

(An inhouse weekly newsletter for private circulation)

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GST Special Issue



Editorial Board

Editor

Dr. Sanjiv Agarwal, FCA, FCS, ACIS (UK)

Editor

Sunil Dutt Vyas, FCA, CFC (USA)

Technical Team

Divya Sharma



Isub Khan

Vishnu Khandelwal

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	<i>FROM EDITOR'S DESK</i>	
<p>Dear Readers,</p> <p>The talks on introduction of goods and service tax (GST) in India from April 2011 have revived with the last meeting of Empowered Committee held on 21st July 2010. It is expected that GST Bill may be introduced in Parliament session beginning today. Now that India will migrate to dual GST next year (or even after) – one central GST and other state GST, it will fall short of expected objectives.</p> <p>Initially, GST was meant to simplify the structure of indirect taxes in India and move towards a simple, enviable unified indirect tax regime. The present discussions however, are based on dual GST which</p>		

Empowered Committee and centre have agreed to irrespective of its short comings and likely hassles to taxpayer . The new GST structure is only aimed at expanding the tax base, enhancing the tax rate without any rationalization of proposed tax structure.

According to the developments so far, it has been agreed that the exemption threshold for both goods and services under both components of GST ,ie, SGST and CGST shall be kept uniform at Rs 10 lakh. It is also being assured that law will be simplified for small dealers so that compliance is easy.

Though Government feels that a single rate structure with unification of rate for goods and services will be ideal, it may not be feasible in one go and hence dual rates. Since both centre and states will be charging tax, it has been proposed that CGST will be lower rate for goods @ 6% and standard rate at 10%. The services will be charged at 8%. For states, it is proposed to have same rates resulting in total rate for CGST and SGST in the range of 12 to 20 % in first year which may later be brought down to 16 % . Thus, we will have three rates for goods and services both for centre and states separately. This may sound simple but shall lead to more tax outgo for taxpayers. In case of service tax, while present tax rate is 10%, it will go up . by 60% to 16 %, 8% for states and 8% for centre. Similarly, tax on goods will also go up to 20% Moreover, it is still not clear whether all state taxes will be subsumed in GST or only few one.



Information technology shall play a crucial role in successful implementation of the GST for which a group headed by none other than Chairman of Unique Identification Authority has been formed. For seamless introduction, it will have to be ensured that homogeneity in level of computerization is achieved across states.

Policy makers also need to look at curbing the Government expenditure, tax collection cost and compliance costs rather than only looking tax revenue. No assurance of all state taxes getting merged with GST and with two tax regimes having multiple tax rates, assesseees would continue to suffer. Moreover, new tax regime will add up to overall taxes and costs are bound to be up.

It is not going to be simple as implementation itself is expected to take three years. GST, the goods and service tax is infact a good but slow tax.

Date:26.7.2010

- Dr. Sanjiv Agarwal

	GST UPDATER	

Centre agrees to dual rate under Goods and Services Tax

A consensus is emerging on the proposed Goods and Services Tax structure (GST), with the Centre on Wednesday agreeing to adopt a dual rate structure — a lower rate and a standard rate — for goods at the inception of Goods and Services Tax (GST).

There is also now consensus between the Centre and the States on having a common list of exemptions for both Central GST (CGST) and State GST (SGST).

The States had earlier urged the Centre to adopt a dual rate structure for goods with regard to the CGST — a suggestion which has now been accepted by the Union Finance Minister, Mr Pranab Mukherjee.

However, the States' suggestion that the Centre retain the exemption threshold of Rs 1.5 crore (now available under Central excise) for goods has been rejected by the Union Government. The Centre wants the exemption threshold for both goods and services of GST— CGST and SGST — to be uniform at Rs 10 lakh.

At a meeting with the Empowered Committee of State Finance Ministers in the Capital, Mr Mukherjee also announced that in the first year of GST introduction, the Centre proposes to keep CGST lower rate for goods at 6 per cent and standard rate at 10 per cent. Services will be taxed at 8 per cent. Currently, the Centre's median Cenvat rate for goods is pegged at 10 per cent. The existing service tax rate is 8 per cent.

He urged the States to consider keeping the same rates, that is, the lower rate for SGST at 6 per cent, the standard rate at 10 per cent and services at 8 per cent. States sought more time to respond to this suggestion.

For the second year, the Standard rate for CGST and SGST may be reduced to 9 per cent while retaining the lower rate at 6 per cent, Mr Mukherjee suggested. During the third year, the standard rate may be reduced to 8 per cent and lower rate increased to 8 per cent and services retained at 8 per cent both for CGST and SGST. “Thus, in a phased manner, we will be able to achieve a single CGST and SGST rate for both goods and services,” he said.

