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UNDERSTANDING GST THROUGH COMPARISON WITH PREVIOUS INDIRECT TAXATION SYSTEM

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ABSTRACT

The Indirect taxation structure of India has undergone a major reform in its functionality. The different indirect taxes which were earlier levied by the Central Government and State Governments have been replaced by a single indirect tax known as Goods and Services Tax (GST). All indirect taxes have been consolidated into one bucket. Hence one nation with one market has one tax. GST is a symbol of harmonization of laws, procedures and rates of tax across the country. This will remove all the limitations of the earlier indirect taxation system such as unnecessary statutory compliances, non- provision of Input Tax Credit (ITC) for various inputs, cascading effect of taxes and complexity caused due to non-harmonization of tax rates between the states. Due to the federal structure of our country GST will be a dual tax which will be charged both by Central Government as CGST and State Governments as SGST. GST tax reform is the mother of all tax reforms. GST represents an unbiased tax structure which is neutral towards all types of organisation structures, business models, business processes and geographical locations. This paper is focused on understanding the basic concept of GST by comparing it with the previous indirect taxation system.

KEYWORDS

GST, central government, indirect taxes, state governments.

INTRODUCTION

It is to be noted that GST is not an addition to the already prevalent multiple indirect taxes in the country. Instead GST is going to 'replace' all these indirect taxes. GST is a multi-stage, destination based, value-added tax levied at all points of the supply chain with credit allowed for any tax paid on input, input services which have been used or are intended to be used in the course of furtherance of business. Hence, our Honourable Prime Minister has appropriately named it a Good and Simple tax. GST is a comprehensive, centre staged tax that will transform the economic structure of our country. The first time when the Central Government had taken a step towards transition to GST was in 2006. The wait finally got over on 1st July, 2017 when it came into force in India. Some states had opposed the implementation of GST due to issues like the Constitutional Amendment Bill did not contain provisions for giving states compensation against any possible loss of revenue after GST roll-out for five years, keeping the entry tax and petrol tax out of the ambit of the GST. Tamil Nadu had particularly opposed GST because GST being a consumption based tax will result in loss of revenue for manufacturing oriented states. However, despite all the oppositions GST bill was passed in the Centre Government as well as in all the State Governments to bring into effect the new tax all over the country.

DEFINITION OF GST

GST is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set-off benefits from the producer's/ service provider's point up to the retailer's level where only the final consumer should bear the tax

BACKGROUND OF TAXATION STRUCTURE IN INDIA

Article 246 of the Constitution of India empowers the Centre and State Governments to levy various taxes. In the previous regime of indirect taxation Central Government had the power to levy taxes on services and State Governments had power to levy taxes on goods in the form of VAT. The need to restructure these powers has been fulfilled by GST which gives the power to both Central Government and State Governments to levy taxes on goods and services.
The various indirect taxes levied under the previous system were:

a) **Central Excise Duty-** Central Government levied excise duty on such 'excisable goods' that are manufactured in India and are meant for domestic consumption. The various Central Excise duties are Basic Excise Duty, Special Excise Duty, Additional Excise Duty.
b) **Customs Duty-** Customs duty was levied in India by the Central Government on goods imported or exported from India. Under the customs law, the various types of duties leviable are Basic Customs Duty, Additional Duties of various types, Countervailing Duty.
c) **Service Tax-** It was charged in India by the Central Government on the 'service provider' in India except, those in the State of Jammu & Kashmir and was levied on the gross or aggregate amount charged by the service provider from the receiver of services.
d) **Central Sales Tax-** It was charged by the Central Government on inter-state sale or purchase.
e) **Value Added Tax (VAT)-**VAT was a multi-staged sales tax levied on the value added to a product by each selling dealer with the provision of credit of tax paid by the dealer to the previous person on purchase of goods. It was collected by the Government of the State in which the final consumer was located on expenditure incurred by the consumer.
f) **State Excise Duty-** It was charged by various State Governments in India on certain items like alcohol, liquor, opium, narcotics etc.
g) **Securities Transaction Tax-** STT is a tax being levied by the Central Government on all transactions done on the stock exchange. It is applicable on purchase or sale of equity shares, derivatives, equity oriented funds and equity oriented mutual funds
h) **Entertainment Tax-** The government levied entertainment tax on feature films that get a wide release in India. This tax was collected on movie tickets, major commercial shows, gross collections and big private festivals.
i) **Entry Tax/ Octroi-** Entry tax was imposed by state governments on movement of goods from one state to another. This tax was levied by the state which was receiving the goods.

