of GSTN ensure smooth execution of GST throughout India. It provides services to Central and State governments, taxpayers and other stakeholders.¹⁶

III. FUNCTIONING OF GST NETWORK (GSTN)

It is a complex Information Technology-based platform shared by the Centre and the States, in which the GST transactions are administered. GST Portal developed by GSTN is the gateway to enter the Virtual space of GST. It integrates many stakeholders of indirect Centre and State taxes. The accounting authorities of the Centre and State are also integrated with the GST system for reconciliation, accounting, fund settlement etc.¹⁷

The main responsibility of the GSTN is to provide smooth transactions in the GST portal applications making it easier and more convenient for the users. In September 2015 GSTN selected INFOSYS Ltd. as the Manage Service Provider (MSP) out of the five companies who had applied for the tender¹⁸ and declared INFOSYS as the 'Successful Bidder' to execute the GST project for GSTN. The total contract value was INR 1379,70,96,763/- (INR One Thousand Three Hundred Seventy-Nine Crores, Seventy Lacs, Ninety-Six Thousand Seven Hundred Sixty-Three Only). The vital responsibility of the Manage Service Provider (MSP) was to design, develop, deploy, commission, operate and maintain the GST system.¹⁹ For this, INFOSYS was required to pay the guarantee of an amount equal to 5% of the total contract, and likewise, they submitted Rs.68,98,54,838/- (Rupees Sixty-Eight Crores Ninety-Eight Lakhs Fifty-Four Thousand Eight Hundred Thirty-Eight).²⁰

INFOSYS maintains the IT structure with the help of 27 Empanelled Software Development Agencies (SDAs) which were selected by their expert panel from the 38 agencies²¹ that applied through public tender. Eight Empanelled Companies & Products are entrusted with the Accounting and Billing which is made available free of cost to all tax payers whose annual turnover is less than Rs.1.5 crore.²²

GSTN thereby integrates the various stakeholders of GST –the Central Government, State governments, taxpayers and the accounting mechanisms like departments, Central Board of Indirect Taxes and Customs (CBIC), Reserve Bank of India, other banks.

The common portal which is the virtual platform developed by the GSTN is designed to be highly user- friendly. It is accessible on desktops, laptops and even through smartphones. On November 8, 2016, the GST Portal became

¹⁵Ankit Kukreja, *Goods and Services Tax Network (GSTN)* MYGOV, (July 1, 2017), <https://blog.mygov.in/editorial/goods-and-services-network-gstn/>.

¹⁶ *Id.*

¹⁷ *Our Story*, GSTN, (June 19, 2022), <https://www.gstn.org.in/about-us>.

¹⁸ Reply for RTI application with register no. DGSTX/R?2017/50210 dated Sept. 7, 2017, File no. CPIO/RTI/2017/56/GSTN dated sept.18, 2017, the other companies who applied for tender were Wipro Ltd, Tata Consultancy Services Ltd, Tech Mahindra Ltd., and Microsoft Corp. India Pvt. Ltd.

¹⁹ Letter of award for RFP No. GST/09/2015- GSTN: selection of Managed Service Provider (MSP) for goods and services tax project', dated Sept. 23, 2015.

²⁰ Vidya V Devan (2022), *Goods and Services Tax in India – A Pragmatic Approach in the Light of Relevant Constitutional Provisions*, unpublished Ph.D. Thesis, Mahatma Gandhi University Kottayam.

²¹ *Software Development Agencies (SDAs)*, GSTN, <https://www.gstn.org.in/empanelled-sdas> (last visited March 17, 2021).

²² *Accounting and Billing Software*, GSTN, <https://www.gstn.org.in/empaneled-companies> (last visited March 17, 2021).

operational and the migration of then-existing taxpayers under Central Excise, Service Tax and State-VAT was commenced.²³ It was on June 25, 2017, that the much-awaited technological platform was opened for new registration under GST.²⁴ Later it provided facilities for registration, payments, return filing, refunds, advance ruling and other relevant services.

