

INDIA

Moving Towards Goods and Service Tax



Confederation of All India Traders

"Vyapar Bhawan", 925/1, Naiwala, Karol Bagh, New Delhi-110005

(India) Ph. : +91-11-45032664, Telefax : +91-11-45032665

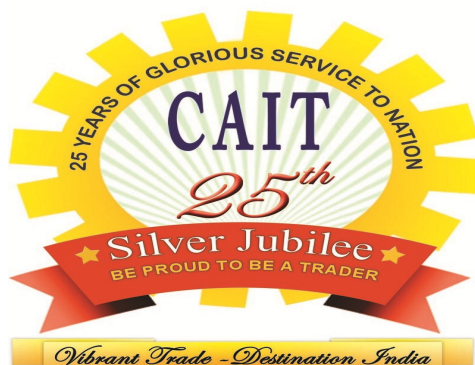
E-mail : teamcait@gmail.com, Website: www.cait.in

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BE PROUD TO BE A TRADER

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By



Confederation of All India Traders

Vyapar Bhawan

925/1, Nai Wala, Karol Bagh, New Delhi-110005

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Foreword

The Goods & Service Tax which is likely to be introduced in India from April, 2017 is one of the biggest tax reforms in the Country which is aimed to simplify and rationalise indirect tax structure in India. It will convert the country into a unified market, replacing most indirect taxes and subsuing all those into a single tax regime. It is proposed to have a dual structure— a Central GST levied and collected by the Centre and a state GST administered by States. The rationale behind GST is that it simplifies the indirect tax regime with a single tax. A study by the National Council of Applied Economic Research estimated that roll out of the tax would boost the GDP growth by anywhere between 0.9-1.7 per cent. A Crisil report had also said that GST was the best way to mobilise revenue and reduce the fiscal deficit. Removal of cascading effect of multiple taxes will make the manufacturing sector more competitive and will cut down on the tax compliance burden.

Goods and Services Tax (GST) will be a comprehensive tax levy on manufacture, sale and consumption of goods and services at a national level. Through an input tax credit mechanism, this tax will be collected on value-addition on transactions involving both goods and services, at each stage of sale or purchase in the entire supply chain. This system allows the set-off of GST paid on the procurement of goods and services against the GST which is payable on the supply of goods or services. However, the end consumer ultimately bears this tax being the last person in the whole supply chain.

Based on *Draft of Model GST Bill and The Constitution* (One Hundred and Twenty second amendment) Bill, 2014 placed in Parliament by Union Finance Minister Mr. Arun Jaitley on 18th December, 2014, we have compiled this book with an underlying idea to make traders and public aware about the proposed structure of GST. The CAIT intends to launch an awareness campaign all over the Country and as such this book will prove to be **an important guide about GST implementation in India.**

Besides elaborating the conceptual information about proposed GST regime in India, this book also contains views of CAIT and also raises some important questions reflecting bonafide concerns of the trading community about GST and its impementation.

Hope this book will provide to its readers sufficient knowledge about proposed GST structure in India.

B.C. Bhartia
National President

Praveen Khandelwal
Secretary General

July, 20, 2016
New Delhi

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Executive Summary

1. Government of India aims to implement GST from April 2017.
2. This is an important step towards Tax Reforms in India, which aims to subsume most of the Central and State Indirect Taxes.
3. The ultimate objective is to widen tax base of the country followed by reduction in tax rates leading to lower cost to consumers.
4. GST is levied on the value added at each stage of sale and purchase or supply with an inbuilt credit mechanism such that the tax is pass through for businesses and the tax burden is borne by the ultimate customer.
5. GST is a comprehensive value added tax levied on goods and services. Under this system, goods and services are not differentiated as they move through the supply chain.
6. GST is typically levied on all transactions involving goods and services including import, supply of goods as well as provision of services.
7. Lower cost to consumer may usher consumerism in India which again will contribute towards more revenue tax collection, thus helping in funding of government's developmental projects and ambition.
8. The available documents of First Discussion Paper on GST prepared by Empowered Committee of State Finance Ministers, mentions the needs to subsume central and state taxes under CGST and SGST.
9. Through the Constitution (One Hundred and Twenty Second Amendment) Bill, 2014, it is clear that Government of India may opt for Dual GST which means, there will be both Central GST and State GST along with Integrated Goods & Services Tax on inter-State transactions of goods & services.
10. Since the larger objective of GST is to simplify tax collection with minimum administrative interference on day to day business operations along with simplified paper work, the Dual GST will lead to overheads for traders as they will be required to satisfy two tax bodies, one central and another state as is in the existing scenario.
11. Implementation of GST will require massive change in existing legislation, policy implementation and understanding of tax policy, tax infrastructure and e-governance system apart from the attitudinal changes on the part of the governments (Centre and States) as well as the tax payers.
12. GST if implemented in haste, will become counter productive and instead of doing any good will do more harm to Indian Economy.
13. Though trading community welcomes and genuinely supports the introduction of GST in India, till date government has not made any efforts to discuss the proposed model of GST with any stakeholders.
14. Traders being the most integral part of entire indirect tax ecosystem, will be playing pivotal role in the success of the GST as their role is not only to collect tax but also deposit the same with government treasury. Hence, the success of the GST regime shall be assured if they are treated as partners in the entire process and should also be declared as Tax Collectors.