TAXES SUBSUMED UNDER GST ARE AS PER FOLLOWING:

Central Taxes

- Central Excise Duty
- Additional Excise Duties
- The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Service Tax
- Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- Special Additional Duty of Customs - 4% (SAD)
- Central Sales Tax
- Surcharges & Cesses (relating to supply of goods and services)

State Taxes

- Value Added Tax
- Entry Tax in lieu of Octroi

- Entertainment tax (unless it is levied by the local bodies).
- Luxury tax
- Taxes on lottery, betting and gambling.
- State Cesses & Surcharges (relating to supply of goods and services)

TAXES NOT SUBSUMED UNDER GST ARE AS PER FOLLOWING:

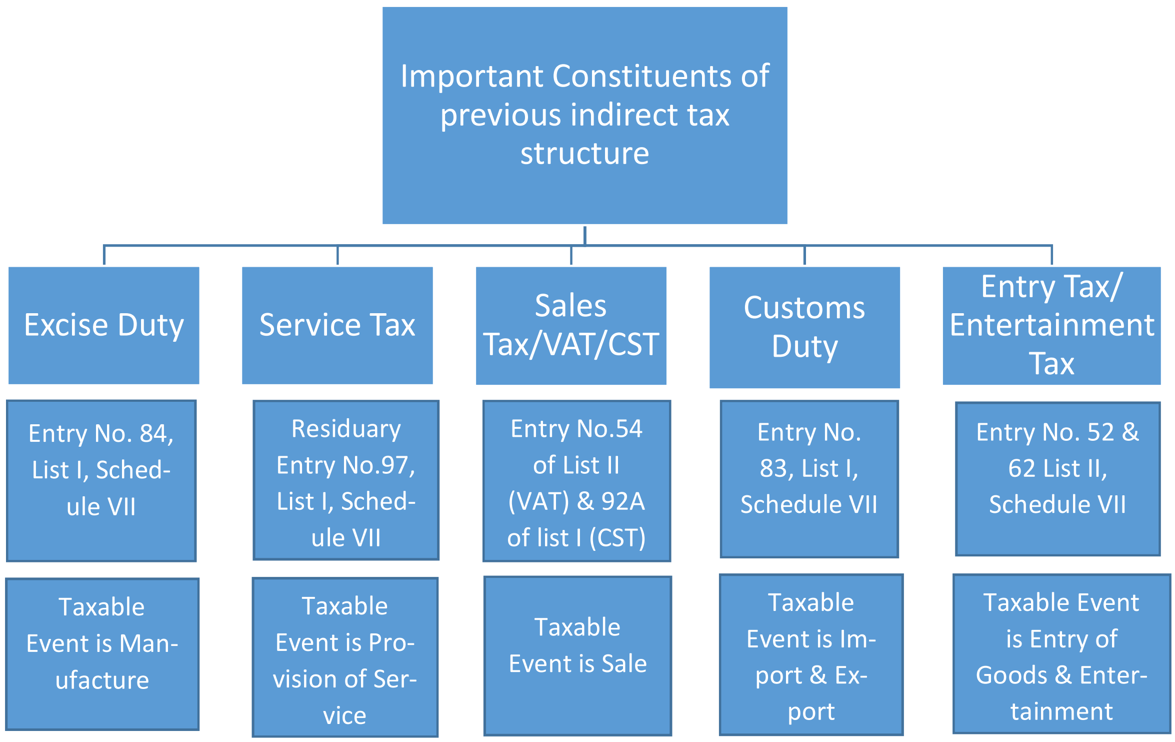
Central Taxes

- Basic Custom Duty
- Export Duty

State Taxes

- Stamp Duty
- Electricity Duty

FIG. 1



NEW TAXES UNDER GST REGIME

a) Central Goods and Services Tax (CGST)- CGST will be levied on all the transactions taking place within the state. The share of this tax will go to the Centre Government. This tax will replace all the other taxes which were being charged by the Centre, for example central excise duty, service tax, central sales tax, countervailing duty, surcharge and cess.

