<u>Past and present scenario of Indirect Taxes in INDIA and Future proposed GST (Goods and Service Tax) scenario in INDIA.</u>

India is a federal country and taxation powers of Central Government and State Governments have been defined clearly in the constitution of India.

Following are the Indirect Taxes collected by the Central Government :-

a. Central Excise Duty on manufacture of goods except alcohol.
b. Service Tax on provision of services
c. Custom Duty on imported goods
d. Additional Customs Duty, commonly known as Countervailing Duty (CVD)
e. Special Additional Duty of Customs - 4% (SAD)
f. The Excise Duty levied under the Medicinal and Toiletries Preparation Act
g. Surcharges and Cesses etc.

Following are the Indirect Taxes collected by the State Governments :-

a. VAT (Value added taxes) on sale of goods
b. Purchase tax (In some states)
c. CST (Central Sale Taxes) on interstate sale of goods
d. State Excise Duty on Manufacture of alcohol
e. State Cesses and Surcharges in so far as they relate to supply of goods and services.
f. Many other indirect taxes i.e. Entertainment Tax, Luxury Tax, Taxes on lottery, betting and gambling, Entry Tax, Electricity Tax and Stamp Duty etc.

There was a burden of cascading effect of Taxing (tax on tax) in the pre-existing Central excise duty of the Government of India and sales tax system of the State Governments. The Central Government introduced MAN-VAT (Manufacture VAT), later named as MODVAT (Modified VAT) for some specified number of manufactured products. As per the MANVAT or MODVAT the Central excise duty paid on inputs could be taken as credit for subsequent payment of duty on output of some specified manufactured products. IN 2002 MODVAT was extended to all manufactured products and came to be known as CENVAT (Central VAT). In between Service Tax on provision/supply of very few services was introduced in 1994 , and credit on service tax paid on input services was allowed for payment of service tax on output services. After than in 2004 tax paid on input services was allowed to be utilized for payment of Central Excise duty on manufacture of goods and vice versa.

The states were also collecting Sales Tax on sale of goods starting from the 1st sale from factory/manufacturing unit till these products were sold in retail to the consumers. In 2005 the State VAT introduced in different state by subsuming Sales Tax and certain other indirect taxes on goods (I.e. WCT etc.) and by 2008 all the states and union territory implemented VAT.

The introduction of Central VAT (CENVAT) has removed the cascading burden of "tax on tax" to some extent by providing a mechanism of "set off" for tax paid on inputs and services upto the stage of production, and has been an improvement over the pre-existing Central excise duty. And likewise, the introduction of VAT in the States helped to remove the cascading effect by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has again been an improvement over the previous sales tax regime.

But both the CENVAT and the State VAT have their own certain incompleteness. The incompleteness in CENVAT is that it has yet not been extended to include chain of value addition in the distributive trade below the stage of production. It has also not included several Central taxes, such as Additional Excise Duties, Additional Customs Duty, Surcharges etc. in the overall framework of CENVAT, and thus kept the benefits of comprehensive input tax and service tax set-off out of the reach of manufacturers/ dealers. The introduction of GST will not only include comprehensively more indirect Central taxes and integrate goods and services taxes for set-off relief, but also capture certain value addition in the distributive trade. Similarly, in the present State-level VAT scheme, CENVAT load on the goods has not yet been removed and the cascading effect of that part of tax burden has remained unrelieved. Moreover, there are several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which have still not been subsumed in the VAT. Further, there has also not been any integration of VAT on goods with tax on services at the State level with removal of cascading effect of service tax. In addition, although the burden of Central Sales Tax (CST) on inter-State movement of goods has been lessened with reduction of CST rate from 4% to 2%, this burden has also not been fully phased out. With the introduction of GST at the State level, the additional burden of CENVAT and services tax would be comprehensively removed, and a continuous chain of set-off from the original producer's point and service provider's point upto the retailer's level would be established which would eliminate the burden of all cascading effects, including the burden of CENVAT and service tax.

This is the essence of GST. Also, major Central and State taxes will get subsumed into GST which will reduce the multiplicity of taxes. With GST, the burden of CST will also be phased out. Thus GST is not simply VAT plus service tax, but a major improvement over the previous system of VAT and disjointed services tax.

Disclaimer: Though full efforts have been made to compile this article correctly, yet we are not responsible / liable for any loss or damage caused to anyone due to any mistake / error / omissions in the above and contrary views/ opinions are welcomed.

GST IN INDIA

GST stands for "Goods and Services Tax", and is proposed to be a comprehensive indirect tax to be levied on supply of GOODS & SERVICES. In INDIA Dual GST is proposed, hence there will be two components of GST to be levied by CENTRE & STATES. This dual GST model would be implemented through **multiple statutes (one for CGST and SGST statute for every State)**. However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable. Presently GST by following three different name are proposed to be charged/levied under INDIAN GST.