A. GST REGISTRATION

Obtaining a legal recognition for the business is an essential process in all the fiscal statutes. Identification of the assesses and compliance of tax laws is the main objective of registration. In the GST regime in India, the entire registration process is administered by the GSTN portal. This is explained in detail below:

i. Goods and Service Tax Identification Number

On application for registration, after the verification process, a unique business identification number called GSTIN will be issued to the taxpayer.²⁵ It is a 15-digit number which has to be used for all further GST transactions. The first two digits denote the unique State code, followed by 10 alphabets of the PAN card number of the taxpayer. The 13th digit is the registration number allotted to the taxpayer, the 14th is a default number and the 15th is a number or alphabet.²⁶ GSTIN replaces the old Tax Identification Number (TIN) issued by respective States under Value-added Tax (VAT) registration.²⁷ A GSTIN number is issued to the taxpayer when it is applied with required details,²⁸ which authenticates taxpayer's collection of tax from the buyers and makes the availability of ITC easy and convenient. GSTIN reduces the chances for manipulation and ensures transparency.

B. RETURN FILING AND PAYMENT

A new digitalised system was evolved for the filing of returns and making the payments, claiming the refunds etc. Specific return patterns have been issued by GSTN which amounts to 11 returns. The common portal clearly shows the input supplies and output supplies. On the basis of the inward supplies and the other automated data, the tax payment has to be made on the 20th of every month. The automated data will reduce the mistakes and provide easier compliance.

Since the GSTN through common portal provides for uniform common returns for Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), Union Territory Goods and Services Tax and Integrated Goods and Services Tax (IGST) it dispenses with the need for multiple returns.²⁹

²³ *Goods And Services Tax Network March 2019*, GST COUNCIL, (June, 20, 2022), <https://gstcouncil.gov.in/sites/default/files/GSTN-INFORMATIN-BOOKLET.pdf>.

²⁴ *Id.*

²⁵ Abhishek Soni, *GSTN: The Goods and Service Tax Network in India*, TAX2WIN, (June 25, 2022), <https://tax2win.in/guide/what-is-gstn>.

²⁶ *Id.*

²⁷ *What is GSTN?*, BMARKETS, (June 25, 2022), <https://www.bajajfinservmarkets.in/gst/gstn.html>.

²⁸ PAN number, place of business, name of business, nature of business etc.

²⁹ GSTN, GROWW, (June 25, 2022), <https://groww.in/p/tax/gstn>.

C. E- WAY BILL

An e-way bill is an electronic document generated on the E-Way Bill portal for the movement of goods.³⁰ This is valid throughout India, which eliminated the check posts in the borders of the States. As every data is available it enables tracking the suspected transactions and to reduce tax evasion.

D. E-INVOICE

GST e-invoice System is a path-breaking initiative which had revolutionized the businesses interact with each other.³¹ It proved yet another milestone in India's journey by augmenting the ease of doing business. E-invoice has many advantages for businesses such as standardisation, auto-population inter-operability, of invoice. GSTN provides facilities to tally the purchase invoices and sale invoices which enables to rectify the errors easily to claim the Input tax credit.

E. IGST SETTLEMENT

Integrated GST (IGST) is levied at the time of import of goods and services and during the inter-State supply. Accumulated IGST credit can be settled against central and state tax dues. This complex settlement is done by the GSTN.³²

F. AWARENESS PROGRAMMES

GSTN is continuously conducting seminars, webinars and training programmes for instilling the knowledge in the stakeholders regarding the new technological administration of the indirect taxation regime. Special training sessions are provided to departmental officials for the efficient administration of the GST system.

VI. ADVANTAGES OF GSTN

The mainstay in the implementation of the GST Laws is the Goods and Services Tax Network. It is a reservoir of data. The GSTN provides the total number of tax payers registered under GST (the number of registered tax payers is 1.37 crores as of June 19, 2022)³³, the total number of returns filed, the e-way bill generated and the total invoice uploaded which are promptly updated. This helps the Government to analyse the revenue from the indirect taxes. In the erstwhile taxation regime, data was spread over thirty-seven databases,³⁴ causing hardship in analysing the overall revenue collection.

