INTERNATIONAL JOURNAL OF RESEARCH IN COMMERCE, IT & MANAGEMENT

IJRCM

IJRCM

A Monthly Double-Blind Peer Reviewed (Refereed/Juried) Open Access International e-Journal - Included in the International Serial Directories

Indexed & Listed at:

Ulrich's Periodicals Directory ©, ProQuest, U.S.A., EBSCO Publishing, U.S.A., Cabell's Directories of Publishing Opportunities, U.S.A.,

Open J-Gage, India [link of the same is duly available at Inflibnet of University Grants Commission (U.G.C.)],

Index Copernicus Publishers Panel, Poland with IC Value of 5.09 & number of libraries all around the world.

Circulated all over the world & Google has verified that scholars of more than 1771 Cities in 148 countries/territories are visiting our journal on regular basis.

Ground Floor, Building No. 1041-C-1, Devi Bhawan Bazar, JAGADHRI – 135 003, Yamunanagar, Haryana, INDIA

http://ijrcm.org.in/

CONTENTS

CALL FOR MANUSCRIPTS

We invite unpublished novel, original, empirical and high quality research work pertaining to recent developments & practices in the area of Computer, Business, Finance, Marketing, Human Resource Management, General Management, Banking, Insurance, Corporate Governance and emerging paradigms in allied subjects like Accounting Education; Accounting Information Systems; Accounting Theory & Practice; Auditing; Behavioral Accounting; Behavioral Economics; Corporate Finance; Cost Accounting; Econometrics; Economic Development; Economic History; Financial Institutions & Markets; Financial Services; Fiscal Policy; Government & Non Profit Accounting; Industrial Organization; International Economics & Trade; International Finance; Macro Economics; Micro Economics; Monetary Policy; Portfolio & Security Analysis; Public Policy Economics; Real Estate; Regional Economics; Tax Accounting; Advertising & Promotion Management; Business Education; Management Information Systems (MIS); Business Law, Public Responsibility & Ethics; Communication; Direct Marketing; E-Commerce; Global Business; Health Care Administration; Labor Relations & Human Resource Management; Marketing Research; Marketing Theory & Applications; Non-Profit Organizations; Office Administration/Management; Operations Research/Statistics; Organizational Behavior & Theory; Organizational Development; Production/Operations; Public Administration; Purchasing/Materials Management; Retailing; Sales/Selling; Services; Small Business Entrepreneurship; Strategic Management Policy; Technology/Innovation; Tourism, Hospitality & Leisure; Transportation/Physical Distribution; Algorithms; Artificial Intelligence; Compilers & Translation; Computer Aided Design (CAD); Computer Aided Manufacturing; Computer Graphics; Computer Organization & Architecture; Database Structures & Systems; Digital Logic; Discrete Structures; Internet; Management Information Systems; Modeling & Simulation; Multimedia; Neural Systems/Neural Networks; Numerical Analysis/Scientific Computing; Object Oriented Programming; Operating Systems; Programming Languages; Robotics; Symbolic & Formal Logic and Web Design. The above mentioned tracks are only indicative, and not exhaustive.

Anybody can submit the soft copy of his/her manuscript **anytime** in M.S. Word format after preparing the same as per our submission guidelines duly available on our website under the heading guidelines for submission, at the email address: infoijrcm@gmail.com.

GUIDELINES FOR SUBMISSION OF MANUSCRIPT

1. **COVERING LETTER FOR SUBMISSION:**

DATED: _____________

THE EDITOR
IJRCM

Subject: **SUBMISSION OF MANUSCRIPT IN THE AREA OF ____.**

(e.g. Finance/Marketing/HRM/General Management/Economics/Psychology/Law/Computer/IT/Engineering/Mathematics/other, please specify)

DEAR SIR/MADAM

Please find my submission of manuscript entitled '____' for possible publication in your journals.

I hereby affirm that the contents of this manuscript are original. Furthermore, it has neither been published elsewhere in any language fully or partly, nor is it under review for publication elsewhere.

I affirm that all the author (s) have seen and agreed to the submitted version of the manuscript and their inclusion of name (s) as co-author (s).

Also, if my/our manuscript is accepted, I/We agree to comply with the formalities as given on the website of the journal & you are free to publish our contribution in any of your journals.

NAME OF CORRESPONDING AUTHOR:
Designation:
Affiliation with full address, contact numbers & Pin Code:
Residential address with Pin Code:
Mobile Number (s):
Landline Number (s):
E-mail Address:
Alternate E-mail Address:

NOTES:
a) The whole manuscript is required to be in ***ONE MS WORD FILE*** only (pdf. version is liable to be rejected without any consideration), which will start from the covering letter, inside the manuscript.
b) The sender is required to mention the following in the **SUBJECT COLUMN** of the mail:
New Manuscript for Review in the area of (Finance/Marketing/HRM/General Management/Economics/Psychology/Law/Computer/IT/Engineering/Mathematics/other, please specify)
c) There is no need to give any text in the body of mail, except the cases where the author wishes to give any specific message w.r.t. to the manuscript.
d) The total size of the file containing the manuscript is required to be below **500 KB**.
e) Abstract alone will not be considered for review, and the author is required to submit the complete manuscript in the first instance.
f) The journal gives acknowledgement w.r.t. the receipt of every email and in case of non-receipt of acknowledgment from the journal, w.r.t. the submission of manuscript, within two days of submission, the corresponding author is required to demand for the same by sending separate mail to the journal.

2. **MANUSCRIPT TITLE**: The title of the paper should be in a 12 point Calibri Font. It should be bold typed, centered and fully capitalised.

3. **AUTHOR NAME (S) & AFFILIATIONS**: The author (s) **full name**, **designation**, **affiliation** (s), **address**, **mobile/landline numbers**, and **email/alternate email address** should be in italic & 11-point Calibri Font. It must be centered underneath the title.

4. **ABSTRACT**: Abstract should be in fully italicized text, not exceeding 250 words. The abstract must be informative and explain the background, aims, methods, results & conclusion in a single para. Abbreviations must be mentioned in full.

5. **KEYWORDS**: Abstract must be followed by a list of keywords, subject to the maximum of five. These should be arranged in alphabetic order separated by commas and full stops at the end.

