Remove flaws to make GST a gamechanger

For the successful implementation of GST and to attain its objective of preventing entities from making excessive profits, the rules and methodology of anti-profiteering provisions need to be clearly stated.

by **Sunil Kumar Gupta**

THE Goods and Service Tax (GST) was successfully implemented across the nation on July 1, 2017 with a lot of fanfare. It is a buzz word in India these days spanning across trade circles, financial pundits, and investment gurus. GST is the biggest tax reform in India's 70-year history as an independent nation. It has replaced a complex net of existing taxes, bringing uniform tax rates and rules and simplifying compliance for businesses. It is a single, unified tax which justifies the adage 'One Nation-One Tax' and will have a very positive impact on Indian economy.

Impact of GST on Indian Economy

- GST will bring about a uniformity in process and centralised registration that will make starting a business and expanding in different states across the India much simpler.
- GST will ensure that interstate movement becomes cheaper and is less time consuming, by eliminating small border taxes and resolving check post issues.
- GST also introduces an optional scheme called the composition scheme, which empowers small businesses with turnover between ₹20 lakh to ₹75 lakh to pay lower taxes.
- In the near future, GST will enable financial inclusion in the economy.
- Broader Tax Base and decrease in "Black" transactions.
- Improved compliance and revenue collections
- Automation of compliance procedures to reduce errors and increase efficiency.
- GST will reduce tax evasion.
- Cascading effect of tax on tax will be eliminated.
- It will harmonise Central and State tax administrations
- **Make in India** will get a huge boost as both tax and logistics cost will fall and lead to higher investments for the manufacturing industry.

Salient Features of GST

- **Destination-Based Consumption Tax**: GST is a destination-based tax. This implies that all SGST collected will ordinarily accrue to the State where the consumer of the goods or services sold resides.
- **Dual GST**: A dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States would be called the State GST (SGST).
- **Computation of GST on the basis of invoice credit method:** The liability under the GST will be invoice credit method, i.e. cenvat credit will be allowed on the basis of invoice issued by the suppliers.
- **Payment of GST:** The CGST and SGST are to be paid to the accounts of the central and states, respectively.
- **Input Tax Credit**: Input Tax Credit available on taxes paid on all procurements (except few specified items).
- **Technology based Assistance:** GSTN and GST Suvidha Providers (GSPs) to provide technology based assistance.

The government is trying very hard to implement GST successfully for the benefit of the common man but there are certain oversights, loopholes, or shortcomings in entire gamut of GST implementation that become a hurdle in sectoral growth, synergised policy making and financial transparency, which the Modi government has been encouraging ever since it has come to power.

Even though simplified, GST still has certain complexities entwined in it. GST has an anti-profiteering provision empowering the Central Government to constitute, or appoint, an authority to monitor prices businesses charge for goods and services in the lead up to, and following the introduction of, the GST. This provision prevents entities from making excessive profits due to the GST.

But, there are no clear methods of assessing the GST benefits for purposes of passing it to the consumers. A GST anti-profiteering authority is also yet to be formed.

While, the reason behind such anti-profiteering measures is to protect the masses, the government should ensure that the entities will pass the tax savings from the seamless input credit to its consumers. For the successful implementation of GST and to attain its objective, the rules and methodology of anti-profiteering provisions need to be clearly stated.

In India, various developmental authorities/governmental authorities have been entrusted the function of urban planning. Urban planning is one of the functions enlisted in Article 243W and Schedule XII of the Constitution of India.

These authorities while discharging the function of urban planning, lease out the land for a period of 90 years or more for various planned uses like industrial, institutional, residential, commercial and mixed use.

The leasing of land for such a substantial period of time is akin to sale as per the provisions of Transfer of Immovable Property Act. As such the payment made for acquisition of land popularly termed as Land Premium, *Salami*, Cost of Land, is treated as capital payment which is subject to levies such as stamp duty, etc., on transfer.

IN the service tax era, there was no tax on such transactions as it was taken as similar to sale of land. But, while framing the GST provisions, it has not been considered that these transactions have been brought under the GST net. However, exemption has been provided for the Lease Premium/Salami/cost of land received by the developmental authorities/governmental authorities for allotment of land for industrial purposes.

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Land has always been kept out of the meaning of goods and service, but by taxing the Lease Premium/Salami/cost of land, the basic concept of levy of GST has been missed.

Under the GST, where Central and State-level taxes have been merged and a provision has been put that any manufacturer with a turnover of ₹20 lakh (Others)/10 lakh (Special Category States) or more has to comply with GST norms related to excise duty, which earlier were exempt up to turnover less than ₹1.5 crore will serve as a dampener for many MSMEs. For an MSME, a lot of self-effort is utilised is staying in business by running business in a most cost effective way. Now, they will have to spend resources – time, money, and manpower – on fulfilling the GST obligations. This can have negative impact on compliance for GST.

GST implementation has a high compliance cost to MSMEs. The single window tax regime intended to simplify processes under GST is facing many challenges in its interpretation and implementation. To reduce the GST compliance burden on MSMEs, the Government has to provide all GST compliance utilities on the GST portal. So that MSMEs can accomplish all the compliances without any hassle and any professional support.

In conclusion, I would like to state that GST is a welcome change for the Indian economy. It is bound to reap fruits of profit for India in the long term. However, while drafting the GST bill and categorising the items, there have been multiple oversights which will have adverse to negative impact on the common man of India, certain sectors and the economy at large. The government and the GST Council have not closed their doors for suggestions or observations. They have promised the country to revisit the rules and rates periodically till all the dust settles down. We need to be patient and let the financial experts do their work, however, if we need to share anything then we should be duty bound to bring it to their notice. I am very sure that with time GST will become the strongest backbone of the economy and will help Indian economy to walk miles into bliss. g

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