

# A CRITICAL ANALYSIS ON GST WITH SPECIAL REFERENCE TO HOTEL INDUSTRY

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**Abstract:** In earlier scenario, we had many taxes i.e. direct tax, indirect taxes etc. which is a burden on pocket of all the citizens of India. Moreover, there was ambiguity on what all taxes are being paid and to whom are they going. Are they going to State or center? To solve this, Modi Government came up with Implementation of Goods and Services tax on 1st July 2017 and said GST is One Nation One Tax. This paper will throw light on is actually GST One nation One tax or not and what are the problems faced by businesses due to GST with special reference to hotel industry. This paper also talks about legal loopholes due to hasty implementation of GST.

**IndexTerms - GST, Place of Supply, Place of Consumption, Input tax credit**

## I. INTRODUCTION

GST is an Indirect tax which has replaced Excise, Custom (Except basic custom duty), VAT etc. It is levied on both Goods and services. Goods & Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition. There are three components involved in GST i.e. Central GST and State GST and Integrated GST. Whenever there is an intra-state sale, SGST and CGST is paid while in case of Interstate sale IGST is paid. GST is paid at each and every stage of production but on value addition only and not on total amount of production at each stage. It is a destination based tax i.e. the state in which consumption is done will get the tax. In case of Intra state sale, place of supply (POS) and place of consumption (POC) is same so the concerned state will get the tax but in case of interstate sale, POS and POC is different. Here, the state in which consumption is done will get the tax and not the state where manufacturing is done. Isn't that unjust that the state which was engaged in production does not get the tax revenue. The government has overlooked this perspective as in this scenario, well off states will get richer while other state's tax revenues will be lower. This seems to be a major problem in GST.

The concept of Input tax credit at every stage GST is paid, but at the same time, you get the credit of GST that you have paid on your purchases. So technically you are paying taxes on your value addition only.

## II. OBJECTIVES

- a) To analyze GST system and its implementation.
- b) To critically analyse the loopholes in implementation of GST Law.
- c) To study negative impact of GST with reference to hotel industry.

## I. RESEARCH METHODOLOGY

An exploratory research technique based on GST Act and past literature from respective journals, annual reports, newspapers and magazines covering wide collection of academic literature on Goods and Service Tax is done. According to the objectives of the study, the research design is of exploratory in nature. Available secondary data was extensively used for the study.

## II. ANALYSIS AND INTERPRETATION

**2.1** It has been analyzed that in spite of several GST model Laws, the final act is not free from limitations. As it is known that Alcohol is out of the purview of GST and VAT is levied on Alcohol. With specific reference to hotel industry and restaurants that serve both food and alcohol, there is a big challenge as they charge GST on the food but they have to charge VAT on alcohol. They have two options with them that either make a separate bill for Alcohol or split the bill into two components and charge GST on food and VAT on alcohol in the same bill. This becomes a challenging task for the hotel industry as well as for consumers to understand the taxability. A hotel is required to register under VAT as well as GST and file both the returns.

**2.2** Another issue that is being faced by hotel industry is that of input Tax credits. IGST can be set off against both CGST and SGST. Similarly SGST and CGST can be set off against IGST. But the problem comes because SGST of one state cannot be set off against SGST of another state i.e. If an employee of a company is going for a business trip in another city, GST being destination based, will go to the state where hotel is situated because here, place of supply and place of consumption is in the same state. In turn the company will get input tax credit of that particular state. If the company has no sale in that particular state then SGST will go waste. He will not be able to utilize them.

**2.3** Hotel industry faced a downfall due to GST as GST rates were decided on the Room tariffs the hotel charges. If room tariff is Rs. 4999 then it comes under 18% tax slab and as soon as it touches Rs. 5000, 28% tax rate is applicable. As Hotels bookings are done through various websites and applications and room rates keep on changes because of demand of that particular hotel and is seasonal in nature, this create a problem for both hotel as well as customer while choosing the hotel. There are some loopholes because of which smooth functioning on hotel industry is not happening.

**2.4** Moreover, GST registration has to be done at each and every place of business of every business which again create a challenge as multiple returns has to be filed every month.

Even after almost two years, business man does not have much clarity on the GST that he is paying and whether he is getting correct input tax credit or not.

**2.5** Implementation of GST to unorganized sector i.e to unregistered suppliers was a problem as unregistered dealers were not charging GST and were selling the goods at MRP to registered businesses but they were not able to get Input tax credit against GST was is included in MRP.

**2.6** Inclusion of GST in MRP is also a big issue that is not being addressed directly in the GST Act. MRP has hidden GST component in it. If good is being purchased from a registered dealer then he bifurcates the GST component in the invoice thereby you can avail ITC against the GST paid. But if you buy Goods on MRP from unregistered dealer, as any bifurcation in the bill is not given, you cannot claim ITC. This has adversely hampered dealing between Unregistered dealers with registered businesses

### III. Challenges in Implementing GST

1. Note ban has huge impact on the Goods and Services Tax (GST) which had a serious doubt on implementation of GST by the central government`s targeted deadline of April 1, 2017..

2. The impact of the November 8 demonetization of high value currency on their respective economies to underline that it is not the appropriate time to implement. That could have a unstable effect on the economy.

3. The Centre was uncompromising on the issue of jurisdiction over assesses, the states maintain Political reasons are determining the fate of GST, which is not the correct thing, because ideally GST is an economic and tax reform, and economic and tax reforms should not be dictated by political.

5. Manufactures, traders and society were not aware about the concept, rules and returns that they were supposed to file.

6. GST will also have impact on cash flow and working capital. Cash flow and working capital of business organizations which maintain high inventory of goods in different states will be adversely affected as they will have to pay GST at full rate on stock transfer from one state to another. Currently CST/VAT is payable on sale and not stock transfers.

7. Implementation of GST in Unorganized sectors i.e, unregistered firm will be unfavorable to government.

### IV. SUGGESTIONS AND CONCLUSION

1. It is worth noting that these loopholes will come under litigation by businesses due to lack of clarity of law hence, more training and elaborative sessions should be held for each industry separately.
2. Hotel industry must take an expert advice who can legally interpret GST law and then take any action so that loss suffered can be minimized.
3. It may be worth reconsidering these rates so that hotels can keep a constant rate on services provided by them irrespective of the room tariff.
4. There is a need to have a mechanism for cross utilization of one state`s GST with another state`s GST.
5. A smooth GST regime can break inter-state barriers on movement and facilitate direct linkages between business and customers.

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