6. **MANUSCRIPT**: Manuscript must be in ***BRITISH ENGLISH*** prepared on a standard A4 size ***PORTRAIT SETTING PAPER***. It must be prepared on a single space and single column with 1" margin set for top, bottom, left and right. It should be typed in 8 point Calibri Font with page numbers at the bottom and centre of every page. It should be free from grammatical, spelling and punctuation errors and must be thoroughly edited.

7. **HEADINGS**: All the headings should be in a 10 point Calibri Font. These must be bold-faced, aligned left and fully capitalised. Leave a blank line before each heading.

8. **SUB-HEADINGS**: All the sub-headings should be in a 8 point Calibri Font. These must be bold-faced, aligned left and fully capitalised.

9. **MAIN TEXT**: The main text should follow the following sequence:

   INTRODUCTION

   REVIEW OF LITERATURE

   NEED/IMPORTANCE OF THE STUDY

   STATEMENT OF THE PROBLEM

   OBJECTIVES

   HYPOTHESES

   RESEARCH METHODOLOGY

   RESULTS & DISCUSSION

   FINDINGS

   RECOMMENDATIONS/SUGGESTIONS

   CONCLUSIONS

   SCOPE FOR FURTHER RESEARCH

   ACKNOWLEDGMENTS

   REFERENCES

   APPENDIX/ANNEXURE

   It should be in a 8 point Calibri Font, single spaced and justified. The manuscript should preferably not exceed ***5000 WORDS***.

10. **FIGURES & TABLES**: These should be simple, crystal clear, centered, separately numbered & self explained, and **titles must be above the table/figure**. **Sources of data should be mentioned below the table/figure**. It should be ensured that the tables/figures are referred to from the main text.

11. **EQUATIONS**: These should be consecutively numbered in parentheses, horizontally centered with equation number placed at the right.

12. **REFERENCES**: The list of all references should be alphabetically arranged. The author (s) should mention only the actually utilised references in the preparation of manuscript and they are supposed to follow **Harvard Style of Referencing**. The author (s) are supposed to follow the references as per the following:

- All works cited in the text (including sources for tables and figures) should be listed alphabetically.
- Use (**ed.**) for one editor, and (**ed.s)** for multiple editors.
- When listing two or more works by one author, use --- (20xx), such as after Kohl (1997), use --- (2001), etc, in chronologically ascending order.
- Indicate (opening and closing) page numbers for articles in journals and for chapters in books.
- The title of books and journals should be in italics. Double quotation marks are used for titles of journal articles, book chapters, dissertations, reports, working papers, unpublished material, etc.
- For titles in a language other than English, provide an English translation in parentheses.
- The location of endnotes within the text should be indicated by superscript numbers.

PLEASE USE THE FOLLOWING FOR STYLE AND PUNCTUATION IN REFERENCES:

BOOKS

- Bowersox, Donald J., Closs, David J., (1996), "Logistical Management." Tata McGraw, Hill, New Delhi.
- Hunker, H.L. and A.J. Wright (1963), "Factors of Industrial Location in Ohio" Ohio State University, Nigeria.

CONTRIBUTIONS TO BOOKS

- Sharma T., Kwatra, G. (2008) Effectiveness of Social Advertising: A Study of Selected Campaigns, Corporate Social Responsibility, Edited by David Crowther & Nicholas Capaldi, Ashgate Research Companion to Corporate Social Responsibility, Chapter 15, pp 287-303.

JOURNAL AND OTHER ARTICLES

- Schemenner, R.W., Huber, J.C. and Cook, R.L. (1987), "Geographic Differences and the Location of New Manufacturing Facilities," Journal of Urban Economics, Vol. 21, No. 1, pp. 83-104.

CONFERENCE PAPERS

- Garg, Sambhav (2011): "Business Ethics" Paper presented at the Annual International Conference for the All India Management Association, New Delhi, India, 19–22 June.

UNPUBLISHED DISSERTATIONS AND THESES

- Kumar S. (2011): "Customer Value: A Comparative Study of Rural and Urban Customers," Thesis, Kurukshetra University, Kurukshetra.

ONLINE RESOURCES

- Always indicate the date that the source was accessed, as online resources are frequently updated or removed.

WEBSITES

- Garg, Bhavet (2011): Towards a New Natural Gas Policy, Political Weekly, Viewed on January 01, 2012 http://epw.in/user/viewabstract.jsp

THE PROPOSED GOODS AND SERVICE TAX REGIME: AN ANALYSIS OF THE DIFFERENT MODELS TO SELECT A SUITABLE MODEL FOR INDIA

ASHISH TIWARI
STUDENT
RAJIV GANDHI NATIONAL UNIVERSITY OF LAW
PATIALA

VINAYAK GUPTA
STUDENT
RAJIV GANDHI NATIONAL UNIVERSITY OF LAW
PATIALA

ABSTRACT

This paper analyses the problem in the present taxation framework to find out the need for new taxation regime. Analysing the proposed Constitution (115th Amendment) Bill, 2011 (hereinafter referred as GST Bill), the paper attempts to find out the impact of the bill economically as well as constitutionally. The Paper has observed certain flaws in the bill which left the dream of a Pan-India Indirect taxation unaccomplished. Besides from it, the bill is also alleged to disturb the balance of federalism in the country and creating loss to the state revenue. The Paper believes in striking the correct balance in both the arenas and hence put forth certain recommendations for the solution of the above problems with an eye to achieve a balance.

KEYWORDS

Goods and Service Tax, Indirect Taxes, VAT, GST Models.

INTRODUCTION

Taxes are what we pay for civilized nations"

-Oliver Wendell Holmes Jr [1]

The term "*tax*" reminds of a famous fiction character *Robinhood* who used to loot the riches to help out the poors. Similarly the tax takes out the money from taxable entities to create a civilized nation. The term 'civilized nation' hereby includes fulfilling both national interest as well as the local interest. Considering this, both centre and state government levies taxes with *Robinhood* like intention of local and national interest. The implementation of the *Robinhood* intention of levying the tax in India is also complex and harsh for the tax payers. Hence the taxpayer, in order to meet his ends, needs to evade and avoid the taxes creating a loss for both nation and state. In the light of these problems, the government is trying to come up with tax reforms in the form of Direct Tax Code (hereinafter referred as DTC) and Goods and Services Tax (hereinafter referred as GST). This paper tries to analyse whether the GST regime as proposed by the central government will be able to serve the purpose of national interest while striking a balance between both state and centre level.