³⁰ E- way bill system, GSTN, (June 20,2022), <https://gstn.org.in/e-way-bill>

³¹ E- invoice, GSTN, (June 20,2022), <https://gstn.org.in/e-invoicing>.

³² *Businesses can use IGST credit to settle Centre, State tax dues*: CBIC (Apr. 26, 2019), BUSINESS STANDARD, https://www.business-standard.com/article/pti-stories/businesses-can-use-igst-credit-to-settle-centre-state-tax-dues-cbic-119042600498_1.html.

³³ *Technology Backbone for GST In India*, GSTN (June 19, 2022). <https://www.gstn.org.in/about-us>, The no. of registered persons, the e-way bill generated, the tax invoices etc are updated every day by the GSTN.

³⁴ Prakash Kumar, *Goods and Services Tax Network at the Account Aggregator launch*, (Aug.12,2019) <https://www.youtube.com/watch?v=WiINwpszc7g>.

The technological-based administration helps to save time and money. It made the entire process of compliance of tax laws convenient and easier. Right from the registration to the generation of e-invoice, e-way bill, and the return filing everything can be done accurately and quickly. This precise information of data enables the recipient to claim the ITC credit without delay. Most information about the assessee is auto-generated with no time lag. Since the entire details come to the GST Common Portal, tracking of the transactions of the traders is easier. Attempts of tax evasion can also be easily detected. The auditing process is made easier as information regarding the outward supply and inward supply can be entered by the traders themselves in various returns.³⁵ For the small dealers who had opted for the composition scheme, even the return can be filed by WhatsApp, making it very user-friendly.

One of the objectives of the introduction of GST was to ensure zero-rated exports. In the post-GST era exporters who make exports after payment are able to get the refunds within five to seven days even without filing the returns.³⁶ This is possible because the details entered in the GSTR1³⁷ becomes automatically visible in the GSTR3B.³⁸

Earlier the taxpayers under-reported their liability in GSTR1 and the ITC was over-reported.³⁹ GSTN took several measures to rectify it, the last being the modification of GSTR3B. As of now the liability shown in GSTR3B is generated according to the details in GSTR1 and it will be issued in the portable document format (pdf), which enables the taxpayers to cross-check. The plan is to very shortly ensure that the GSTR3B will be revamped into an auto-populated form.

Another novel feature introduced by the GSTN is the facility to communicate between the supplier and the recipient through the GST common portal.⁴⁰ By this, notifications and replies can be sent through the common portal from the supplier to the recipient and vice-versa.⁴¹ This is a boon, especially to the recipients who can claim ITC only after the payment is made by the supplier to the Government. In case of non-payment, the recipient can remind the supplier through notifications. This system can be used for other essential communications also.

V. CHALLENGES FACED BY GSTN

The common GST Portal was hit by various technical glitches from the initial year of implementation itself, some of which still remain unanswered. Many States raised their complaints and the matter was discussed at the 21st GST Council⁴² meeting held on September 9, 2017.⁴³ A body was constituted to monitor the technological administration and to resolve the hiccups in the IT implementation, which is a five-member Group of Ministers⁴⁴

³⁵ *Supra* note 6.

³⁶ *Id.*

³⁷ Goods and Services Tax Return 1.

³⁸ Goods and Services Tax Return 3B.

³⁹ *Id.*

⁴⁰ *Communication between Taxpayers on GST Portal*, CLEAR TAX, (Feb. 10, 2021), <https://cleartax.in/s/communication-taxpayers-gst-portal#:~:text=A%20taxpayer%20can%20read%20and,notification%20sent%20to%20the%20counterparty>

⁴¹ *Id.*

⁴² GST Council is created as per Article 279A, for the proper implementation and for all further functioning of GST system.