Implementing GST will transform India into a common market, eliminate inefficient tax cascading, and go a long way in boosting the manufacturing as well as the service sectors. With economic reforms gaining momentum, long-term prospects for growth remain bright for India and for this.

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GST should be implemented in a clearly thought out manner taking along all the stakeholders. India needs to continue making progress on its domestic reforms agenda and encourage investments for which rationalisation of tax structure is one of the most essential steps. The government efforts at improving the performance of the manufacturing and service sectors will lead to more jobs for young Indians.

Introduction

Government of India, in order to usher indirect tax reforms the union government has introduced a Draft Model Law on Goods and Services Tax (GST). Under this system a tax on goods and services, is levied at each point of sale of goods, supply of goods along with provision of services. In a GST regime, goods and services are not differentiated as they move through the supply chain. GST is levied on the value added at each stage of sale and purchase or supply with an inbuilt credit mechanism such that the tax is a pass through for businesses and the tax burden is borne by the ultimate customer. With the introduction of GST, the responsibility to collect tax on goods and services from customers will become the responsibility of sellers or service provider. The sellers and service providers before depositing the GST with the exchequer, will deduct the tax which they had already paid during the course of purchase of goods and service, which will negate the cascading effect and will lead to proper value creation for all the constituents of the supply chain.

GST is a destination based consumption tax, thus it is usually levied on import of goods and services while export transactions are zero rated under the GST scheme. Hence a nationwide GST is intended to usher in a uniform market for goods and services, cut business costs and boost government revenues.

GST aims to simplify indirect taxation system and also aims to remove multiple tax systems prevailing in the country. Some of key indirect taxes, currently being levied and which will be replaced by GST are:-

CENTRAL LEVIES

STATE LEVIES

Central Excise Duty.	State Value Added Tax/Sales Tax.
Additional Excise Duties.	Entertainment Tax (other than the tax levied by the local bodies.)
Preparations (Excise Duties) Act, 1955.	Central Sales Tax(levied by the Centre and collected by the States.)
Excise Duty levied under the Medicinal and Toilet.	Octroi and Entry tax.
Known as Countervailing Duty.	Purchase Tax.
Special Additional Duty of Customs.	Luxury Tax.
Central Surcharges and Cesses so far as they relate to the supply of goods and services	Taxes on lottery, betting and gambling.
	State cesses and sucharges in so far as they relate to supply of goods and services.

Some of the basic features of proposals for GST implementation can be summarised as under:

1. Levy of an additional tax on supply of goods & services, not exceeding 1% in the course of inter- State trade or commerce, for a period of two years.

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2. It covers all goods & services, except alcoholic liquor for human consumption.
3. The GST Council shall recommend the date on which the GST is to be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel.

Window To GST

Goods and Service Tax (GST) is that tax credit mechanism wherein the tax is levied on goods and services at each point of sale or provision of service. Under this tax regime, the seller of goods or the service provider can claim the input credit of tax paid/ payable by him (i.e input GST) for purchasing/ selling the goods or procuring the services.

In order to realise indirect taxes, historically both Central and State Governments impose various types of indirect taxes on each taxable event in the value chain starting from procurement and transport of raw material, processing of raw material, transportation of processed material, trade of processed material etc (such as Excise duty on manufacture, VAT on sale etc). As these taxes are levied on different taxable events they have their limitations, which eventually result in tax cascading leading to higher prices for the consumers.

Under the GST system, the taxation burden will be divided equitably between manufacturing and services. It will also help in lowering of tax rate and increase in Country's total tax base & minimising exemptions. It aims to build a transparent and corruption-free tax administration. GST will be levied only at the destination point and not at various points (from manufacturing to retail outlets). Currently, a manufacturer needs to pay tax when a finished product moves out from a factory and it is again taxed at the retail outlet when sold under different legislations.