With an eye to provide a lucid description on this new taxation regime, this paper is classified into five parts. Part I of the paper explains the instant taxation regime and points out the loopholes in the contemporary provisions. Part II reviews the proposed GST regime. Part III tries to analyse the impact of new regime. Part IV tries to explain the state's problem and solutions imparted for this world all over the world. Part V being conclusive part of the essay tries to find out answers of the issues and controversies with regard to new regime.

I. NEED FOR TAX REFORMS IN INDIA: AN ANALYSIS OF CONTEMPORARY TAXATION FRAMEWORK

"Necessity is the mother of invention"

The defects or flaws in the present legal framework create a necessity for new legislation or amendments. Hence this part tries to analyse the present regimes and problems in it.

1.1. ANALYSIS OF PRESENT LEGAL FRAMEWORK FOR COLLECTION AND DISTRIBUTION OF INDIRECT TAXES

India being a federal country believes in the concept of distribution of the power of levying the taxes between the state and the centre. In India, the Seventh Schedule of the Constitution is entrusted to divide the powers among the three lists viz. centre list, States list and Concurrent list.[2] However there is no test laid down for this distribution of power thereby. Even, a study of federation all over the world shows that there is no fixed formula or set formula for division of the power between the state and the centre. A basic test to be applied to ascertain the allotment of subject matters between the centre and state governments is that the functions of the national interest should go to centre and those of the regional interest should go to the state. However the importance of the subject matter is quite a circumstantial and subjective matter to decide and hence this test falls flat.

Coming to the distribution of the power of levying taxes in India, the centre collects all the direct taxes like income tax, corporate tax etc. along with few indirect taxes like service Tax, excise duty and customs duty. On the other hand, the state is empowered to tax indirect taxes like VAT on goods, CST and local taxes. In the present scenario, these funds coming out of these taxes for states are unable to furnish their requirements. This hampers the works of local development in the respective states. This problem of the state had been predicted by the constituent Assembly at the time of the formation of the Constitution. Hence they put provision for the tax sharing in certain tax collections of the centre and the concept of grant-in-aid in our Constitution. The states, from initial year of the independence, were depended upon the share of revenue collected and allotted by the centre. Centre, after the year 2000, on the recommendation of tenth finance commission, amended Article 270 to allot a share of the net proceeds of all the taxes and collected by them except in few circumstances. As per Article 270(2), the percentage for it can be prescribed from time to time.[3] In reality, this work of deciding the percentage distribution comes into the hands of Finance Commission. Additionally, states are given full share in taxes in course of sale or purchase of inter-state trade or commerce and taxes on consignment of goods in course of inter-state trade or commerce. Even after this, the conditions of the states are not satisfactory and states like Bihar, Uttar Pradesh etc. normally demands for the special packages considering their weak financial and social status in comparison to the other states.

The Present indirect taxation regime is also criticised majorly for the two reasons i.e. firstly, the non-uniformity of the rates and complexities involved and secondly, the tax evasion by non-disclosure of sales and supply of goods or services. The centre cause of the above problems can be mirrored in the following statement of Gurucharan Das:-

[1] Oliver Wendell Holmes, Jr, in the case of Compania General deTabacos de Filipinas v. Collector of Internal Revenue, 1904.
[2] *Schedule VII (List I, II, III),* Constitution of India, 1950.
[3] *Article 270 (2)* Constitution of India, 1950.

"In India today, a truck takes 40 hours to deliver goods from Delhi to Bombay. Of this, only 24 hours are spent driving; the remaining16 hours are spent negotiating bribes at octroi check nakas. Thanks to the Golden Quadrilateral, driving time has declined significantly. But the pain and corruption of octroi posts still remains." [4]

All these problems in the present taxation regime paved the way for the GST Regime. However it is still facing challenges from the states as they have fear of getting their condition worse in this regime.

1.2. IMPLEMENTATION OF THE VALUE ADDED TAXES IN INDIA: A HALF WAY SOLUTION IN THE ARENA OF INDIRECT TAXATION

As cited in one of the illustration given above, people used to pay taxes at several levels. There was no system of getting a rebate on the taxes paid previously while paying the inputs.[5] This is also known as cascading effect. The effect of this Cascading effect could be explained with the example shown below:

Producer A producing good X	
Input Cost- Rs. 0 & Output Cost- Rs. 10	Taxed at the output cost with rate of 10%- Rs. 1

↓

Producer B producing good Y using product X	
Input Cost- Rs. 10 & Output Cost- Rs. 20	Taxed at the output cost with rate of 10%- Rs.2

↓

Producer C producing good Z using product Y	
Input Cost- Rs. 20 & Output Cost- Rs. 50	Taxed at the output cost with rate of 10%- Rs. 5

Value Added Tax (hereinafter referred as VAT) is only a method of levying tax on the base of the value added by enterprise in the product and hence solves the problem of cascading effect as illustrated below:

Producer A producing good X	
Input Cost- Rs. 0 & Output Cost- Rs. 10	Taxed at the Value Added by the producer (output cost-input cost) with rate of 10%- RS. 1

↓

Producer B producing good Y using product X	
Input Cost- Rs. 10 & Output Cost- Rs. 20	Taxed at the Value Added by the producer (output cost-input cost) with rate of 10%- Rs.1

↓

Producer C producing good Z using product Y	
Input Cost- Rs. 20 & Output Cost- Rs. 50	Taxed at the Value Added by the producer (output cost-Input Cost) with rate of 10%- Rs. 3

It also aims to reduce multiple rates of taxation and is an attempt to bring uniformity in the tax rates.