(1) **State Goods & Service Tax (SGST)** :- SGST is proposed to be implemented through multiple statues by the states and union territories of INDIA.

(2) **Central Goods & Service Tax (CGST)**:- CGST is proposed to be implemented through One statue by the Centre.

The SGST and CGST would be applicable to all transactions/supplies of goods and services made for a consideration except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limit. The Central GST and State GST are to be paid to the accounts of the Centre and the States separately. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to Central GST or State GST (with identification of the State to whom the tax is to be credited). Since the Central GST and State GST are to be treated separately, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST. The same principle will be applicable for the State GST. A taxpayer or exporter would have to maintain separate details in books of account for utilization or refund of credit. Further, the rules for taking and utilization of credit for the Central GST and the State GST would be aligned.

Cross utilization of ITC between the Central GST and the State GST would not be allowed except in the case of inter-State supply of goods and services under the IGST model.

(3) **Inter State Goods & Service Tax (IGST)**:- IGST is proposed to be levied on inter-State transaction of Goods and Services. The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.

The main objective of implementation of GST in INDIA is to consume all indirect tax levies into a single tax (Namely GST), except customs and excise on alcohol. Thus multiple Central and States tax levies will be replaced by Single GST. Another main adjective to allowed seamless flow of credit of input taxes during the entire manufacture/supply chain. And the main feature of GST is that it will be consumption based levy of Tax.

GST would replace/Subsume Many Central and State Taxes

The various Central, State and Local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

(i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.

(ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/ manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

(iii) The subsumation should result in free flow of tax credit in intra and inter-State levels.

(iv) The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.

(v) Revenue fairness for both the Union and the States individually would need to be attempted.

On application of the above principles, it is recommended that the following Central Taxes should be, to begin with, subsumed under the Goods and Services Tax:

(i) Central Excise Duty
(ii) Additional Excise Duties
(iii) The Excise Duty levied under the Medicinal and Toiletries Preparation Act
(iv) Service Tax
(v) Additional Customs Duty, commonly known as Countervailing Duty (CVD)
(vi) Special Additional Duty of Customs - 4% (SAD)
(vii) Surcharges, and
(viii) Cesses.

Following State taxes and levies would be, to begin with, subsumed under GST:

(i) State VAT
(ii) Central Sales tax
(iii) Purchase Tax
(iv) Entertainment tax (unless it is levied by the local bodies).
(v) Luxury tax
(vi) Taxes on lottery, betting and gambling.
(vii) Entry tax
(viii) State Cesses and Surcharges in so far as they relate to supply of goods and services.

Ø GST would apply to all goods and services except Alcohol for human consumption. Only alcoholic liquor for human consumption has been excluded from the ambit of GST Constitutionally. All other forms of alcohol like alcohol for industrial use and medicinal and toilet preparation containing alcohol which falls in the taxing domain of the Central Government have been included in GST. This exclusion has been done to address the strong concern of the states regarding loss of revenue if potable alcohol was to be subsumed under GST.

Ø GST on petroleum products (petroleum crude, high speed diesel, petrol, natural gas and aviation turbine fuel) would be applicable from a date to be recommended by the Goods & Services Tax Council.

Ø Tobacco and tobacco products would be subject to GST. In addition, the Centre could continue to levy Central Excise duty.

Ø The sale or consumption of electricity will be outside the preview of GST, hence existing tax system of tax on the same will continue.

Ø The sale or transfer of immovable property will also be outside the preview of GST, hence existing tax/duty system of stamp duty/ registration fee on the same will continue.

Salient Features of GST in INDIA :-

Following are the major features of the proposed GST in INDIA :-

(1) It will be a **"destination/Consumption"** based taxation instead of present **"Origin"** based taxation.

(2) Dual GST having **two concurrent components –**
- o Central GST levied and collected by the Centre
- o State GST levied and collected by the States

(3) **Apply to all stages** of the **value chain**

(4) **Apply to all taxable supplies** of goods or services (as against manufacture, sale or provision of service) made for a consideration except –
- o Exempted goods or services – common list for CGST & SGST
- o Goods or services outside the purview of GST
- o Transactions below threshold limits

(5) **CGST and SGST on intra-State supplies** of goods or services in India.

(6) **IGST (Integrated GST) on inter-State supplies** of goods or services in India – levied and collected by the Centre.