⁴³ Anni Gupta, *GSTN Analysis*, Dec 11, 2017, <https://www.slideshare.net/Annigupta/gstn-analysis>.

⁴⁴ The other members are Thomas Isaac, Kerala Finance Minister Amar Agarwal, Minister for Commercial Taxes, Chhattisgarh; Krishna Byregowda, Minister for Agriculture, Karnataka; and Etela Rajendar, Finance Minister, Telangana. *GoM headed by Sushil Modi to look into GSTN portal hiccups*, BUSINESS STANDARD, (Sept. 13, 2017), https://www.business-standard.com/article/pti-stories/gom-headed-by-sushil-modi-to-look-into-gstn-portal-hiccups-117091201451_1.htm.

(GoM) headed by Sushil Modi deputy chief minister of Bihar.⁴⁵ Twenty-seven issues were identified by the Committee in the GSTN portal and required Infosys to resolve at the earliest.⁴⁶ GoM also pointed out the difficulties faced by the businesses due to the glitches in the IT structure of GST in various States and demanded that Infosys allocate their senior engineers in the major States by October 30, 2017.⁴⁷

In the 23rd GST Council meeting held on November 10, 2017, a 'Committee on Return Filing' was created, headed by Mr Ajay Bhusan Pandey, to bring about changes to remove glitches in the basic structure of the GST Network in order to make it user- friendly.⁴⁸ Along with the main assignment of removing the issues of GSTR-2 and GSTR-3, the Committee was to suggest changes to minimize all forms of technical anomalies.⁴⁹

In the 39th GST Council held on March 14, 2020, INFOSYS Chairman, Mr Nandan Nilekani was called on to answer about the status of the IT infrastructure of GSTN. The officials acknowledged that the IT platform has not stabilised till now and sought time up to January 2021 to resolve and adapt to a productive platform, but the time was allotted only up to July 2020.⁵⁰

On a Right to Information (RTI) application enquiring about the actions taken by GSTN, the GSTN informed that they had imposed a penalty of total of Rs.16.25 Crore till January 2020 on the service provider company for non-performance.⁵¹

With the abrupt implementation of the GST on July 1st 2017, it was evident that the GSTN portal was not equipped for full-fledged functioning. A trial run that many of the experts had demanded was not conducted to check its functionality and efficiency. The proposed feature of the e-way bill could be implemented only by April 2018 and the e-invoice system by October 1, 2020.

In spite of providing many chances to fix hiccups in the GST portal, it still continues more or less with the same glitches. The persistent issues which tax payers face are the slow-working of the GSTN portal, login error or auto logout while functioning, one-time password (OTP) which may not be delivered or even delayed, network error and gateway timeout, difficulties in filing the returns and other proceedings within the due date and so on.⁵² This may delay each and every transaction of businessmen stakeholders. Consequences are attracting fines and penalties, and the ITC which they honestly deserve will be stuck. Realising these flaws, the department has had to extend the due dates several times, which may in turn affect the claiming of ITC. Above all the inadequate knowledge on the part of the officials also continues to cause problems.

⁴⁵ *Supra* note 24.

⁴⁶ *GST technical glitches: Questions raised over Infosys leadership vacuum*, INDIAN EXPRESS, (Nov. 2, 2017), <https://indianexpress.com/article/business/economy/gst-technical-glitches-questions-raised-over-infosys-leadership-vacuum-4918219/>.

⁴⁷ *Id.*

⁴⁸ *Gist of various recommendations made at 23rd GST Council Meeting held on November 10, 2017*, TAX GURU, (Nov. 12, 2017), <https://taxguru.in/goods-and-service-tax/gist-recommendations-23rd-gst-council-meeting-held-november-10-2017.html>.

⁴⁹ *Id.*

⁵⁰ Umesh Sharma, *57 Technical Glitches and Issues of GSTN*, TAX GURU, (Mar. 31, 2020), <https://taxguru.in/goods-and-service-tax/technical-glitches-issues-gstn.html>.