The Centre implemented the VAT first time in 1986 as MODVAT for the selected commodities. Centre increased the number of the commodities while implementing CENVAT in 2002-03.Consequently, Service tax was also included in CENVAT in 2003-04. Presently, VAT consolidated its position with 21 states implementing it in 2005. [6]

The implementation of VAT cherished business all over the country. However the present taxation regime has not put a full stop on the harsh effects of multiple taxes. Neither State VAT nor CENVAT is a success in order to put an end on the multiple amount of taxes which a businessmen need to pay to transact his business. Taxes like surcharges, additional customs duties etc. are not included in CENVAT. State VATs also have the same story. Adding salt on this wound, the companies need to pay Interstate Sales Tax for the delivery of goods produced and already taxed in one state. Hence the multiplicity of the taxes is a big

[4] Gurucharan Das, *Answer to black money is to pass GST, available at* http://post.jagran.com/answer-to-black-money-is-to-pass-gst-1307886857 (12 Dec., 2011).
[5] *Goods and Services Tax: A Primer, available at* http://mostlyeconomic.com/wordpress.com (15 Dec., 2011).
[6] Amol Agrawal, *India's Goods & Service Tax – A Primer available at* http://www.stcipd.com (29 August, 2012).

problem.[7] Additionally services are taxed only by the centre and hence it creates a problem for states when a good is being sold within a service provided. All these complexities are still looking for a solution in the form of GST regime.

1.3. MULTIPLICITY OF TAXES AS A HURDLE TO CONDUCT BUSINESS IN INDIA

"To the biggest question of the present day, the answer lies in the history book."

Jawahar Lal Nehru's vision is often referred as admixture of Marx's socialism and Gandhi's self reliance or *Swaraj.* In concise manner, the vision of India or primarily Nehru is based on the Russian model and hence was anti-industrialist. To bring the development of India into the mainstream, T.T. Karamchari, the then Finance Minister of India, introduced taxes at the rate of 87.5%. Even, J.R.D. Tata conceded in a private conversation with Gurcharan Das, the Ex-Vice President for Procter & Gamble, in his book that he used to pay more than 100% tax.[8] This multiplicity and mammoth size of tax rates basically rooted the practice of tax evasion and avoidance. Even the reputed industrialists like Aditya Birla used international route for circumventing tax and rigidity of *license raj.* Aditya Birla inaugurated several companies outside Indian peninsular mostly in eastern Asia. These companies stood out of Indian Capital and even used Indian raw material for their production. However it will be wrong to allege any allegation of tax evasion or other such allegations Aditya Birla. In reality, Aditya Birla got frustrated with licensing problem and tax of more than 100% which lead him to only viable option of expanding Business Empire outside India.

This kind of taxation and fiscal policy basically opened up path for a parallel economy in India with lot of tax evasion and avoidance. India entered into the Liberalisation era in 1991 under the guidance of P.V. Narshima Rao, the then Prime Minister of India. However the problem of multiplicity of tax rates did not get over with the starting of Liberalisation era. An illustration showing the problem with the multiplicity of taxation can be observed below.

ILLUSTRATION

If 'A' is indulged in manufacturing and selling of Textile, then firstly he will be charged the Professional tax. As he is also engaged in selling of the textile he will be charged for the Sales tax. For importing the goods he will be charges Central Sales Tax, Customs Duty and Octroi. As he gets an income by selling the goods he should pay Income Tax. As the textile will be manufactured in the factory Excise Duty should be paid. 'A' shall also pay Municipal tax for having a Factory/Warehouse/office. For the business purposes if A withdraws more than permitted amount from the bank then he will have to pay the Cash Handling Tax. If he takes or gives any of the any service then he has to pay a Service tax. When 'A' goes out of station for business he has to pay the Fringe Benefit Tax. As 'A' is Accumulating wealth from his business he shall also pay the Wealth tax. When 'A' has a good turnover he shall pay the Turnover tax and otherwise he shall pay the Minimum Alternative Tax. Now this examples illustrates the problem of multiplicity of taxes.

By paying so many kinds of taxes, an assesse is either discouraged to start up his own business or forced to committee tax evasion. The only hope for elimination of this harshness is in the form of DTC and GST as these laws will consolidate and revitalise the Indian taxation laws. This paper is only with respect to one of the major branches of the tax regime i.e. indirect taxation. The change agent of this arena is GST regime which is making way through the Constitution (115th Amendment) Bill, 2011 (hereinafter referred as GST Bill). However there are several questions being raised on this GST Bill which is analysed further in the coming parts.[9]

II. THE NEW INDIRECT TAXATION REGIME: A BIRD EYE VIEW OF CONSTITUTION (115TH AMENDMENT) BILL, 2011 AND COMPARATIVE ANALYSIS WITH OTHER MODELS

The Goods and Service Tax is a comprehensive value added tax on goods and services levied at each stage of supply chain. This part of the paper analyses the concept and Indian version of GST. Additionally, a critical and comparative analysis of the bill is also presented in order to understand the intricacies of the bill.

2.1. CONCEPT ANALYSIS OF GST

"World over, Goods and Services attract the same rate of Tax. This is the foundation of GST."

\- *P. Chidambaram*

As discussed above, the major problem in the recent taxation structure is of the complexity involved in it. In an illustration cited above, it is noticed that there is double digit numbers of the taxes and tax rates which a businessmen need to take care of. Hence as stated by P. Chidambaram and quoted above, the basic object to bring GST was to consolidate all the indirect taxes into one and charge the tax at a single rate. Eminent tax economist Prof. Charles MClure identifies six characteristics of a well designed GST in a federal system which is also cited by Dr. Vijay Kelkar, Chairman of the Thirteenth Finance Commission, in his speech[10]:-

- Uniform rate of taxation within a given jurisdiction, ideally at a single rate.
- Sales would be taxed under the destination principle.
- Low costs of compliance and administration.
- Each level of government to set its own tax rate subject to agreed ceilings and/or floors.
- A substantively Common tax base for Central and State governments.
- Substantial Co-operation in tax administration between all levels of government.[11]

Kelkar also put up in his speech that the first two are important for economic reasons; the third for administrative reasons and the fourth for political reasons, the last two come into play in a system of multilevel finance such as we have in our country.[12] On the very outset of it, GST looks like to remove all the complexities involved in transacting business in India as cited above in part I and explained in a illustration thereby.

Additionally, GST is a value added tax which again somehow reduces the burden of the tax payers. GST, in a manner, can also be called as an extension of VAT regime as it is just a VAT replacing several taxes. Hence it is bigger in scope than VAT but have a same nature. This regime is presently awaiting a constitutional amendment which is to be passed. Hence to understand the Indian version of this concept, the analysis of the proposed 115th Amendment of the Constitution is indispensable.