b) State Goods and Services Tax (SGST)- SGST will be levied on all the transactions taking place within the state. The share of this tax will go to the State Government. SGST will replace all the taxes which were earlier levied by State Governments.

c) Integrated Goods and Services Tax (IGST)- In case of inter-state transactions IGST will be levied and collected by Central Government. It will be divided between the Central Government and respective State Governments according to a predetermined policy.

d) Customs duty- Customs duty is the only tax from the previous indirect tax structure which remains in the GST regime. The customs duty is levied in India by the Central Government on goods imported or exported from India. Under the customs law, the various types of duties leviable are Basic Customs Duty, Additional Duties of various types, Countervailing Duty

1. CONSTITUTIONAL PROVISIONS GOVERNING TAXATION

PREVIOUS REGIME

Article 246 (Seventh Schedule) of the Indian Constitution contains the legislative powers (including taxation) of the Union Government and the State Governments. It contains the following 3 lists covering the various subjects:

- **List I- Central List:** It contains the areas in respect of which only the Central Government can make laws (including taxation laws).
- **List II- State List:** It contains the areas in respect of which only the State Governments can make laws (including taxation laws).
- **List III- Concurrent List:** It contains the areas in respect of which both the Parliament and the State Legislatures can make laws concurrently. It is to be noted that this list does not specify any law relating to taxation.

GST REGIME

After Article 246, Article 246A has been inserted in the constitution containing special provision with respect to goods and services tax:

1. The Parliament and the Legislature of every State, will have the power to make laws with respect to goods and services tax imposed by the union or by such state.
2. Parliament has exclusive power to make laws with respect to goods and services tax when the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

2. LEGAL FRAMEWORK

PREVIOUS REGIME

All the indirect taxes had their respective legislatures which governed their functioning:

- **Central Excise Duty:** The Central Government levied excise duty under the Central Excise Act, 1944 and the Central Excise Tariff Act, 1985.

- **Customs Duty:** Customs Duty was levied by the Central Government and governed by The Customs Act, 1962 along with Customs Rules, Annual Finance Act, CBEC Circulars/ Notifications and Judicial decisions.
- **Service Tax:** It was charged in India by the Central Government under the provisions of the Finance Act, 1994 governing the charge of service tax.
- **Central Sales Tax:** It was charged in India by the Central Government and is governed by the Central Sales Tax Act, 1957.
- **Value Added Tax (VAT):** VAT was introduced into the indirect taxation system from 1st April,2005 under Value Added Tax Act, 2005 and associated VAT rules.
- **State Excise Duty:** It was charged by the various State Governments in India and is governed by the respective State Level Excise Act.

GST REGIME

- **Central Goods and Services Tax (CGST)-** For levying CGST there is a single legislation called CGST Act, 2016
- **State Goods and Services Tax (SGST)-** States and Union Territories of Delhi and Puducherry which have their own legislatures have enacted their own GST legislations for levying SGST which is called SGST Act, 2016- State wise. Though, there are numerous SGST legislations but the basics of law such as definition of taxable person, taxable event, rules of chargeability, classification and valuation of goods and services and the like are uniform across all SGST legislations.
- **Union Territories Goods and Services Tax (UTGST)-** Union Territories without their own legislatures will be governed by UTGST Act, 2017, for the purpose of charging UTGST.
- **Integrated Goods and Services Tax (IGST)-** IGST is an aggregate of CGST and SGST. IGST Act, 2016 gives the authority to Centre to levy and collect tax on inter-state supply of goods and services including imports.
- **Customs Duty-** Customs Duty is levied by the Central Government and governed by The Customs Act, 1962 along with Customs Rules, Annual Finance Act, CBEC Circulars/ Notifications and Judicial decisions.