⁵¹ RTI application no. DGSTX/2019/50395 dated Dec. 20, 2019, reply dated Jan. 7, 2020, File no. CPIO/RTI/2019/234/GSTN.

⁵² *GST glitches: Top Infosys executives get summons from finance ministry*, TIMES OF INDIA, (Jan 31, 2020), https://m.timesofindia.com/business/india-business/gst-glitches-top-infosys-executives-get-summons-from-finance-ministry/amp_articleshow/73787360.cms.

A. LATE FEE WHICH BECAME A CURSE DUE TO THE PORTAL GLITCHES

Late fee is introduced with an intent to discourage delayed filing of GST returns, and a registered person who defaults furnishing of returns by the due date is liable to pay Rs.50⁵³ for each day of continued default subject to the maximum of Rs.5,000 for a month, according to Section 47 of the CGST Act, 2017.⁵⁴

Under the special circumstances of GST, the delay in the return filing and uploading of other forms and details, is mainly due to the technological, more correctly the inadequate common portal. But even the genuine taxpayers are fined for the delay. From the implementation of GST i.e., from July 1, 2017, to February 4, 2019, the Government has collected Rs.4,172 crores by way of a late fee for delayed filing of various returns under GST.⁵⁵ Here the genuine taxpayer is to bear for the fault of the company which has the responsibility to administer the technological basis.

VI. GSTN AND DATA PRIVACY

The government as well as the GSTN ensures the information security and confidentiality of the details of the taxpayers. In India even though a Data Protection Bill 2021 was drafted it has not proceeded further. Since India lacks a comprehensive privacy law, concerns were raised about the security of databases being entrusted to a non-governmental organisation. The stakeholders were worried about entrusting their high potential business details with a non-governmental organisation. It was also opined that since GSTN handles vital State functions like management of taxpayer's database, tax collection etc,⁵⁶ it is advisable that the GST Network be owned by the Government.⁵⁷ As the taxation is a sovereign function of the State and Article 265 of the Indian Constitution clearly says that "no tax shall be levied or collected except by the authority of law,"⁵⁸ entrusting a private organization to manage the collection of taxes is only the colourable exercise of the power. The legislative intent is very clear in that the entire taxing powers are to be administered by the Government itself.

This being the situation it was decided in the 27th GST Council to amend the equity structure of GSTN to a 100% Government-owned company (50% share of the Union Government and 50% share of the States).⁵⁹ In a meeting held on September 26, 2018, the Union Cabinet decided to alter GSTN into a fully-owned Government company with 50% equity shares owned by the Central Government and the remaining 50% owned by the States and Union Territories together.⁶⁰ The transition policies and even the constitution of the board of member when it becomes a government company were discussed in the 27th GST Council meeting but has not yet materialised.

⁵³ Rs. 25 as per CGST and Rs. 25 as per SGST.

⁵⁴ GST returns: Govt collects Rs 4,172 crore as late fee since launch of the tax regime, BUSINESS TODAY, (Feb. 12, 2019, Updated Mar.17, 2021), <https://www.businesstoday.in/current/economy-politics/gst-returns-govt-collects-rs-4172-crore-late-fee-since-launch-tax-regime/story/318556.html>.

⁵⁵ *Id.*

⁵⁶ *Minutes of 27th GST Council Meeting held on 04th May, 2018*, GST COUNCIL, (Mar. 19, 2021) <http://www.gstcouncil.gov.in/sites/default/files/Minutes/Signed%20Minutes%20-%2027th%20GST%20Council%20Meeting.pdf>.

⁵⁷ *Id.*

⁵⁸ INDIA CONST. art. 265.

⁵⁹ *Supra* note.53

⁶⁰ *Shareholding of GSTN*, Press Information Bureau Government of India, Ministry of Finance, (Nov.25, 2019), PIB Delhi, <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1593422>.