2.2. THE CONSTITUTION (115TH AMENDMENT) BILL, 2011: A PERIPHERAL ANALYSIS

The Constitutional amendment is necessary for implementing GST in the country as it involves a consolidation of several taxing power. Hence the need of the constitutional amendment cannot be surpassed. Now the Government is proposing 115th amendment for rolling out GST regime in India. The basic feature of the GST regime that can be deduced form this bill is as follows:-

2.2.1. CONCURRENT GST AT BOTH LEVELS

The bill proposes a collection of GST at both level and by both governments i.e. State and Central government.[13] The Central GST (hereinafter referred as CGST comprises of Central excise Duty, Additional Excise Duties, Additional Customs Duty known as Countervailing Customs Duty, Special Additional Customs Duty, Service Tax, Cesses and Surcharges. On the other hand, State GST comprises of VAT/Sales Tax, Local Taxes like Entertainment Taxes, Luxury Taxes, Tax on lottery,

---

[7] Sriram P Govind, *Goods and Service Tax : Will the Proposed Indirect Tax Reform Change Business and Tax Dynamics in India ? available at* http://www.nujslawreview.com (30 August, 2012).

[8] GURUCHARAN DAS, INDIA UNBOUND 88 (Penguin Publication, 2001).

[9] Pre Legislative Briefing Council, *A Report on the Constitutional (115th Amendment) Bill: GST,* Submitted to the Standing Committee, Finance of Lok Sabha on 23 May, 2011.

[10] Dr. Vijay Kelker, *Address at the FICCI National Executive Committee Meeting on "Flawless Goods and Services Tax for Promoting Growth and Employment available at* http://www.fincopindia.nic.in (12th October, 2009).

[11] Referred in *Supra* note 5.

[12] *Id*.

[13] THE CONSTITUTION (115TH AMENDMENT) BILL, 2011, Clause 2.

betting etc, Service Tax, Entry Tax not in lieu of octroi.[14] The requisite changes in lists of Schedule VII are also proposed in bill.[15] The tax payers will need to maintain the two separate accounts for the two GST which can be bit troublesome.

As there are separate accounts for the two, a business can get input tax credit paid on CGST can only be utilized for paying Output tax on CGST. Likewise, SGST input tax credit can only be adjusted for output tax SGST. There cannot be cross utilization of Input Tax between CGST and SGST.

2.2.2. INTER-STATE GST

Inter State Sales as per the present taxation framework formulates a huge source for the revenue in the hands of the states. However the bill introduces Article 269A under which the centre is now empowered to collect Inter-State GST (hereinafter referred as IGST) on an interstate sale from the exporting state and transfer it to the importing state. The revenue collected under it will be apportioned between the states between centre and state as prescribed and decided by the Parliament.

2.2.3. THRESHOLD EXEMPTIONS

The traders earning above the threshold determined shall be taxed under GST at both the levels. The threshold limit will be kept uniform across the country. Hence it seems to be beneficial for the small traders as well as reduces the burden of the government.

2.2.4. GST COUNCIL AND DISPUTE SETTLEMENT AUTHORITY

GST Council and GST Dispute Settlement Authority are also to be set up under the bill. GST Council will make recommendations on all key matters pertaining to GST like taxation rates under both CGST and SGST, exemptions from GST etc.[16] It will comprise of:-

- Union Finance Minister (Chairman)
- Finance Ministers from states (Members)[17]

The Dispute Settlement Authority will resolve disputes amidst Union/States/members with respect to GST. It will comprise of:-

- A judge from Supreme Court or Chief Justice from a high court and appointed by President of India on the recommendation of Chief Justice of India.
- Two other members should be experts from field

of law/ economics/ public affairs on the recommendation of GST Council.[18]

2.3. THE 115TH CONSTITUTION AMENDMENT BILL, 2011: A CRITICAL EVALUATION

2.3.1. MULTIPLICITY OF TAX REGIMES

The GST was proposed with the noble idea of a single pan-India Indirect Taxation regime. However it had now itself created dual and concurrent tax regimes. Hence it has achieved its objective upto a certain extent but is unable to fulfil the dream of pan-India Indirect Taxation.

2.3.2. STATES AUTONOMY AND RESOURCES

The states are alleging this bill to take away their autonomy by reducing their power to tax. Additionally they visualise its implementation as a loss for their revenues. This has been dealt in detail in the Part IV of this paper.

2.4. COMPARATIVE MODEL

2.4.1 AUSTRALIA

In Australia, the GST is implemented in the beginning of the last decade on 1st July, 2000. The GST was introduced by the virtue of Division 9 of the *A New Tax System (Goods and Services Tax) Act*, 1999 (Cth). It is collected by the centre on the most goods and services transactions in Australia at the rate of 10%. Taxable supplies include goods wholly within Australia, from or to Australia or real property in Australia. Certain types of supplies are free of GST, examples include fresh unprocessed food, medical services, education courses, childcare, exports, pre-owned real estate and going concerns. In Australian Model, the net proceeds belonging to the states are passed to the states in entirety.[19]

Australian GST

Subject Matter: most goods and services transactions in Australia
Statute: Division 9 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth)
Introduction Date: 1 July 2000
Tax Rate: 10%

Information derived from http://www.ato.gov.au

2.4.2. CANADA

GST in Canada is a multi-level value added tax introduced in Canada on January 1, 1991. The key person working behind bringing these reforms were the then Prime Minister Brian Mulroney and his finance minister Michael Wilson. The Goods and Services Tax is defined in law at Part IX of the Excise Tax Act. GST is levied on supplies of goods or services purchased in Canada and include most products, except certain politically sensitive essentials such as groceries, residential rent, and medical services, and services such as financial services. It is collected at the rate of 5%. The revenues of the GST are kept with the centre. Seeing the same problems as noticed presently in India, Harmonised Sales Tax was brought by the Centre in collaboration with the states of Nova Scotia, New Brunswick and Newfoundland. Its rate is 13% except 15% for Nova Scotia. HST is administered by the Canada Revenue Agency, with revenues divided among participating governments according to the formula accepted by the both. Even such consensus model can also be brought in India.[20]

Canadian HST

Subject Matter: most goods and services transactions in states of Nova Scotia, New Brunswick and Newfoundland
Statute: Consensus based taxation
Introduction Date: January 1, 1991
Tax Rate: 5% (15% for Nova Scotia)