(Source : Business Line dated 21.7.2010)

Apr 1 GST deadline looks possible this time

With a lot of consensus building among states and the Centre on country's big tax reform — goods and services tax— the GST may actually meet its April 2011 deadline for its implementation. In what seems mutual, the states have agreed to consider the three-tier rate structure proposed by Centre and have a common exemption list, while the Centre has agreed to keep items like alcohol, diesel, petrol and electricity out of the GST list.

Some states who are still not happy with the proposal could also fall in line soon. The only issue holding back these

dissenting states is the fear of losing fiscal autonomy.

Briefing reporters after the meeting with Finance Minister Asim Dasgupta said, "We are trying hard... Rates are determined almost at the end. Certain rates were proposed by the Centre. We are discussing among ourselves.

On these rates, Madhya Pradesh Finance Minister Raghavji said, " this is just a proposal and we still need to discuss on it". He added that the revenue-neutral rate for Madhya Pradesh was 18%, something very close the standard rate suggested by the Centre. Further, he added fiscal autonomy was something the state wanted to keep with itself.

Similarly, Karnataka finance minister also stressed the need for states to retain the power to levy taxes. Then there are states like Punjab and Delhi, riding on whose support the government is hopeful of implementing GST.

Delhi finance minister A K Walia said, "There is a lot of consensus on the 6%, 8% and 10% rates." The states have also got the Centre's draft proposal on the Constitutional Amendment Bill required to roll out GST.

With regard to compensation, the finance minister has assured states about the Centre's willingness to go beyond the recommendations of the 13th Finance Commission on compensating states for any revenue loss due to GST implementation. The 13th Finance Commission had proposed a Rs 50,000 crore compensation package for the states for possible loss of revenue after putting in place the GST regime.

(Source : Financial Express dated 23.7.2010)

Progress on GST but deal remains elusive

The Centre and states came closer to a deal on the structure of the most comprehensive indirect taxes reform brightening the prospects for the roll out of the goods and service tax from April L 2011.

We have made remarkable progress on major issues...The convergence process between the views of the states and the centre has progressed significantly and a consensus is emerging on the GST structure, . said panel head Asim Dasgupta, who is also finance minister of Communist ruled West Bengal.

The centre has proposed a three-rate structure for GST. in line with the recommendation of the empowered committee of state finance ministers, under which goods will attract a levy of 20 %, services 16 % and essential items a concessional 12 % . This is more or less in line with the recommendation of the empowered panel. The panel had suggested a dual rate structure for GST - 10% for essential items and 20% for most goods. Finance Minister Pranab Mukherjee also told the empowered panel the GST would eventually move to a single-rate structure in the third year of its operation. A list of 99 essential items current exempt under the value added tax regime will also be exempted from tax under the GST.

Mr Dasgupta, however, remained noncommittal on the rate structure proposed by the centre.

Rates are determined almost at the end. Certain rates were proposed by the Centre. We are discussing among ourselves. We can't go public unless we form the final view,. Mr Dasgupta said.

The GST is India's most ambitious indirect tax reform that would replace existing state and central taxes such as excise duty, service tax, and value-added tax and purchase tax. It will not only create a seamless pan India market but also bringing down the incidence of total indirect taxes on goods and services.

The union finance minister has assured the states about the Centre's willingness to go beyond the recommendations of the 13th Finance Commission on compensating states for any revenue loss due to GST implementation, Mr Dasgupta told reporters after the meeting of panel with union finance minister.

The 13th Finance Commission has proposed a Rs 50,000 crore compensation package for the states for possible loss

of revenue after putting in place the GST regime.

The draft constitution amendment bill has also been circulated to the states. We will discuss the proposals and will meet again on August 4, he said.

(Source : Economic Times dated 23.7.2010)

GST to converge at 16% in 3 yrs, start with 3 rates

The Centre on Wednesday formally proposed to the states the structure for the Goods and Services Tax, for achieving a single tax rate of 16% on almost all commercial supplies over three years. The dual GST will have two components — central GST (CGST) and state GST (SGST) — to be evenly divided between the Centre and the states.

In a speech at a meeting of the empowered committee of state finance ministers here, finance minister Pranab Mukherjee proposed a phased approach for GST implementation.

As per this, in the initial year (2011-12), most goods would attract a standard rate of 20%, a category of merit goods a lower rate of 12% and services, 16%. The standard rate for goods would be reduced to 18% in the second year (2012-13) even as the other two rates remain the same, and in the third year (2013-14), all three rates could converge into a single rate of 16%.

The Centre also proposed a uniform exemption threshold for GST, which is an annual turnover of Rs 10 lakh, and agreed to accept the list of 99 items exempt from state VAT as the common exemption list for CGST and SGST.

If states agree, India will eventually have a single-rate GST that would apply on roughly the same base. Any entity who trades and having an annual turnover of Rs 10 lakh and above and the final consumer would pay the tax. While the trader will get input tax credit, the end consumer won't. A single rate would make GST neutral to all transactions.