3. TAXABLE EVENT

PREVIOUS REGIME

- **Central Excise Duty:** The duty was levied on the event of **manufacture** of goods.
- **Customs Duty:** The duty is levied when goods are **imported** in India and **exported** out of India.
- **Service Tax:** Service tax was levied on the event of **provision of service**.
- **Central Sales Tax**: This tax was levied when there was **inter-state sale** of goods and services.
- **Value Added Tax**: VAT was levied on the event of **sale of goods within the state**.

GST REGIME

In the GST regime one taxable event in the form of **"supply"** will replace all the other taxable events like manufacture of good, provision of service, sale etc.

- **CGST:** CGST is levied on the event of supply of goods and services within the state.
- **SGST:** SGST is levied on the event of supply of goods and services within the state.
- **IGST:** IGST is levied on the event of inter-state supply of goods and services and also on imports.
- **Customs Duty:** the duty is levied when goods are imported in India and exported out of India.

4. TAX RATES

PREVIOUS REGIME

The previous system of indirect taxes consisted of multiple rates for different taxes. The rate of Value Added Tax differed across states. Excise duty was levied at 12.36%, service tax at 15%, VAT ranged from 5% to 15% between states and Central Sales tax was charged at 2% against Form-C.

GST REGIME

Under GST regime there is uniformity in tax rates with one CGST rate and same SGST rate across all states. The tax rate slabs decided are 0%, 5%, 12%, 18% and 28% and cess will be charged on luxurious goods. 81% of the items are to fall below/in 18% GST slab.

- **0%-** GST at 0% on more than 50% of the goods which fall under consumer price index.
- **5%-** GST at 5% on everyday use goods and essential food items
- **12% & 18%** are the standard rates for goods and services i.e. maximum items will fall under this category.
- **28%-** GST at 28% on all luxurious items

5. CASCADING EFFECT

PREVIOUS REGIME

Under the previous system of taxation credit of input VAT was available only against output VAT and not against output excise duty and service tax. Similarly, credit of input excise duty and service tax was available only against output excise duty and service tax and not against output VAT. So, when excise duty was calculated on a value which already included VAT paid, it caused a cascading effect which implies tax on tax.

Excise Duty Law, Service Tax Law and State VAT Laws had listed certain goods and services which do not qualify for availing Input Tax Credit thus resulting in cascading effect of tax.

Also, u/s 3(1) of Customs Act, CVD is required to be calculated on assessable value plus basic customs duty and u/s 3(5) of Customs Act, SAD is to be calculated on assessable value plus CVD u/s 3(1) plus education cess and she cess, resulting in cascading effect of taxes.

GST REGIME

Under GST regime, most of the indirect taxes will be subsumed under one tax nationwide and this will result in elimination of cascading on credit of inward taxes across the board. There will be seamless flow of tax credit from manufacturer/ supplier to user/ retailer to eliminate cascading effect of taxes.

GST will do away with most of the cascading effects, except in the following cases:

1. A small list of inputs, input services and capital goods which are not eligible for availing tax credit remains.
2. The rule of calculating CVD on assessable value plus basic customs duty u/s 3(1) of Customs Act and calculating SAD on assessable value plus CVD u/s 3(1) plus education cess and she cess according to section 3(5) of Customs Act still remains.

6. INPUT TAX CREDIT (ITC)

PREVIOUS REGIME

Under the previous system of indirect taxation, in case of excise duty and service tax ITC was available but was restricted to a list of inputs, input services and capital goods that were used for manufacturing the final product or providing output services. In case of Central Service Tax, no ITC was available. In case of VAT, there was a list of inputs, capital goods that have been used in manufacture or resale and could be availed as ITC. So, all in all ITC was not available for all taxes paid. Hence indirect taxes like Central Excise and Service Tax mostly formed part of the cost component of trader.