Information derived from http://www.oag-bvg.gc.ca

---

[14] The Empowered Committee of State Finance Ministers, *First Discussion Paper on Goods and Services Tax in India*, available at http://www.finmin.nic.in (10 Dec., 2011).
[15] THE CONSTITUTION (115TH AMENDMENT) BILL, 2011, Clause 17.
[16] THE CONSTITUTION (115TH AMENDMENT) BILL, 2011, Clause 12.
[17] *Id.*
[18] *About GST(Australia), available at* http://www.ato.gov.in (28 Aug., 2012)
[19] *Ibid.*
[20] *About GST(Canada), available at* http://www.oag-bvg.gc.ca (28 Aug., 2012)

2.4.3. NEW ZEALAND

GST is a tax on most goods and services in New Zealand, most imported goods, and certain imported services. GST was introduced in New Zealand in the year 1986. Subsequently, it was raised to 12.5% on 1 July 1989 and was further increased to 15% on 1 October 2010.[21] Presently GST being value added tax is added to the price of taxable goods and services at a rate of 15%.

Taxable items include the following for the purpose of the GST:-

- Goods include all types of personal and real property, except money.
- Services cover everything other than goods or money.
- Taxable goods and services are part of the business or taxable activity. This means you supply or receive taxable goods and services for a consideration (money, compensation, reward) but not necessarily for profit. We refer to taxable goods and services as “taxable supplies”.[22]

The tax is here deposited to the Inland Revenue Department and didn’t get distributed among the provinces.

New Zealand GST

Subject Matter: Three subjects shown in body
Statute: Taxation (GST and Miscellaneous Provisions) Act, 2000
Introduction Date: 1 October 2010
Tax Rate: 15%

Information derived from http://www.ird.govt.nz

2.4.4CHINA

In China, the centralised VAT was implemented in *lieu* of State Taxes. China, in order to satisfy the needs of the states, In going to this model, had assured the provinces that they would continue to get what they did under the previous arrangement and that changes in revenue shares would be phased in over an extended period of 15 years.[23] A similar kind of the promise is also being given by the Indian government but the states are not assured of it in India. However the line is needed to be drawn somewhere so that larger country interest along with local interest can be achieved.[24]

Chinese VAT

Subject Matter: Subject matter of all State Taxes
Introduction Year: 1984
Tax Rate: 17% (13% for reduced VAT)

Information derived from http://www.tax.gov.ch

2.4.5. UNITED KINGDOM

Value Added Tax (VAT) is a tax on consumption levied in the United Kingdom by the national government. It was introduced in 1973 and is the third largest source of government revenue after income tax and national insurance. It is administered and collected by HM Revenue and Customs. All businesses that provide ‘taxable’ goods and services and whose taxable turnover exceeds the threshold must register for VAT.[25] The threshold has been £77,000 since April 2012. VAT is levied on most goods and services provided by registered businesses in the UK. The default VAT rate is the standard rate, 20% since 4 January 2011. Some goods and services are subject to VAT at a reduced rate of 5% (such as domestic fuel) or 0% (such as most food and children’s clothing).

UK VAT

Subject Matter: Goods and services provided by registered businesses in United Kingdom.
Introduction Year: 1973
Tax Rate: 20% (reduced rates for certain categories)

Information derived from http://www.hmrc.gov.in

[21] *About GST(New Zealand), available at* http://www.ird.govt.nz/gst/gst-registering/gst-about/ (3 Apl., 2012)
[22] *Ibid.*
[23] *Ibid.*
[24] *About GST(China), available at* http://www.tax.goc.ch (28 Aug., 2012).
[25] *About GST(United Kingdom), available at* http://www.hmrc.gov.in (28 Aug., 2012).

2.4.6. COMPARATIVE PROFIT ANALYSIS

The GST regime has been successful in several parts of the world. It has bought profits all across the country. A brief analysis of the profits is presented below in the tabular form[26]:-

	Australia	New Zealand	Canada	United Kingdom
Introduction Year	2000	1986	1991	1973
Administration	Australian Taxation Office	Inland Revenue Department	Canada Revenue Agency	HM Revenue & Customs
Price Change	Short run off effect	Short run spike in prices, no longer run increase	Short run spike in prices, no longer run increase, price regulatory body	Short run spike in prices
Economic Growth	Introduced during sustained economic growth period	Introduced at the end of recession subsequent upswing	Introduced in the midst of major recession, criticized as Compounding problems	Introduced during good economic conditions
Revenue Effect	Revenue exceeded expectations	Revenue exceeded expectations	Revenue exceeded expectations	Revenue exceeds expectations
Current Account	Slight improvement since introduction	Rapid immediate improvement, longer term stabilization	Dramatic improvement since introduction of GST NAFTA	Improvement since introduction
Rate of Tax	10% (0 % on essential items)	15%	5% (federal GST) with exemption for small businesses	20%

III. GST REGIME AND PERSPECTIVES TO LOOK ON IT

"Everyone on this earth cannot be the owner of same eyes"

The ideas and perspectives differ from person to person. At macro level, it could be said that every bunch of the persons have their own perspective to see the developments. Similarly, in this part several such perspectives are provided below to understand the pros and cons coming out of this new indirect taxation regime.

3.1. INDIAN ECONOMY

3.1.1. GST WITH RESPECT TO GROWTH RATE

National interest is the above all the benefits which anything can provide. The introduction of GST as quoted by Apex Chamber of ASSOCHAM could increase GDP growth rate by 1.4 to 1.7 per cent with an annual revenue increase of Rupees 1.2 Lakh Crore at current level.[27] This will also result into a boost in Tax GDP from 1.5% to 2%.[28]

3.1.2. GST WITH RESPECT TO BLACK MONEY

Before moving into any further analysis on this issue, it should be kept into mind that there are two kinds of Black money i.e. the one lying outside India and other existing within India. This bill will put an end on the latter category of the black money. In generic terminology, the black money stems from a transaction which has evaded taxes. An example of such a black money in the present day is as follows:-

"When a citizen buys toothpaste from a chemist shop but refuses a bill because the shop keeper informs him that the toothpaste will cost 10% more, he helps the shopkeeper evade taxes and generates black economy."[29]

The Goods and Service Tax will discourage such cash transactions as the shop keeper will lose credit for the taxes paid at the earlier stages of manufacture and distribution if he does not provide a bill. Hence it is our honest appeal from all people who is interested to bring black money back to India, to ask the government and the other political parties to accept the GST regime.