Indicating a willingness on the part of states to toe the line of consensus, the empowered committee chairman Asim Dasgupta told mediapersons later: "The convergence process is on and there is a consensus on various issues." He added: "The states have agreed to a common list of exempted items. The Centre has proposed one standard and one lower rate for goods and another rate for services."

Tax experts welcomed the Centre's initiative but pointed out that the 20% rate for goods in the first year of GST would barely be relief to the domestic manufacturing industry. The cumulative tax rate (inclusive of central excise and state VAT) on most manufacturing industries is roughly 22% at present. Also, in the GST regime, CGST would be levied at the final price to the consumer, instead of the current levy at factory gate price. "The general expectation..."

(Source : Financial Express dated 23.7.2010)

FM Gives in too easily on GST

It would be apparent to even a casual observer of India's political economy over the last two decades how difficult it is for the political process to implement the agenda of economic reform. The power of vested interests is strong and a majority of politicians across the ideological spectrum still remain unconvinced about the need to keep up to speed with reform.

That leaves reforming politicians limited room for manoeuvre. And they must choose wisely before spending precious political capital to get things done. It makes eminent sense, therefore, to line up behind those reforms that truly have a game-changing potential for the economy. The overhaul of India's archaic indirect tax system (rendered

terribly inefficient by multiple and cascading taxes) and its replacement with a new goods and services tax (GST) is one such game-changing item.

Interestingly enough, unlike many other big ticket reform ideas, the introduction of GST is not likely to evoke much populist protest or popular unrest on the streets. It isn't like the decontrol of fuel prices that prompted a debilitating nationwide bandh. It isn't even like discussing FDI in retail, something that evokes howls of populist protest on behalf of the kirana store owners. On the contrary, if implemented at a uniform and reasonable rate, it should gather widespread popular support for easing the tax burden on the aam aadmi and aam business.

That is why it is disappointing to watch the Centre succumb to the narrow interests that are blocking the rollout of a perfect GST. It seems that state finance ministers who have consistently objected to the very sensible recommendations of the 13th Finance Commission on GST have finally won their battle against the Centre. Finance minister Pranab Mukherjee has conceded ground on three crucial principles that should never have been up for negotiation. First, the need to have one rate. Under the compromise there will be three, one for goods, one for services and one for essential goods. There will now be lobbying and rent-seeking to get goods included in the essential list that are taxed at a much lower rate. Second, the need to do away with all exemptions, which if present, would only encourage lobbying and rent-seeking from those seeking further exemptions. Under the compromise offered by the FM, 99 items will be exempt from GST. And third, the need to have a reasonably low rate in order to increase compliance. The finance...

commission had recommended a revenue-neutral rate of 12%. The FM has promised a final rate of 16%, to be converged on in three years time.

Principles aside, there lies a great risk at the point of rollout. In the first year of implementation, the FM proposes to levy GST at 20% on goods (10% for Centre and 10% for states). Unfortunately, this isn't much lower than the total incidence (around 25%) of the complicated indirect tax system we have at present. So, the GST will get a bad advertisement in its very first year. What is worse, the 20% rate may encourage people to continue evading indirect taxes just like they do under the current system. If that were to happen, the game-changing potential of the GST may be lost in its very first year, never mind if the rate comes down a couple of percentage points a year later.

There may be yet another problem. If compliance does not increase substantially, there is every chance that neither the Centre nor the states will see a sudden buoyancy in revenues. That will make the states, in particular, very reluctant to consider cuts in the GST rate. The FM may not even be able to convince the states to move down to his 16% target rate within three years. In India, path dependency is strong and if the GST gets off to a bad start with the aam aadmi, aam business and governments, its entire purpose could be defeated very soon.

It would have been so much more appropriate for the finance minister to have insisted on a 12% rate, and given a more generous 7% of that to states. Incidentally, that is the rate now prescribed for essential goods. The states would have had only one legitimate reason to protest—potential revenue loss. For this, the FM should have thrown his grand bargain on the table offering to compensate states for losses. Incredibly, he has handed out this carrot even while compromising on key principles.

If any further compromise was required, the Centre could have left open the option to raise the 12% rate sometime in the future, should revenue targets have fallen short—according to all the studies available it would not fall short at this rate. Still, the offer to raise rates in the future from a low base would have been a better path to compromise than setting the rate high initially and...

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But it seems, after all, that pressure from 25 odd state finance ministers was too much to bear for the wily veteran. Pranab Mukherjee.

(Financial Express dated 24.7.2010)

Hasten slowly on GST

The action on the GST (Goods & Services Tax) front has understandably been quite spasmodic. The contours of the policy will be, quite understandably, shaped by the current polity and compromises in the design will exist.

Nevertheless, the intent and direction are most salutary and even a less than optimal model should help nudge the economy grow faster than the current pace. Besides, the new system should help revamp the cluttered and non-transparent commodity and service tax regime.

