Class - M.Com. IInd Semester
Subject - Goods and Service tax
Topic - Introduction of GST

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Reference Books - Goods and Service tax - Dr. H.C. Mehrotra - Sahitya Bhawan Pub.
- Goods and Service tax - Dr B.K. Agarwal - Nirupam Sahitya Sadan
- GST and customs law - CA Anoop Modi - SBPD Pub.

Goods and Service Tax

Introduction

History

→ 2004 में केलकर अध्ययन दल (task force) द्वारा GST की अनुशंसा की गई

→ 2007-08 के बजट के समय वित्तमंत्री श्री पी० चिदम्बरम ने 1 अप्रैल 2010 से GST लागू करने की घोषणा की

→ 2014 में संविधान (संशोधन) विधेयक 2014 प्रस्तुत किया गया

→ 2016 में संविधान (101 वां) संशोधन अधिनियम 2016 पारित किया जो कि 16.09.2016 को अधिसूचित किया। इसके केन्द्र के साथ राज्यों को भी GST लागू करने की शक्तियाँ प्रदान की गई।

→ 27.03.2017 को CGST Act 2017, IGST Act 2017, UTGST Act 2017, GST (Compensation to State) Act 2017 पेश किये गये

→ 29.03.2017 को लोकसभा में पारित किया गया

→ 12.04.2017 को राष्ट्रपति की सहमति प्रदान हुई

→ 01.07.2017 से देश में GST लागू किया गया

→ GST सर्वप्रथम फ्रांस में 1954 में लागू किया गया था

→ लगभग 160 देशों में GST लागू किया गया

India is a federal union comprising 28 states & 8 U.T.
Federal parliamentary constitutional Republic

Indian States - 28
Union Territories - 09 (Now 08)
1. Andaman Nicobar
2. Chandigarh
3. Daman & Diu
4. Dadra and Nagar Haveli
(Now it has become single UT) (Since 26th Jan 2020 8 UTs)
5. Delhi
6. J. & K.
7. Ladakh
8. Lakshadweep
9. Puducherry

- Indian Constitution is the source for law making powers
- All the taxation powers are originated from the Indian Constitution
- Distribution between central and state Govt. Being federal country, dual GST system is provided by constitution
- The benefit of GST will be availed by the state where the end consumer is situated.

→ GST is taxable on supply even if it is not consumed
→ Presently followings are excluded from GST
(a) Petroleum crude (b) natural Gas (c) Petrol (d) High speed Diesel
(e) Aviation turbine fuel (f) Transmission or distribution of electricity by electricity board (g) Entertainment / Amusement tax imposed by Nagar palika, Municipality, Zila parishad or Panchayat (Local bodies)
(d) All activities of this tax system is online
(e) e-Commerce business also comes under the purview of GST
(f) Input tax credit is available except to the end user
(g) Import of Goods/services will be considered as Inter state supply and IGST will be applicable
(h) Supplies to Special economic zone and Special Economic zone developer are treated as Inter state supply.
(i) Export or Supply to SEZ or SEZ developer will be zero rated.

Goods and Services Tax (GST)

- GST will be on supply of goods or services or both in India w.e.f. 1.7.2017 (including J&K w.e.f. 8.7.2017)
  except taxes on supply of alcoholic liquor for human consumption
- except taxes on supply of Alcoholic liquor for human consumption
- Goods includes all materials, commodities and articles.
  Services means anything other than goods
- GST is a multi-tier tax where ultimate burden of tax falls on consumer of goods / services. It is a destination based tax.
- It is a value added tax levied on manufacture, sale and consumption of goods and services
- A person who was liable to pay tax, is entitled to get input Tax credit (ITC). Hence No cascading of taxes under GST system
- GST is applicable in whole of India including J&K
- GST will create a common national market.
  - It has subsumed multiple indirect taxes like excise duty, service tax VAT, CST, luxury tax, entry tax, entertainment tax etc.

Tax structure

1. CGST Act 2017 (central goods & service tax Act 2017)
   Applicable on intra-state supply of goods or services
   प्राप्तकर्ता एवं प्रदाता एक ही राज्य से स्थित हो
   It will replace central excise duty & service tax
   It is administered by the central Govt.

2. SGST Act 2017 (State Goods & Services Act 2017)
   - state tax shall apply to intra-state supply of goods or services
   - Like in UP — UPGST
   - It will replace state VAT, Entry tax, octroi etc
   - It will be administered by the state Govt.

3. IGST Act 2017 (Integrated Goods & Services Tax Act 2017)
   - Applicable on inter-state supply of goods or services (one state to other state)
   - supply of goods / services imported into the territory of India

4. UTGST Act 2017 (Union Territory Goods and Service Tax Act 2017)
   → Applicable on intra Union territory supply of goods or services like intra-state supply of goods or services

5. The Goods and Service Tax (Compensation to States) Act 2017
   → Provides for revenue loss compensation to the state for 5 years
   → Nominal growth rate projected revenue has been decided @ 14%
   → Base year to be financial year i.e. 31st March 2016

Producer

Cost of goods Mfg. 100
GST @ 18% 18

output tax 18

Wholesaler

Cost 100
Value addition 50
150
GST @ 18% 27

output tax 27
− ITC 18
Tax paid 09

Retailer

Cost 150
Value Addition 50
200
GST @ 18% 36

output tax 36
− ITC −09
Tax paid 27

Total cost 100 + 50 + 50 = 200
GST @ 18% 36

GST paid or tax burden on Consumer
18 + 27 + 36 = 81
− Input tax credit (18+09) 27
Net GST paid 54

Taxation under Constitution (Pre-GST Regime)
जी.एस.टी. से पूर्ववर्ती व्यवस्था के अधीन कराधान एवं संवैधानिक स्थिति