3.2. PROVINCIAL ECONOMIES IN INDIA

There is difference among the perspectives of states. A group consisting Gujurat, Madhya Pradesh, Uttar Pradesh, Bihar etc. alleges it to be an assault on their state autonomy and federal structure of the country resulting into a revenue loss for them and hence they are not in favour of bringing it. This tussle has resulted into three failed drafts of GST Bill. Moreover they are still proposing GST regime in India without the constitutional amendment against the fourth draft of the GST Bill. A brief analysis of it is given in the next section. On the other hand, certain states are prepared for this new tax regime.

3.3. BUSINESSMAN PERSPECTIVE

Businessman will be heavily benefited from GST regime as it will offer them a uniform and simple taxation regime. Additionally, it will also bring Indian manufacturers an edge over the Chinese manufacturers as the costs of production will be turned down. As per ASSOCHAM, overall cost and thus prices of goods manufactured in India may reduce by 10%.[30] This will bring Indian economy in competition with cheap Chinese markets in terms of prices. However, as explained above, the businessman will not be able to evade taxes by not providing a bill for the transaction. Hence an illegal source for their tax free black income will be gone.[31] Finally, a statement of Newton's law can be cited in light of the circumstances of the businessmen:-

"Every action has an equal and opposite reaction"

It is correct to conclude on the basis of this that everything comes up with a price attached. Now the businessmen need to be honest to ripe the fruits of GST and this price seems to be fair and in the favour of national interest.

3.4. CONSUMER PERSPECTIVE

The consumer will be winner in this whole deal as they will get both a bill for their transaction as well as the cheap production. This step may even solve the problem of raising prices with respect to several products. Additionally, the consumers' rights for the remedy will also be strengthen by the bill of the transaction in their hands.[32]

IV. ANALYSIS OF PROBLEMS OF STATES

In the road of enforcing this system, there is a huge tussle going on between states and centre. The states anticipate a huge loss in revenue collection of the states and hence criticise this bill. On the other hands, the centre tries to ensure the state to cover up the losses of the state with an eye on the boost in their revenue as well as simplification of indirect taxation regime.

---

[26] *Goods and Services Tax: A Primer, available at* http://mostlyeconomics.wordpress.com (29 Aug., 2012).

[27] Also see *ASSOCHAM: Rational GST regime can improve tax revenues by Rs 1.2 lakh crore, available at* http://www.commodityonline.com/news/assocham-rational-gst-regime-can-improve-tax-revenues-by-rs-12-lakh-crore-41339-3-1.html (19 Dec., 2011).

[28] *Id.*

[29] *Supra* note 4.

[30] *Supra* note 27.

[31] *Id.*

[32] S. S. Singh, *Consumer Protection in India: Some Reflections available at* http://www.comsumereducation.in (29 Aug., 2012).

4.1. UNDERSTANDING THE PREDICAMENT AND POSITION OF STATES

Presently the fiscal demands of the states are huge because of their responsibility to provide for development, welfare and social services activities like Education, housing, health, agriculture etc. Presently, the states use to levy octroi tax on the entry of any good for consumption, sales tax on goods, taxes on the advertisements other than news paper and radio advertisements and taxes on luxuries like entertainment taxes on the theatres etc. for satisfying these needs.

The GST Bill is going to provide a concurrent power to states to collect GST on the entries given in the List II subsuming all mentioned taxes like State VAT/Sales Tax, entertainment tax (unless it is levied by the local bodies), Luxury Tax, Taxes on lottery, betting and gambling, tax on advertisements, State Cesses and Surcharges insofar as they relate to supply of goods and services and Entry Tax, not levied by local bodies. *Prima facie*, it seems to be a delightful deal to get a right to levy value added taxes on both goods and services in *lieu* of subsuming above mentioned taxes.

However when GST Bill is read in entirety, it looks like a façade for taking the rights of levying taxes by the states. Now the states will be taken away the power to levy the tax on the advertisements other than news paper and radio advertisements as the entry 52 of the List II is going to be omitted as per the GST Bill. The State will have power to make laws with regard to octroi and luxuries items. However these taxes on both these subject matters will be collected and levied by the local bodies as mentioned in the GST Bill. On the whole, this will take a source of income from the hand of the government resulting into loss in their revenues and will give it to the local bodies mentioned thereby.[33] Additionally it also puts two restrictions on the collection of sales tax. The state is now debarred from collection sales tax on the following matters:-

- sale in the course of inter-State trade or commerce.
- sale in the course of international trade and commerce of, petroleum crude, high speed diesel, natural gas, motor spirit (commonly known as petrol), aviation turbine fuel and alcoholic liquor for human consumption.

Hence considering this states like Uttar Pradesh etc. are not in the favour of it as it looks like an unfair deal to them. However the bill also puts up an additional advantage to the state as power to levy tax on the sale of the services because now Entry 92C of List I is removed and term "goods" is removed from Entry 54 of list II. Now it is to be checked after the implementation that whether this remains a beneficial deal or not.

In the bill, there is a provision for establishment of the Tribunal for covering up the losses of the state after adjudicating it. This is also being referred as insufficient by a group of states because the tribunal cannot be considered as the furnished assurance with effect to this. Hece to consider this bill as detrimental to the states and an assault on the states autonomy is totally valid upto an extent.[34]

4.2. UNDERSTANDING THE PREDICAMENT OF THE CONSTITUTIONAL ASSEMBLY

The Constituent Assembly had foresighted the poor conditions of the states at the time of the drafting Constitution. The framers of the Constitution had themselves realised that the States' taxing powers would not enable them to raise adequate revenues to meet their needs.[35] On the other hand, they were pretty sure that in spite of Centre's expansive and expensive responsibilities, Centre's taxing powers could raise sizeable revenue.[36] Considering all this, the Constituent Assembly made provisions for grant in aids and tax sharing schemes for the states.[37]

The vision of the Constituent Assembly became a reality when the Constitution came into force. The picture of state governments except few like Gujarat etc. is really poor. These states rely heavily on the provision of grant-in-aids and tax sharing scheme for meeting their ends.

V. CONCLUSION AND RECOMMENDATIONS

"Striking the correct balance is the key."