The recent announcement shows some sense of urgency to push some format through quickly such that the committed April 2011 deadline is met. Normally, in the Indian context, even major changes in the tax system are quite passively received by the political players, as taxes are normally associated with the well-to-do and not the aam-aadmi agenda.

Even increases in indirect taxes, always finally borne by the consumers, are only mutedly protested with token reliefs on popular products.

The resilience of the Indian industry has almost always got the better of indifferent policy-making and the experience should stand in good stead even with the advent of GST.

However, the endeavour should be to leave as few potholes as possible on the 'road' to GST.

Hence, the policymakers should 'hasten slowly'.

Two-tier approach

It is almost clear and quite inescapable that the GST would be a two-tier approach with taxing rights with both the

Centre and the States. The 'rates' are under negotiation and hopefully a consensus will be reached.

The key revenue earners to the States such as alcohol, petroleum products, and so on, will remain outside the net, and the door will probably be left open for some of the States to negotiate, now or later, for further relaxations.

As the first phase (April 1, 2011), the Central taxes shall effectively converge as 'GST', with minimal exceptions on goods and services covered, to facilitate seamless credit mechanism and completely avoid the cascading phenomenon that plagues the present dispensation.

This shall be under a single GST legislation and keep the spread of rates to the barest minimum.

The very approach to having a different rate for 'goods' and 'services' (as per recent announcement) cuts at the very root of the system that seeks to eliminate a distinction which is increasingly difficult to discern.

Input credit

The input credit mechanism should ideally mirror the 'TDS' system under direct tax. While a seamless TDS system is still some distance away, it will perfect sooner than later and needs no reinvention.

The ultimate electronic control of the credits through a central database is perhaps the ideal that the design should drive towards, such that all refunds for exports and other defined purposes will be fool proof and nearly automated.

The States should be allowed to tax services (if not already enabled) with a clear rider that the same shall be fully creditable against their local VAT.

This will help the States to calibrate their administrative systems to handle more taxpayers and learn the ropes, before full-fledged GST implementation.

The CST and stock transfer distinction is to be abolished; rate to be fixed at 1 per cent and 'C' & 'F' Forms replaced by a system similar to TDS Forms in income-tax. In other words, no more government printed forms. The trader should upload the data on all forms issued in electronic form which finally links to a central database. The originating State and the destination State interactively access the data and accredit transactions accordingly. Ideally, the present TAN for TDS should be the controlling number so that cross-verification between direct and indirect tax is enabled.

This will be a good precursor for what GST ultimately seeks to achieve, of making all collections at the destination State. The States should be given a maximum of a year's time to first merge all their local levies and arrest the divergence in rates. By April 2013 the States should be mandated to move into the ultimate GST model, mimicking the Central law and with no exceptions.

The above is suggested to avoid the chaos the wholesale change can create since many aspects of the implementation are not yet in public domain. While the Government may enjoy the luxury of learning the process at its own pace, the industry would need to comply from Day 1 and an imperfect start with frequent patchworks is quite avoidable.

As Indian industry seeks to take advantage of its competitive strengths in an otherwise murky global economic scenario, the last it would seek from the Government would be a potholed, bumpy road.

(Source :Business Line dated 24.7.2010)

Bills for GST, direct taxes code likely in monsoon session

The Constitution (Amendment) Bill 2010, which will see the roll out of the Goods and Service Tax from April next

year and the Direct Taxes Code Bill 2010 are among the 26 Bills which will be introduced in Parliament during the Monsoon session which begins on Monday.

Briefing newsmen, the Minister for Parliamentary Affairs, Mr Pawan Kumar Bansal, said the other Bills which will be introduced during the 33-day long Parliamentary session include the Companies (Amendment), Bill 2010, the Consumer Protection (Amendment) Bill, 2010 and the Anti-Hijacking Bill, 2010.

Among the 24 Bills which are likely to be taken up for consideration and passing during the session include the State Bank of India (Amendment) Bill, 2010, the Industrial Disputes (Amendment) Bill, 2009, the Foreign Trade (Development and Regulation), Amendment Bill 2009.

During the session, the discussion and voting on the first supplementary Demand for Grants (General), 2010-11 and related Appropriation Bill as also discussion and voting on Supplementary Demands for Grants for the Railways for 2010-11 and related Appropriation Bill will also take place.

(Sources: Business line dated 24.7.2010)

GST design needs a rethink

The meeting of the empowered committee of state finance ministers and the finance minister of India on July 21 covered substantial ground. The most encouraging development is the all-round acceptance of the need for a common platform for information to support the goods and services tax (GST) regime. This development, by allowing for a common system of filing returns and making payments, would considerably reduce the compliance cost for the taxpayer and provide readily usable information for the departments, thereby enabling them to focus on the more technical and specialised components of the tax administration. Alongside this development, there is evolution in the design of GST.