(7) IGST applicable to

- o Import of goods and services
- o Inter-state stock transfers of goods and services

(8) Optional Threshold exemption in both components of GST

(9) All goods or services likely to be covered under GST except :

- o Alcohol for human consumption - State Excise plus VAT
- o Electricity - Electricity Duty
- o Real Estate - Stamp Duty plus Property Taxes
- o Petroleum Products (to be brought under GST from date to be notified on recommendation of GST Council)

(10) Export of goods and services – Zero rated.

(11) Additional Tax of 1% on Inter State Taxable supply of Goods by State of Origin and non CENVATABLE

(12) **GST Rates – to be based on RNR –** Four rates

- o Merit rate for essential goods and services
- o Standard rate for goods and services in general
- o Special rate for precious metals
- o NIL rate

(13) **Floor rate with a small band** of rates for standard rated goods or services **for SGST**

(14) **Optional Threshold exemption** in both components of GST

(15) Optional Compounding scheme for taxpayers having taxable turnover up to a certain threshold above the exemption

(16) Model GST Law including Rules and procedures to be recommended by GST Council –

- o Certain features to be common between the Centre and the States and across the States

- o Certain other features may vary to allow flexibility to the Centre and the States

(17) **Place of Supply Rules –**

- o to determine Place of Supply of goods or services

- o to determine whether the supplies are intra-State or inter-State

(18) **HSN Code** likely to be used for classification of goods

(19) Present System of classification of services likely to be used

(20) ITC availed by importing dealers

- o ITC of IGST to be used for payment of IGST, CGST & SGST in that order

- o ITC of CGST to be used for payment of CGST & IGST in that order

- o ITC of SGST to be used for payment of SGST & IGST in that order

(21) Credit of SGST used for payment of IGST – to be transferred by Exporting State to the Centre

(22) Credit of IGST used for payment of SGST – to be transferred by Centre to Importing State

(23) Inter-Governmental Transfers to take place at the end of Tax Period

(24) Central Government to act as a clearing house and transfer the funds across States

(25) GSTN to function as pass through portal where all GST dealers would

- o submit registration application
- o file returns
- o make tax payments

(26) Common Registration, Return filing & e-Payment services for tax payers

(27) The administration of the Central GST would be with the Centre and for State GST with the States.

(28) The taxpayer would need to submit periodical returns to both the Central GST authority and to the concerned State GST authorities.

(29) Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax facilitating data exchange and taxpayer compliance. The exact design would be worked out in consultation with the Income-Tax Department.

(30) Keeping in mind the need of tax payers convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States

(31) Provision of compensation to States for initial Five Years.

(32) Cascading effect (Tax on Tax) will be removed to much extend, However it will not entirely eliminated due to Additional Tax of 1% and due to certain specified products have been kept out of the preview of the GST.

(33) Centre will be entitled to levy CGST/IGST on supply of goods from manufacture to final retail sale/ consumption.

(34) State will be entitled to levy SGST on Supply of Services.

(1) Basic Fundamental to discuss in IGST:

- § GST in India envisaged on destination/consumption principle.
- § Place of supply to determine the place where the supply of goods/services will take place and to determine whether supplies are interstate or intra state.
- § In Inter State transaction of Goods and Services, determining the place of supply is important as tax revenue accrues to the State where the supply occur or deemed to occur.
- § IGST model envisage levy of IGST by the Centre on all transactions during inter state taxable supplies.

- § Tax revenues accrue to the destination/importing State based on Place of Supply Rules.

(2) IGST is proposed to be levied on inter-State transaction of Goods and Services.
(3) The scope of IGST Model is that Centre would levy IGST which would be CGST plus SGST on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.
(4) IGST applicable to

- § Inter-State supplies of goods or services in India
- § Inter-state stock transfers of goods and services
- § Import of goods and services

(5) IGST model permits cross-utilization of credit of IGST, CGST & SGST for paying IGST unlike intra-State supply where the CGST/SGST credit can be utilized only for paying CGST/SGST respectively.
(6) IGST credit can be utilized for payment of IGST, CGST and SGST in sequence by importing dealer for supplies made by him.
(7) ITC availed by importing dealers

- § ITC of IGST to be used for payment of IGST, CGST & SGST in that order
- § ITC of CGST to be used for payment of CGST & IGST in that order
- § ITC of SGST to be used for payment of SGST & IGST in that order
- § It would basically meet the objective of providing seamless credit chain to taxpayer located across States

(8) Credit of SGST used for payment of IGST – to be transferred by Exporting State to the Centre

(9) Credit of IGST used for payment of SGST – to be transferred by Centre to Importing State

(10) Inter-Governmental Transfers to take place at the end of Tax Period

(11) Central Government to act as a clearing house and transfer the funds across States

(12) Non CENVATABLE Additional Tax @ 1% may be charged on Inter State Taxable supply of **Goods** by State of Origin.
(13) Cascading effect (Tax on Tax) will be removed to much extend, however it will not entirely eliminated due to Additional Tax of 1% and due to certain specified products have been kept out of the preview of the GST.
(14) IGST Model envisages that the Centre will levy tax at a rate approximately equal to CGST+SGST rate on inter-State supply of goods & services.
(15) Key Enablers for IGST

- § Uniform e-Registration
- § Common e-Return for CGST, SGST & IGST
- § Common periodicity of Returns for a class of dealers
- § Uniform cut-off date for filing of Returns

§ System based validations/consistency checks on the ITC availed, tax refunds

§ Effective fund settlement mechanism between the Centre and the States.