As response to the RTI regarding the materialisation of the decision of converting to a 100% Government company taken in 2018, the GSTN has informed they are in the advanced State of processing. Necessary amendments in the company's Memorandum of Association and Articles of Association have been made and approved by the GST Council⁶¹ and the Ministry of Corporate Affairs on March 22, 2019.⁶² Now it has been four years from the decision to convert the 100% share to the Government. Even though GSTN informs that the acquisition of shares by the Centre and the States from the non-Governmental institutions is at an advanced stage it seems quite irresponsible in the prolonged delay caused while dealing with the hard-earned revenue of the common man. This would also result in blocking the capital of the taxpayers which needs to be utilized for their business. And also, the maladministration of the common portal and blocking of ITC affects the business, especially that of Micro, Small & Medium Enterprises (MSME). It is expected that the Government and the GST Council will take due diligence in maintaining the efficiency of GSTN before the MSME are compelled to leave the ground.

VII. INTERNATIONAL INSIGHTS OF DIGITAL PLATFORM.

Organisation for Economic Co-operation and Development (OECD) insisted that member and cooperating countries to follow similar taxation policies. Only rationalised and similar taxation policy can foster international trade. OECD insisted that digital platforms can play a crucial role in the implementation of Value Added Taxes/Goods and Services Taxes (VAT/GST) policies.⁶³ The digitalised platform enables businesses and individuals to connect with consumers and afford services to them on a larger scale than ever before.⁶⁴ When transforming into VAT/GST⁶⁵ the developed countries were already following the digitalised platform. The countries that had to develop the technological platform provided sufficient time for the formation and implementation. The trial run was conducted and awareness sessions were provided to all stakeholders before the implementation. Those countries like Malaysia which failed to establish robust technological platforms failed to find the success of GST law. An arrangement like GSTN which is non – a profit, a non-government private limited company is unique in India

VIII. TRANSPARENCY OF THE GSTN

At the introduction of GST in 2017, it was promised that the entire transactions will be administered by GSTN and ensured a high level of transparency. But the technological platform suffered glitches from the very inception itself. GSTN could not gain the confidence of the stakeholders also. The stakeholders continue to suffer due to the inefficient management of the common portal by GSTN. A study of a series of replies to applications under the Right to Information Act 2005 issued by GSTN has been conducted under this section.

⁶¹ RTI Application no. CBECE/R/T/20/01547 dated Nov. 28, 2020, Reply dated Jan. 19, 2021 File. No. CPIO/RTI/2020/248/GSTN.

⁶² *Supra* note 57.

⁶³ *Digital platforms have an important role to play in value added tax policy in the sharing and gig economy*, OECD, (June 26, 2022), <https://www.oecd.org/tax/consumption/digital-platforms-have-an-important-role-to-play-in-value-added-tax-policy-in-the-sharing-and-gig-economy.htm>.

⁶⁴ *Id.*

⁶⁵ Terms VAT and GST are interchangeably adopted by many countries for their indirect taxation system based on the concept of value addition at each stage of transaction which allows the input tax credit in the subsequent transaction.

A. AN EXAMINATION OF RTI REPLIES ISSUED BY GSTN⁶⁶

GSTN denied providing a reply when certain information was sought under the Right to Information Act, 2005. GSTN was reluctant to disclose the information like copy of tender analysis and awarding of work to Infosys, terms of agreement with Infosys and GSTN.⁶⁷ Information as to the amount collected as CGST, SGST and IGST late fee, interest and penalty were also not furnished.⁶⁸ The proposal issued by GSTN and the copy of the master service agreement was not disclosed.⁶⁹ Details regarding the Committee on Return Filing headed by Mr Ajay Bhushan Pandey constituted to remove the glitches of the basic structure of GST Network were not provided.⁷⁰ The total number of refund applications from 2017 to 2020 was requested but was not provided.⁷¹ GSTN did not provide the details regarding 27 empanelled software development agencies.⁷²

The GSTN is taking the shelter of Section 8(1)(d) of the Right To Information Act, 2005⁷³ to deny the details. There is no justification in hiding these details from the common man who bears the burden of tax and the assessee who collects and pays the taxes to the Government, all the while struggling with the hurdles of the tax payment system. The Government, the GST Council and the GSTN are accountable to the people who suffer the regressive indirect taxes.