Other developments, however, are not as encouraging. While the introduction of GST was expected to simplify the design of indirect taxes in India, the proposed regime seems to aim only at an expansion in the base with no rationalisation of the rate structure. The anomalies of the state value added tax regime seem to be getting magnified rather than being reduced.

The Centre as well as the states seem to be looking at three rate categories of GST — apart from the exemption of 99 commodities, the proposal is to introduce a lower rate of basic goods, a standard rate for all other goods and a rate for services. This three-way classification would induce significant scope for classification and valuation disputes and substantially increase the compliance cost for taxpayers. Further, it would provide a fillip to lobbying for lower rates as well. Given the proposed timeline of reducing these rates in the near future, it not clear why both the Centre and states need to maintain this distinction in rates. Even if one level of government were to choose to divide the tax base into three rate categories, the overall rates, too, would remain differentiated. But if the Centre were to opt for a single rate or even two rates by merging the rate for services with the standard rate for goods, the differential between the categories would have been reduced, thereby reducing the arbitrage possibilities from misclassification. It would be useful to reconsider the advantages of fewer rates before finalising the rate structure for GST in India.

The other important issue that requires discussion relates to the persistent arguments of the states to retain autonomy in tax powers, especially to determine rates. The proposed draft of the constitutional amendment suggests that subsequent to the introduction of GST in India, any changes in the design of the tax would require the consent of two-thirds of the members of the council of ministers, as well as the assent of the Union finance minister. Evidently, some of the states are uncomfortable with this approach. It is useful to explore the issues involved here.

First, as there are significant inter-state variations in the tax base, the revenue impact of uniform rate of tax would be different across states in India. The exercise undertaken at the *National Institute of Public Finance and Policy* (NIPFP) suggests that even if the tax net is expanded to include financial services and local sales of computer-related

services, the present classification of goods is retained with the proposed rates of 6 per cent for basic goods and 8 per cent for services, at least four states would require standard rates higher than 15 per cent for revenue neutrality — Chhattisgarh, Goa, Haryana and Jharkhand. The average rate for all the states is 11.7 per cent. Since financial services are considered difficult to tax and bulk of computer-related services are either inputs or exports, if these two sectors are excluded from the base, the average revenue-neutral rate increases to 14.7 per cent and the number of states requiring standard rate higher than 15 per cent increases to nine, including Bihar, Delhi, Gujarat, Kerala and Punjab. Even if one assumes that the tax base for goods expands by 10 per cent as a result of lower distortions and improved tax compliance in the new regime, there will still remain two states with a revenue neutral rate above 15 per cent, and at least five states with revenue-neutral rates above 12 per cent. These differences in rates arise because some states lose more from central service tax (CST) than they could gain from inclusion of services in the base. This economic reality is not a transition issue but a structural issue. States might find it difficult to accept compensation as the answer to this changed economic reality.

The above suggests that if present revenues are to be considered an indication of the needs of the states, then in order to protect these needs, the states would require different rates of tax under GST. The question then is: Is uniformity essential to the introduction of GST? Would it be essential to bring India together into a common market? That purportedly is the goal of GST. And the answer to that question would be no. GST is meant to be a tax on final consumption. From the decisions so far, GST is structured as a destination-based tax — the design of inter-state GST supports this intention. In the case of a destination-based tax, the rates of tax need not be same across states — since only local sales are subject to the tax, the regime does not discourage inter-state transactions and the integration of India into a common market. In order to prevent rate wars, it would be important and adequate to prescribe a floor rate on both the standard rate and the lower rate of tax. If there exists some state which seeks to raise more revenue, with the associated risk of some trade diversion to neighbouring states, it should have the liberty to do so. Allowing for this option at least in the medium run would allow for compensation to be limited to transitional revenue considerations.

International experience suggests that such regimes are perfectly feasible: Canada and the EU are two significant examples. The harmonised sales tax (HST) regime in Canada now incorporates three rates of tax and so does the EU.

In other words, there is some merit in exploring the option of complete uniformity in rates as well as procedures, however, it may be kept in mind that such uniformity especially in rates is not essential. Uniformity in forms and procedures possibly contributes more to reducing compliance costs than uniformity in rates alone does. In this direction, the announcement of the acceptance of a single information system for return filing for GST is a very welcome measure. It is hoped, that inherent in this measure is the assumption that the GST regime would work with one registration and one return.

States seek more say under GST

State governments are still speaking in different voices on the proposed goods and services tax (GST), despite the Empowered Group of Finance Ministers' effort for a consensus. At the National Development Council (NDC) meeting here today, state chief ministers raised concerns about a host of issues, including those on loss of flexibility in tax administration.

“The final GST rate should not compromise the ability of states like Karnataka with a high tax effort. The rate should be treated as the floor rate, without limiting states' autonomy,” said Chief Minister B S Yeddyurappa.