Need to formulate and implement GST

- In Indian economy the service sector contributes over of the GDP.
- Value added in manufacture and sale of goods requires inputs of both goods and services and *vice versa*, which is often not separable (eg. works contracts).
- Separate taxation of goods and services is neither viable nor desirable.
- It will reduce paperwork and other legal obligations and procedures.
- This is more appropriate and modern taxation system which is practiced in more than 160 countries.
- Globally, GST has proved to be simple yet effective in tax collection.
- India, being an emerging and promising economy, we must gear up and make necessary changes in our taxation system, so that overall carriers of economic growth get a boost and are able to concentrate on business rather than spending too much time in complying with the complex tax related procedures.

Aims and Objectives of GST:

- To consolidate the taxes levied on goods and services, such that there is a single levy on the goods and services.
- To obviate the cascading effect and thereby reduce the costs.
- To ensure a point to point tax credit mechanism.
- To simplify the tax structure relating to goods and services.
- To reduce classification hassles.
- To avoid distortions due to multiplicity of levies & exemptions.
- To make India a nationwide market place.
- To increase buoyancy.
- To expand the tax base.
- To simplify the tax compliance procedures.
- To minimise the indirect tax disparities across various taxable events and sectors.

What type of GST is proposed for India?

India is planning to implement a dual GST system. Under dual GST, both Central Goods and

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Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of a transaction/event.

All goods and services, barring a few, will be brought into the GST base. There will be no distinction between goods and services.

International Acceptance of GST Regime

More than 160 countries have introduced GST in some or other form. It has been a part of European tax landscape for over 50 years. It is also widely accepted and preferred form of indirect tax in the Asia Pacific region. It is interesting to note that there are over 40 models of GST currently in force, each with its own distinct peculiarities.

Countries such as Singapore and New Zealand tax virtually everything at a single rate, Indonesia has five positive rates, a zero rate and over 30 categories of exemptions. While in China, GST applies only to goods and the provision of repairs, replacement and processing services. It is only recoverable on goods used in the production process and GST on fixed assets is not recoverable.

In Australia GST is a federal tax, collected by the Centre and distributed to the states.

Canadian Model : The GST in Canada is dual between the Centre and the states and has three varieties :

- (i) Federal GST and provincial retail sales taxes (PST) administered separately - followed by the largest Majority.
- (ii) Joint federal and provincial VATs administered federally (Harmonious Sales Tax - HST).
- (iii) Separate federal and provincial VAT administered provincially (QST) - only for Quebec as it is like a quasi independent province.

Similarly Brazil too follows dual GST model, which divides revenue collected between the centre and states. According to former CBEC Chairman Mr. Sumit D Majumdar.

World over, GST rates are typically between 16 per cent and 20 per cent. In India, it is likely to be the same. The tax-rate(s) under the proposed GST would come down, but the number of assesses would be likely increased by 5-6 times. Although rates would come down, tax collection would go up due to increased buoyancy and enhanced taxpayer base.

Merits and Demerits of GST

There are many GST models which are in practice in more than (160) counties. Each model has its specific advantages and disadvantages. Below mentioned are some general merits and demerits of a GST system.

Merits

To the Government:

1. It generates a stable and predictable tax income in both good and weak economic environment.
2. It is an efficient tax due to the comparatively lower cost of administration and collection.
3. It allows the Government to lower corporate and personal income taxes, which in turn encourages more foreign direct investment. This leads to overall economic growth.

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4. It will speed up the economic union of the various states with the centre.
5. It will lead to better compliance and revenue collection.
6. Overall incidence of taxes on the consumers may fall leading to endearment of the government among the masses.
7. Due to merger of various levies on goods and services into one head, GST take the indirect tax system of our country towards simplicity and transparency.
8. The tax base of the country will get widened and increased.

To Trade & Commerce:

1. GST registered business gives an indication of established business and also inspires confidence amongst customers.
2. GST subsumes large number of taxes levied on goods & services and reduce cascading effect and brings ease in doing business.
3. GST is a fairer tax system. It taxes the self-employed and wage earners only when they spend their money.
4. GST applies only to consumption and not to savings and investment. This will encourage people to save and invest in productive activities.
5. Cost of doing business is reduced, thereby contributing to lower prices. Businesses do not suffer a tax cost due to the multi-stage credit mechanism since the real taxpayer is the end-user.
6. Indian business houses will improve their cost competitiveness in the international market.