GST REGIME

Under GST a trader is entitled to avail input tax credit paid on domestic procurement of goods and services. Under GST regime a registered person becomes eligible to claim tax credit on input tax charged from him on supply of goods and services which are used or intended to be used in the course of furtherance of his business. Availing ITC will lower the operating costs. Further under GST regime, the landed cost of imports is also expected to reduce significantly.

7. COMPLIANCE

PREVIOUS REGIME

Due to presence of multiple laws for different taxes (for example Central Excise Duty, Service Tax, Central Sales Tax, VAT) compliance procedures became very complicated. One had to get registered under different tax laws, there were numerous rules for filing of returns, payment of taxes, obtaining tax audit reports and filing of those reports, assessment, maintaining papers and so on. The compliance costs were high in the previous regime.

GST REGIME

GST has brought all the taxes under one umbrella to make compliance easier. It consists of common procedures for registration, duty payment, return filing and refund of taxes. Under GST Regime there will be one law for one tax and one return to be filed. This will lead to simplicity in compliance procedure.

8. ADMINISTRATION

PREVIOUS REGIME

The administration of indirect taxes levied by Central Government lies in the hands of Central Board of Excise and Customs (CBEC). State level taxes are administered by the Commercial Tax Departments of different State Governments.

GST REGIME

India being a federal country, GST has a dual structure because of which its administration is equally divided between the Centre and State. Central Board of Excise and Customs (CBEC) shall be responsible for implementing the CGST and the state tax administration will be separately responsible for implementing the SGST.

9. TAX BURDEN

PREVIOUS REGIME

The tax burden on ultimate consumer was very high due to cascading effect of taxes.

GST REGIME

Elimination of cascading effect will reduce the tax burden significantly.

10. ONLINE PORTAL

PREVIOUS REGIME

In the previous tax regime different indirect taxes like excise duty, service tax, VAT, central sales tax, etc were paid through their respective online portals.

GST REGIME

But in GST regime there is a single portal for filing all tax returns. This portal is named Goods and Services Tax Network (GSTN). GSTN is a non-government private limited company which has been set up with the main motive of providing IT infrastructure to Centre Government, State Governments, various tax payers and other stakeholders for implementation of GST.

11. STOCK TRANSFERS

PREVIOUS REGIME

In previous regime stock transfers were not taxable under VAT on furnishing of Form F. Whereas, in case of Central Excise, on making a stock transfer of excisable goods one had to pay excise duty on 100% + 10% of cost of production.

GST REGIME

Taxable event in GST is 'supply'. Thus, supply of goods and/or services without consideration between related persons or between distinct persons, made in the course of furtherance of business is subject to tax.

12. ORIGINATE BASED V/S DESTINATION BASED

PREVIOUS REGIME

In case of Central Government taxes like Central Excise Duty and Service Tax, there was no question of determining originating state or destination state because no matter what the tax collected always formed part of Central Government revenue. However, in case of State taxes like VAT it was necessary to determine originating state and destination state because tax collected formed part of originating state's revenue.

GST REGIME

In GST regime, in case of inter-state supply of goods and services originating state loses revenue and destination state gains revenue. This happens because when inter-state transaction takes place, Central Government collects IGST and transfers certain portion of IGST to the consuming/destination state. That portion of IGST is transferred which the consuming state gives credit to the registered person against subsequent sale within the consuming state.

CONCLUSION

GST tax reform will prove to be very beneficial for the country because of its features of easy compliance, transparency, removal of cascading effect of taxes, provision of Input Tax Credit, harmonization of tax rates and easy administration. India will now have a unified common national market with freedom of movement of goods and services and a level playing field for producers and consumers across the country.

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3. http://gst.com.my/what-is-gst-goods-and-services-tax.html
4. http://gstindia.com
5. https://www.icsi.edu/Docs/Webmodules/Presentation_23072016

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