Chhattisgarh Chief Minister Raman Singh cautioned against the impact of GST and the need to ensure that “states' economy and fiscal autonomy are not affected adversely”.

Union Finance Minister Pranab Mukherjee had unveiled a three-year map that envisaged convergence into a single GST rate of eight per cent from the third year of implementation. While the service tax rate under the Central GST was proposed to be fixed at eight per cent from the outset, he had said in the first year, goods would be taxed at two

rates, of six per cent and 10 per cent. In the second year, the standard rate is proposed to be lowered to nine per cent, while retaining the lower rate at six per cent.

Mukherjee had urged the states to adopt a similar structure, so that the combined GST levy on goods in the highest slab was 20 per cent in the first year and 16 per cent in the third.

The finance ministry fears more demands like Singh and Yeddyurappa when the Empowered Group meets again. If the rates proposed by the Centre are treated as the floor, the final burden will be much higher than the 12 per cent combined levy proposed by a 13th Finance Commission task force.

It was not only the Bharatiya Janata Party-ruled states which raised concerns at the NDC meeting. Haryana's Bhopinder Singh Hooda said: "States should be suitably compensated for loss of revenue due to introduction of GST."

Mukherjee has already assured states on compensation of up to Rs 50,000 crore, in addition to covering the loss of revenue due to withdrawal of Central Sales Tax.

Punjab's Parkash Singh Badal objected to the subsuming of purchase tax in the proposed GST model, saying the state would lose Rs 1,200 crore of revenue annually. "Even if the government gives compensation, it will be only for a few years. Thereafter, the state is going to lose substantial revenue on a permanent basis," he added.

The Centre, which plans to push legal amendments during Parliament's monsoon session that starts on Monday, is trying to build a consensus for GST introduction from April.

"Reform of tax structure and tax administration is an important step in resource mobilisation. The GST is especially important in this context and I would urge the chief ministers to give full support to the effort to implement GST with effect from April 1, 2011," Prime Minister Manmohan Singh said in his inaugural address at the NDC meeting.

(Source : Business Standard dated 25.7.2010)



LEGISLATIVE ROUNDUP

(Brief commentary on recently reported cases)



Ba Banking Services

***Canara Bank v CST, Bangalore (2010) 18 STR 113;
(2010) 24 STT 293 (Cestat, Bangalore),***

Where operation of bank accounts were undertaken by bank as an agent of Reserve Bank of India, it was held that bank would be entitled to exemption extended to RBI under Notification No 7/2006-ST as an agent . Service tax being an indirect tax, tax is a liability borne ultimately by the customers of the bank . In instant case, departments of Government are the clients of the RBI and therefore, the exemption from tax on the activity exempt when undertaken by RBI need not be levied when the same activity is undertaken by another bank as its agent.



FROM THE GOVERNMENT



Amendment in Service Tax Return Preparer Scheme, 2009 - Service Tax Return Preparer Scheme

Notification No. 44/2010-Service Tax,

Dated 20-7-2010

G.S.R. 610(E).- In exercise of the powers conferred by sub-section (1) of Section 71 of the Finance Act, 1994 (32 of 1994), the Central Board of Excise and Customs, makes the following amendment in the Service Tax Return Preparer Scheme, 2009, namely: -

In the Service Tax Return Preparer Scheme, 2009, in paragraph 4, -

(a) proviso to sub-paragraph (1) shall be omitted;

(b) sub-paragraph (2) shall be omitted.


[F.No.137/318/2007-CX-4]

MADAN MOHAN, Under Secy.

Exemption to transmission and distribution of electricity

NOTIFICATION NO 45/2010-ST, Dated: July 20, 2010

Whereas, the Central Government is satisfied that a practice was generally prevalent regarding levy of service tax (including non-levy thereof), under section 66 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as 'the Finance Act'), on all taxable services relating to transmission and distribution of electricity provided by a person (hereinafter called 'the service provider') to any other person (hereinafter called 'the service receiver'), and that all such services were liable to service tax under the said Finance Act, which were not being levied according to the said practice during the period up to 26 th day of February, 2010 for all taxable services relating to transmission of electricity, and the period up to 21 st day of June, 2010 for all taxable services relating to distribution of electricity;

Now, therefore, in exercise of the powers conferred by section 11C of the Central Excise Act, 1944 (1 of 1944), read with section 83 of the said Finance Act, the Central Government hereby directs that the service tax payable on said taxable services relating to transmission and distribution of electricity provided by the service provider to the service receiver, which was not being levied in accordance with the said practice, shall not be required to be paid in respect of the said taxable services relating to transmission and distribution of electricity during the aforesaid period. 