(16) Illustrations of Intra State Transactions of Goods :-

a. For eg. M/s A (Based in Haryana) purchase goods/services from M/s B (Based in Delhi) for basic sale price of Rs. 100/-.And further supply the same to M/S C (In U.P.) after adding Rs. 10/- as its profit. We presume that the IGST rate is 20%. 1% additional tax is applicable in Delhi.

The tax liability of M/s A will be as follows :-

Particulars	**Amount (in Rs.)**
<u>Transaction from M/s B to M/s A</u>	
Basic Sale of Goods from M/s B to M/s A	100.00
Add :- IGST @ 20%	20.00
Add :- Additional Tax (AT)@ 1%	1.00
Total Invoice Value	**121.00**
Here ITC of Rs. 20/- of IGST will be available to M/s A	
<u>Transaction from M/s A to Mr. C</u>	
Basic Sale of Goods from M/s A to M/s C (Cost = 100(BSP) + 1 (AT) + 10(profit))	111.00
Add :- IGST @ 20%	22.20
Total Invoice Value	**133.20**
<u>M/s A will discharge its liability as follows :-</u>	
IGST Liability	22.20
By way of input of IGST	20.00
By way of direct payment to the Centre	2.20

b. For eg. M/s A (Based in Haryana) purchase goods/services from M/s B (Based in Haryana) for basic sale price of Rs. 100/-.And further supply the same to M/S C (In U.P.) after adding Rs. 10/- as its profit. We presume that the IGST rate is 20%, CGST is 10% and SGST is 10%.

The tax liability of M/s A will be as follows :-

Particulars	**Amount (in Rs.)**
<u>Transaction from M/s B to M/s A</u>	
Basic Sale of Goods from M/s B to M/s A	100.00

Add :- CGST @ 10%	10.00
Add :- SGST @ 10%	10.00
Total Invoice Value	**120.00**
SGST and CGST both to be charged on Basic Sale Value itself.	
Here ITC of Rs. 10/- of SGST and Rs. 10/- Of CGST will be available to M/s A	
<u>Transaction from M/s A to Mr. C</u>	
Basic Sale of Goods from M/s A to M/s C (Cost = 100(BSP) + 10(profit))	110.00
Add :- IGST @ 20%	22.00
Total Invoice Value	**132.00**
<u>M/s A will discharge its liability as follows :-</u>	
IGST Liability	22.00
By way of input of CGST (Firstly to be utilised for Central levy)	10.00
By way of input of SGST	10.00
By way of direct payment to the State	2.00

c. For eg. M/s A (Based in Haryana) purchase goods/services from M/s B (Based in Delhi) for basic sale price of Rs. 100/-.And further supply the same to M/S C (In Haryana) after adding Rs. 10/- as its profit. We presume that the IGST rate is 20%, CGST is 10% and SGST is 10%. 1% additional tax is applicable in Delhi & Haryana.

The tax liability of M/s A will be as follows :-

Particulars	**Amount (in Rs.)**
<u>Transaction from M/s B to M/s A</u>	
Basic Sale of Goods from M/s B to M/s A	100.00
Add :- IGST @ 20%	20.00
Add :- Additional Tax (AT)@ 1% (Non Cenvatable)	1.00
Total Invoice Value	**121.00**
Here ITC of Rs. 20/- of IGST will be available to M/s A	
<u>Transaction from M/s A to Mr. C</u>	
Basic Sale of Goods from M/s A to M/s C (Cost = 100(BSP) + 1 (AT) + 10(profit))	111.00

Add :- CGST @ 10%	11.10
Add :- SGST @ 10%	11.10
Add :- Additional Tax (AT)@ 1%	1.11
Total Invoice Value	**134.31**

<u>M/s A will discharge its liability as follows :-</u>	
CGST liability	11.10
By way of input of IGST	11.10
SGST liability	11.10
By way of input of SGST (20-11.10)	8.90
By way of direct payment to the State	2.20
Additional Tax liability	1.11
By way of direct payment to the State	1.11

.