An analysis of the RTI replies clearly reveals the lack of transparency of the GST Network. It is high time the GST Council took an appropriate decision in this regard, otherwise, the failure of well-drafted indirect tax reform may be triggered.

IX. VOICE OF THE STAKEHOLDERS

Over five years of implementation, the persisting GST is a much-modified scenario which is now well appreciated by all the stakeholders, who recognise that GST is a milestone reform - structural as well as procedural wise. Analysis of this massive taxation policy reform will not be conclusive without the backing of some empirical evidence. Hence real-life experiences were procured by the authors from different categories of stakeholders, out

⁶⁶ *Supra* note 5.

⁶⁷ The copy of tender analysis and awarding of work to Infosys and copy of agreement between Infosys and GSTN. File No. CPIO/RTI/2017/56/GSTN Dated 18th September, 2017.- Gave the reply that above said documents are exempted from disclosure, under Section 8(1)(d) of the RTI Act, 2005 since it contains information relating to commercial confidence which can be misused to affect the competitive position of the third party.

⁶⁸ Amount collected as CGST, SGST and IGST late fee, interest and penalty for the month of July and August. File No. CPIO/RTI/2017/83/GSTN Dated 23rd October, 2017. The information is not held by GSTN, hence transferred under Section 6(3) of the RTI Act, 2005 to CPIO, GST Policy Wing, CBEC, Department of Revenue, Ministry of Finance, North Block, New Delhi.

⁶⁹ The copy of request for proposal issued by GSTN, the copy of master service agreement. File No. CPIO/RTI/2017/83A/GSTN Dated 24th October, 2017. – 8(1)(d).

⁷⁰ Details regarding the Committee on Return Filing headed by Mr. Ajay Bhushan Pandey to remove the glitches of the basic structure of GST Network were not provided. File No. CPIO/RTI/2017/83C/GSTN Dated 26th December 2017. – Details not held by GSTN. Sec.6(3).

⁷¹ Details regarding the number of applications for GST refund received from 1st July 2017 to till date and the details regarding amount collected by way of late fee, File No. CPIO/RTI/2019/239/GSTN Dated 6th January 2020 - information is not held by GSTN.

⁷² GSTN did not provide the details regarding 27 empaneled software development agencies, like date of contract, contract rates for each service, contract payment terms, and penalty clause of contract. The amount paid to each software development agencies also was not provided. File no. CPIO/RTI/2020/247/GSTN Dated 19th January 2021– 8(1)(d).

⁷³ Section 8(1)(d) of the RTI Act, 2005- “Exemption from disclosure of information - (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, — (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.”

of whom GST departmental officials wished to keep their identities confidential.⁷⁴ The departmental officers of both Centre and State expressed the view that the new regime is very much modernised, structural wise and procedural wise. Apart from the frequent notifications, they are very much satisfied with the new regime.

A questionnaire was drafted and circulated among the stakeholders to get their opinions. The stakeholders identified included manufacturers, traders, service providers, people who are dealing with trade and services, GST practitioners and the advocates practising in the field of indirect taxations were obtained. Special attention was taken to foresee that the above-said stakeholders have practised in their concerned field for more than eight years in order to ensure that they can give their view comparing the old indirect tax regime and the new GST regime. The survey secured the views of 82 persons from six states in India - Kerala, Tamil Nadu, Karnataka, Maharashtra, Madhya Pradesh and Delhi.⁷⁵

The survey results overtly reflect the success of the GST regime, where 81.7% of people who participated in the survey opined that the GST regime is a beneficial taxation system compared to the old taxation regime. Only 18.3% were in favour of the old taxation regime.

Regarding the digitalised registration process under GST, 50% of the respondents were happy while 41.5% were satisfied with the system. Only 8.5% expressed their dissatisfaction.