[F. No. 356/13/2010 – TRU]

Admissibility of credit on capital goods and inputs and to state that the Tribunal has ruled that 'capital goods

Instruction [F.No.267/11/2010-CX8]

Dated 8-7-2010

I am directed to invite your attention to the landmark judgement of the CESTAT Larger Bench in the case of [Vandana Global Ltd. V/s CCE, Raipur \[2010-TIOL-624-CESTAT-DEL-LB\]](#) delivered on 30.04.10, on admissibility of credit on capital goods and inputs and to state that the Tribunal has ruled that 'capital goods' defined in the CENVAT Credit Rules, in the context of providing credit of duty paid, have to be excisable goods. Whether a particular plant or structure embedded to earth can be considered as excisable goods or not has to be determined in the light of settled decisions of Supreme Court on the issue. The Tribunal has further ruled that goods like cement and steel items used for laying 'foundation' and for building 'supporting structures' cannot be treated as either inputs for capital goods or as inputs in relation to the final products and therefore, no credit of duty paid on the same can be allowed under the CENVAT Credit Rules. It has also been stated by Tribunal that amendment to Explanation 2 to Rule 2(k) of CENVAT Credit Rules, 2004 inserted vide Notification No. 16/2009-CE (NT) dated 07.07.09, is clarificatory in nature and has retrospective effect.

2. Attention is also drawn to the Tribunal's judgement in the case of [Vikram Cement V/s CCE, Indore \[2009\(242\) ELT 545 \(Tri-Del\)\]](#), where the Tribunal held that credit on welding electrodes used for repair and maintenance, is not available as input. It may also be noted that in the case of [Vikram Cements V/s CCE, Indore \[2005\(187\) ELT 145 \(SC\)\]](#), it has been conclusively held by the Apex Court that the definition of capital goods is not inclusive and only the items covered under the definition and used in the factory of the manufacturer can be treated as capital goods.

3. It thus follows from the above judgements that credit on capital goods is available only on items, which are excisable goods covered under the definition of 'capital goods' under CENVAT Credit Rules, 2004 and used in the factory of the manufacturer. As regards 'inputs', they have to be covered under the definition of 'input' under the CENVAT Credit Rules, 2004 and used in or integrally connected with the process of actual manufacture of the final product for admissibility of cenvat credit. The credit on inputs used in the manufacture of capital goods, which are further used in the factory of the manufacturer is also available, except for items like cement, angles, channels, CTD or TMT bars and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods. Further, credit shall also not be admissible on inputs used for repair and maintenance of capital goods.


4. In view of above stated position, necessary action may be taken to safeguard revenue immediately. Pending cases on the issue may also be taken up immediately for finalisation.

5. Receipt of this instruction may kindly be acknowledged.

PIB Press Release dated 21-7-2010


Following is the text of the speech of Finance Minister, Shri Pranab Mukherjee delivered at the meeting of the Empowered Committee of State Finance Ministers, here today:

“Dr. Asim Dasgupta, Chairman, Empowered Committee; Members of the Empowered Committee, senior officials from the Department of Revenue and CBEC and officials of the State Governments,


It gives me great pleasure to welcome you this afternoon to what I perceive as a very significant link in the ongoing dialogue on the introduction of the Goods and Services Tax (GST) in the country. We have worked with great perseverance and industry over the last 3-4 years to clear the way for the launch of this momentous reform in the realm of indirect taxes. Given the size and complexity of our economy and our deep commitment to the values of pluralism, federalism and democracy it would not be an exaggeration to say that this dialogue has moved at a satisfactory pace. Since the deliberations on GST are not entirely hidden from public view they have managed to generate a palpable air of anticipation and excitement not only in India but among potential investors beyond our shores. 

I have been told about the very constructive and fruitful discussions that the Empowered Committee had this morning. I am particularly touched by the gesture made by the Finance Minister of Punjab by agreeing to subsume the Purchase Tax in the overall interest of the GST regime which will benefit the nation as a whole. It is this spirit which will build our economy to a strength unmatched in this region.

As you are aware, the Government of India had furnished detailed comments on the First Discussion Paper circulated by the Empowered Committee in November, 2009. While there was convergence of views between the Centre and the States on most of the elements of the GST framework proposed by the EC, some key issues that in our view are fundamental to the letter and spirit of this tax required further discussion. In its meeting held on the 21st of May, 2010 at New Delhi, the Empowered Committee deliberated further on these issues and chose to leave final decisions on many to the Government of India. In the light of this development, I have comprehensively reviewed the position with my team. Some of our decisions have already been shared with you this morning. I will elaborate these further.

Before I go into that, let me break good news on an issue that has caused considerable anguish to the States and hence been raised repeatedly in the run up to this juncture. This is the issue of CST compensation. I am glad to inform you that the Government of India has decided to fully compensate the States for their revenue losses on account of CST reduction during the year 2009-10 and to release the balance outstanding amount to the States immediately. I am now waiting for Empowered Committee's recommendations on the CST compensation formula for the year 2010-11. I am confident that this decision would reaffirm our resolve to engage constructively with difficult issues and find mutually acceptable solutions. 