At this point, the lots of important issues are involved but what is most important is striking the correct balance. In order to do so, it is necessary to consider the national as well as provincial states keeping in mind the intention of constituent assembly and fundamentals of tax administration. The benefit to the tax administration can only be gained when there is a single Pan-India GST. Additionally, considering the local interests and intent of the constituent assembly, the revenue coming out of the state and its entries shall be given in entirety with a back up of amount if there is any loss to state in revenue.

The current model of GST suggested in GST bill is just a Skelton without any flesh and even looks like a façade to take over certain state powers by the centre. Hence there is a necessity for India to move for a full fledged centralised GST as suggested above. In the end, on the viability of centralised GST, a statement of Sushil Kumar Modi is apt to cite:-

"If they can have one currency Euro and common tax regime, then India with 28 states is capable of achieving it."

REFERENCES

ARTICLES

1. Sharp, Jerry (2011), "State Taxation of Interstate Businesses and the Multistate Tax Compact: The Search for a Delicate Uniformity", Colombia Journal of Law and Social Problems Vol. 11 223 (2011).
2. Bhutani, Mukesh (2011), "Changing tax laws and blurring lines", Business Standard (April 25, 2011).
3. Mukhopadhyay, Sukumar (2011), "How harsh can a levy of tax in a Budget be", Business Standard (February 28, 2011).

BOOKS

4. Ahmad , Ehtisham & Stern , Nicholas Herbert (1991), "The theory and practice of tax reform in developing countries", Cambridge University Press, Cambridge.
5. Anderton , Clare (2008), "Economics", Pearson Education India, India.
6. Blinder , Alan S. (1974), "The Economics of Public Finance", Brookings Institution Press, USA.
7. Bullock , Charles Jesse (1906), Selected readings in public finance, Ginn & company, UK.
8. Caine , William Sproston (1888), A Trip Round the World in 1887-8, G. Routledge and sons, New York,.
9. Cordes, Joseph J and Ebe, Robert D. l (2005), "Encyclopedia of Taxation and Tax Policy", The Urban Institute.
10. Cossa , Luigi (1888), "Taxation: its principles and methods", G. P. Putnam's sons, England.
11. Creedy , John (1999), "Modelling indirect taxes and tax reform", Edward Elgar Publishing, UK.
12. Daniels , Winthrop More (1899), "The Elements of Public Finance", H. Holt, London.
13. Eshag , Éprime (1983), "Fiscal and monetary policies and problems in developing countries", Cambridge University Press, Cambridge.
14. Gupta , Alka (2001), "Public Finance and Tax Planning", Anmol Publications Pvt. Ltd., New Delhi,.
15. Hyman , David M. (1990), "Public Finance: A Contemporary Application of Theory to Policy", Dryden Press, Chicago, USA.
16. Jain , M. P. (2005), "The Constitutional Law", Wadhwa Publication, New Delhi.
17. Kumar , N. (2008), "Public Finance Theory & Practice", Anmol Publications Pvt. Ltd, New Delhi.
18. Mill , John Stuart (2004), "Principles of Political Economy", Hackett Publishing, US.
19. Narayan , B.N. (2005), "Public Finance", Anmol Publications Pvt. Ltd., New Delhi.
20. Okamoto , Akira (2004), Tax Policy for aging societies: lessons from Japan, Springer, UK.
21. Peterson , George E. (1994), "Big-city Politics, Governance, and Fiscal Constraints", The Urban Insitute, USA.

[33] T. R. JAIN, S. J. KAUR & ASHOK GUPTA, INTERNATIONAL TRADE AND PUBLIC FINANCE 41 (FK Publications, New Delhi, 2011).
[34] *Id.*
[35] Referred in M.P. JAIN, THE CONSTITUTIONAL LAW 636 (Wadhwa Publication, 2005).
[36] Referred in *Supra* note 35.
[37] *Id.*

22. Rajagopalachar , K. (1993), "Business Economics" (Atlantic Publishers & Dist, New Delhi.
23. Redmond , Gerry & Sutherland, Holly (1998), "The Arithmetic of Tax and Social Security Reform", Cambridge University Press, Cambridge.
24. Sundharam , K. P. M. (1964), "A text book of economic theory", Ratan Prakashan Mandir, Lucknow.
25. Surhone, Lambert M & Timpledon, Miriam T (2010), "Progressive Tax", VDM Verlag Dr. Mueller AG & Co. Kg, UK.
26. Vickrey & Spencer , William (1947), "Agenda for Progressive Taxation", The Ronald Press Company, USA.

WEBSITES

27. About GST, available at http://www.ird.govt.nz/gst/gst-registering/gst-about/ (3 Apl., 2012)
28. Indian Indirect Taxes in Union Budget, retrieved from http://www.economywatch.com/budget/india/indirect-taxes.html on 21 April, 2011.
29. Robin, P. (2011): India 2010-11, retrieved from http://business.mapsofindia.com/india-tax/structure/rates.html on 22 April, 2011.

REQUEST FOR FEEDBACK

Dear Readers

At the very outset, International Journal of Research in Commerce, IT and Management (IJRCM) acknowledges & appreciates your efforts in showing interest in our present issue under your kind perusal.

I would like to request you to supply your critical comments and suggestions about the material published in this issue as well as on the journal as a whole, on our E-mail i.e. **infoijrcm@gmail.com** for further improvements in the interest of research.

If you have any queries please feel free to contact us on our E-mail infoijrcm@gmail.com.

I am sure that your feedback and deliberations would make future issues better – a result of our joint effort.

Looking forward an appropriate consideration.

With sincere regards

Thanking you profoundly

Academically yours

Sd/-

Co-ordinator

ABOUT THE JOURNAL

In this age of Commerce, Economics, Computer, I.T. & Management and cut throat competition, a group of intellectuals felt the need to have some platform, where young and budding managers and academicians could express their views and discuss the problems among their peers. This journal was conceived with this noble intention in view. This journal has been introduced to give an opportunity for expressing refined and innovative ideas in this field. It is our humble endeavour to provide a springboard to the upcoming specialists and give a chance to know about the latest in the sphere of research and knowledge. We have taken a small step and we hope that with the active co-operation of like-minded scholars, we shall be able to serve the society with our humble efforts.

Our Other Journals