The public view reflects the difficulties faced by the stakeholders due to the complicated return filing mechanism 34.1% say it is good and 40.2% are of the opinion that it is satisfactory. 25.6% express the view that they are not satisfied with the return filing procedure under GST.

The response to the introduction of the e-way bill system which led to the abolition of check posts which paved way for the creation of common market is yet another evidence of the success of the new regime. 90.2% were happy with the abolition of check posts, which smoothened their business. Only 9.8% expressed their views against the introduction of e-way bill.

The response to the opinion regarding seamless flow of ITC which is the golden thread of the GST also favours the reform movement. 73.2% has opined that the availability of input tax credit has been made much easier. 26.8% expressed their dissent.

Assumptions regarding the technological backbone of GST, the GST Network is that only 25.6% mentions the system as good. While 42.7% assess that system is satisfactory 31.7% are dissatisfied with the system. From the initial period of implementation, the technological platform faces many glitches.⁷⁶ The RTI replies obtained from GSTN reveal the lack of transparency. The positive outcome that can be seen is that the GSTN has improved tremendously a long cry from what it was in 2017. Constant work for fine-tuning the system is also being carried out. From this we can hope it will achieve its robustness within no time.

⁷⁴ *Supra* note 20.

⁷⁵ *Supra* note 20.

⁷⁶ *Supra* note 20.

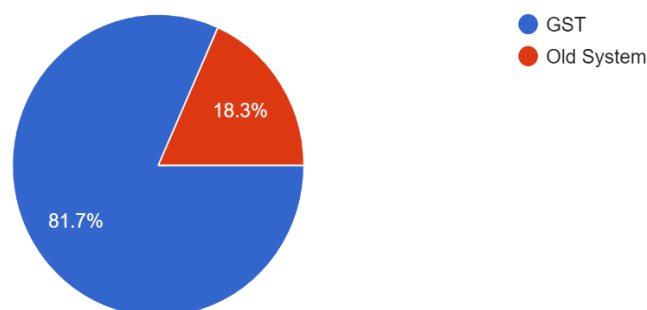
The following table shows the survey results:

SL No.	Criteria for Assessment	Good (%)	Satisfactory (%)	Not Satisfactory (%)
1.	Registration procedures under the GST system is	50	41.5	8.5
2.	The return filing system under GST is	34.1	40.2	25.6
3.	Abolition of check post and introduction of e-way bill is advantageous.	90.2	9.8	-
4.	GST system has made the availability of input tax credit much easier.	73.2	26.8	-
5.	Opinion about the technology platform provided by the GSTN	25.6	42.7	31.7

The survey response reflects that GST has definitely revolutionised the indirect taxation of the country. Further rationalisation and simplification are needed in the case of rate structure, return filing and the technological platform has to elevate to expected heights to completely achieve the objectives.

In your opinion which taxation system is more beneficial and convenient.

82 responses



X. CONCLUSION

Even though struggling with glitches, the GSTN has completely digitalised India's Indirect taxation. The efforts taken by GSTN throughout these initial years are appreciable. Even though there were some difficulties, GSTN has managed to run the system within the short span of time allotted for them. They are trying hard to put the matters

on track. Initially, only 1.5 lakhs of returns can be filed concurrently at a time. The capacity has increased to three lakhs by June 2020.⁷⁷

The GST Council as well as the Centre and State Government should be keen to form a constructive and productive IT basis for the much-awaited and ambitious indirect tax reforms which were materialised by the efforts of numerous persons for the 17 years preceding its rollout.

GSTN which works as the intermediate between the taxpayers and the Government ought to be capable to maintain the technological platform effectively and ensure transparency to instil confidence in the mind of the common man who ultimately bears all the burden.



⁷⁷ Prakash Kumar, CEO GSTN, *GST, Is It Really Good and Simple*, BUSINESS LINE, KNOWLEDGE SERIES, Webinar on Friday, Sept 25, 2020, <https://www.youtube.com/watch?v=mFeAsXPygWI>.