As per Article 246(1) – List I of Seventh schedule (called union list) central Govt has a power to legislate (विधायीकरण)

Entry 83 (i) Duties of custom सीमा शुल्क

84 (ii) Duties of Excise उत्पाद शुल्क (see after)

91 (iii) Stamp duty (in respect of bill of exchange, cheques, promissory note, bill of lading (लदान पत्र), letter of credit, insurance policies, transfer of shares, debentures, proxies and receipts

92A (iv) CST (केन्द्रीय बिक्री कर) – Taxes on sale or purchase of goods between two states (see after)

92B (v) Taxes on the consignments of goods, (where such consignments takes place in the course of) ~~during~~ (during) inter state trade

92C/97 (vi) Taxes on Services सेवा कर (see after)

As per Article 246(3) – List II of Seventh schedule (called state list) state Govt has a power to legislate

Entry 51 (i) Excise Duty (राज्य उत्पाद शुल्क) on alcoholic liquors, opium & Narcotics (नशायुक्त पदार्थ)

52 (ii) Taxes on entry of goods

53 (iii) Taxes on consumption or sale of electricity

54 (iv) VAT (राज्य कर) (taxes on sale/purchase of goods which takes place within the state) (see after)

55 (v) Taxes on advertisements other than in newspaper, Radio & T.V.

62 (vi) Taxes on luxuries, entertainments, amusement (आमोद प्रमोद), betting (द्यूत) & gambling (बाजी)

63 (vii) stamp duty in respect of documents other than specified in list I (स्थानीय निकायों द्वारा कराधान)

[———— means not included in GST]

Other Important Indirect Taxes or Duties

- Betting and gambling tax;
- Entertainment tax; → स्थानीय निकायों द्वारा कराधान GST में शामिल नहीं
- Entry tax and Octroi;
- Lottery tax;
- Luxury tax;
- Property tax;
- Research and development cess; GST में नहीं
- Stamp duty; GST में नहीं
- Tax on consumption or sale of electricity; GST में नहीं
- Taxes on transportation of goods; डीजल का GST में नहीं
- Telecom license fees; वाहन का GST में नहीं
- Toll tax, passenger tax and road tax; GST में नहीं
- Turnover tax.

Main Earlier Indirect Taxes प्रमुख पूर्ववर्ती अप्रत्यक्ष कर

central Excise Duty

→ Tax levied on goods manufactured in India
→ Administered by the central Govt.
→ central Excise Act 1944
central Excise Tariff Act 1985
→ Taxable Event — manufacture of goods
→ Tax payment — removal of goods from factory
→ credit for excise duty paid on inputs, capital goods & CVD

Service Tax

→ First imposed in India in 1994
→ upto 30th June 2012, service tax was levied on specified services by the central Govt.
w.e.f. 1st July 2012, all the services have been considered as taxable services except services specifically excluded or exempt under the Act
→ cenvat credit rules 2004 provided credit of service tax & excise only for provide output services
→ but not for service tax & VAT

state value added Tax (VAT) & central sales tax (CST)

→ Sales within a state (Intra state sales) — VAT
→ sales from one state to another state (Inter state sales) - CST
→ sales abroad — Exempt from CST & VAT

VAT — Biggest reform in the history of indirect taxes structure in India
→ w.e.f. 1st April 2005
→ replacement of state sales tax
→ Tax on value addition
→ It was a multipoint tax which was levied at every stage of sale.
→ cascading effect on cost of goods was avoided by set off on preceding purchases

CST — constitution (sixth Amendment) Act 1956 on 21st Dec 1958
→ central sales tax Act 1956 w.e.f. 1st July 1957
→ Inter state sales of goods was taxable under CST
Two category of goods
→ Declared goods — goods of special importance
→ other goods
→ effect of double taxation was avoided through form C
→ A registered dealer can purchase goods from another registered dealer located in other state at concessional rate of tax by Form C

Deficiency in Earlier tax Regime
पूर्व कर व्यवस्था में कमी

1. Cascading of taxes कर की बारम्बारता
   → mining, agriculture and range of services remained out of the ambit of the CENVAT
   → exempt sectors were not allowed to claim any credit for the CENVAT
   → CST (on inter state sale) - No credit was allowed
   → VAT (no credits were allowed for the inputs to the exempted sectors
   → ~~for~~ calculating VAT, excise duty was added to cost
2. Non- Integration of VAT & service tax वैट तथा सेवाकर का समाविष्ट न होना
   Excise and service tax were interchangeable
   but VAT & service tax were not
3. Double taxation दोहरा कर
   वस्तु एवं सेवा भाग कर Double कर
   व्यापार की सेवाओं पर सेवाकर एवं बिक्रीकर
4. Complexity in determining the nature of transaction लेनदेन की प्रकृति को समझने में कठिनाई
   whether it is sale or service
   Transfer of software, copyrights, patents and other intangible goods
5. Lack of uniformity in provisions and tax rates - कर की दरों एवं प्रावधानों में भिन्नता
   VAT was a subject of state (No uniformity in procedure & Rates)
   Lower Rate of 1% for metals & Jewellery 5% to selected basic necessities
6. Local sales vs central sale
   CST was a tax levied by the central Govt., it was collected and retained by the collecting state
7. Levy of excise duty on manufacturing point :
   Limiting the tax to the point of manufacturing was a severe impediment to efficient and neutral application of tax.
   Narrow base संकीर्ण कर आधार
8. Insufficient tax compliance अपर्याप्त कर अनुपालन
   Multiple tax administration machinery के लिए प्रभावों की
   - Regular ~~of support~~ failure of IT support system
   - Irregular availment of input credits