As for specific issues, let me begin with the issue of exemption threshold under GST. In this regard, it was the suggestion of the Empowered Committee that the Centre should consider retaining the exemption threshold of Rs.1.5 crore (presently available under Central Excise) for goods while the CGST threshold for services and the SGST threshold for both goods and services would be Rs.10 lakh. It is fundamental to a dual GST that every transaction constituting a supply of goods and services receive similar treatment under CGST and SGST. It is our considered view that the exemption threshold for both goods and services under both components of GST i.e. CGST and SGST should be uniform at Rs. 10 lakh. For the same reason, the threshold for compounding for small dealers should also be uniform under CGST and SGST whether it is fixed at Rs. 50 lakh of turnover per annum or Rs. 1 crore per annum. Of course, we must not lose sight of one of the critical deliverables of GST viz. that it should result in considerable simplification for small dealers so that compliance is easy and assured.

One measure that would immensely facilitate simplification is the use of Information Technology so that physical interface between the taxpayer and the administration is minimized. Earlier today, you have had the benefit of listening to a presentation by Shri Nandan Nilekani, Chairman, Unique Identification Authority of India wherein he has proposed a detailed roadmap and strategy for putting in place the requisite IT Infrastructure to handle work related to GST. Since this infrastructure needs to be in place well before the actual introduction of GST in April next year, decisions have to be made with great alacrity and speed. In order that no time is lost, we have proposed the constitution of an empowered Group chaired by Dr. Nilekani with joint representation from the Centre and the States which would be authorized to take decisions about the size, features and functionalities of such a system; to choose the appropriate technology for its implementation as well as to choose the vendor who would be tasked to deliver it in a time-bound manner. I will request an early approval of the Empowered Committee of State Finance Ministers to our proposal for constitution of this empowered group which, to my mind, should start functioning immediately. I would like to reiterate that the Centre is committed to provide all the support and assistance required to achieve homogeneity in the level of computerization across States. 

This leaves us with two key policy issues. On exemptions, we have decided to review the existing exemptions from Central Excise duty so that the list of goods exempt from CGST is aligned to the SGST list and 99 items currently exempt from VAT are exempt from both components of GST.


As for the rate structure, it has been the Centre's considered view that the full potential of GST could be realized only if we adopt a single rate structure with unification of the rate for goods and services. However, we recognize that this may not be feasible on the date of introduction of GST and requires a phased approach so that the transition is smooth and painless both for the taxpayer and the administration. As such, we are agreeable to the adoption of a dual rate structure for goods at the inception of GST. In the year of introduction i.e. 1st April, 2011, the Central Government proposes to keep CGST lower rate for goods at 6% and standard rate at 10%. The services will be charged at 8%. Our request to the States will be to consider keeping the same rates i.e. the lower rate for SGST at 6%, standard rate at 10% and services at 8%. This mutually supportive approach will ensure that we have a single rate for CGST and SGST in the range of 12 to 20% in the first year of GST introduction. The peak effective rate will be about 15% which will be quite acceptable to the trade and industry. Eventually, it will settle down to a level of 16 to 18% for both CGST and SGST which will mean an effective rate of 12%.



In the second year of implementation of GST depending upon the revenue receipt by the Centre and the States and payment of compensation by Government of India to the States, the standard rate for SGST and CGST may be reduced to 9% retaining the lower rate at 6%. During the third year of implementation based on our experience and

depending upon the buoyancy of revenue receipt and payment of compensation by the Government of India, the standard rate may be reduced to 8% and lower rate increased to 8% and services retained at 8% both for CGST and SGST. Thus, in a phased manner, we will be able to achieve a single CGST and SGST rate for both goods and services.

You would recall that the Thirteenth Finance Commission has made certain recommendations about compensating the States for their loss of revenue owing to the adoption of GST. I have repeatedly assured you that the Centre stands by this recommendation and would not hesitate to step up the amount of compensation recommended by the TFC should the need arise, based on a mutually agreed formula. I will also like to assure the States that the compensation for subsuming Purchase Tax on foodgrains will be provided along with VAT compensation for the next four years. A reference will be made to the Fourteenth Finance Commission to suitably address this issue for the period beyond 2013.

GST – a landmark reform of indirect taxes is well within our reach. It is now for us to convert it into a reality.” 



QUOTE OF THE WEEK



**"Lots of people limit their possibilities by giving up easily. Never tell yourself this is too much for me. It's no use. I can't go on. If you do you're licked, and by your own thinking too. Keep believing and keep on keeping on."
--Norman Vincent Peale**



Announcements



FOR EXCLUSIVE AND IN HOUSE

SEMINAR / WORK SHOP
On
SERVICE TAX
and
GOODS & SERVICE TAX

Conducted by
Dr Sanjiv Agarwal
FCA, FCS,

Please Contact at:

asandco@gmail.com,
sanjivservicetax@gmail.com



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