Demerits

1. The disadvantage of GST registration is the administrative burden that comes with discharging the duties and responsibilities of GST registration.
2. One must either study the intricacies of GST or pay an accountant to undertake this work which in some cases can be a reasonably high cost.
3. Being GST registered effectively increases selling price. Customers who are not GST registered would not be able to recover the GST. So, although costs are reduced because GST compliant dealers can recover GST, their non-compliant customers might be at the receiving end, thus trying to find ways to avoid GST compliant dealers for their purchases. This may lead to running of parallel economy.
4. GST can be a burden to lower income groups, especially during times of high inflation when the tax is paid on the increasing price of daily essentials.
5. There will be many transitional challenges and issues, since the whole country is used to the existing indirect tax system.

Salient Features of Proposed GST Regime:

Following are the salient features of the proposed GST regime-in India:

- (i) The GST shall have two components: one levied by the Centre i.e Central GST, and the other levied by the States i.e State GST. 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.
- (ii) The Central GST and the State GST would be applicable to all transactions of goods and

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services except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits.

- (iii) The Central GST and State GST are to be paid to the accounts of the Centre and the States separately.
- (iv) Since the Central GST and State GST are to be treated separately, in general, 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.
- (v) Cross utilisation of ITC between the Central GST and the State GST would, in general, not be allowed.
- (vi) To the extent feasible, uniform procedure for collection of both Central GST and State GST would be prescribed in the respective legislation for Central GST and State GST.
- (vii) The administration of the Central GST would be with the Centre and for State GST with the States. The Centre & States would have concurrent jurisdiction for the entire value chain.
- (viii) The taxpayer would need to submit periodical returns to both the Central GST authority and to the concerned State GST authorities.
- (ix) 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.
- (x) 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.
- (xi) The inter-State transactions of Goods & Services will be covered under IGST model of taxation. 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 & services with appropriate provisions for consignment or stock transfer of goods & services.
- (xii) Exports would be zero rated. Similar benefits may be given to Special Economic Zones (SEZs). However, such benefits will only be allowed to the processing zones of SEZs. No benefit to the sales from SEZ to Domestic Tariff Area (DTA) will be allowed.
- (xiii) The GST will be levied on imports. Both CGST and SGST will be levied on imports of goods and services into the Country. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Complete set off will be given on GST paid on import of goods & services.

GST Council

Goods & Services Tax Council will be created to examine issues relating to goods & services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limit, model Goods & Service Tax Laws, principles of levy, apportionment of Integrated GST and the principles that govern the place of supply. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister-in-charge of Finance or Taxation or any other Minister nominated by each State Government. Every decision of the Council shall be taken by a majority of not less than three fourth of the weighted votes of the members present & voting.

The GST Council shall be guided by the need for a harmonized structure of goods and services and for the development of a harmonized national market for goods and services. The GST Council may decide about the modalities to resolve disputes arising out of its recommendations.

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The Government has moved a step further by releasing the Model GST law on June 2016. It outlines the structure of indirect tax system under the GST regime. There would be separate Acts for CGST, SGST and IGST.

At present Government has come out with CGST and IGST. It is expected that at SGST will be more on less in line with CGST.

At present this is only an Act; the actual problem comes when rules are framed. In this paper we have discussed only proposed law of GST. The main problem will arise when we go through rules for implementation for this law. The Rules are yet to be framed.

Salient features of Model GST law are given here under:

EXECUTIVE SUMMARY:

The Model GST Law reaffirms many aspects of the expected dual GST structure that we have heard for the last many years.

Tax would be levied on 'supply' of goods and services. Now point of tax is supply & not sale.

A Central GST and a State GST shall be concurrently imposed on intra-state supply of goods and services.

In addition, an Integrated GST on interstate supplies and imports shall be levied.

Transaction taxes, such as VAT/GST, have been traditionally imposed (internationally as well as in India) on sales.

The proposed law seeks to expand the scope of the GST levy to include one-off transactions and certain supplies undertaken without a consideration (free promotional items, for instance).

Taxable event for manufacturers; traders, importers etc shall be "supply" and hence any benefits available under the Central Excise Law for manufacturers/job workers may well change under GST.

Companies outsourcing their manufacturing operations – quite a many – may have to meet additional burden and compliances.

Taxation of e-commerce transactions at the point of supply -The draft model law seeks to deduct tax on e-commerce operators "at the time of credit of any amount to the account of the supplier of goods and/or services or at the time of payment of any amount in cash or by any other mode, whichever is earlier.

- The model law also proposes to empower senior tax officials with the powers of search, seize, summons and arrest. A person can be imprisoned for up to five years for evasion of tax, the model law said.
- A National GST Settlement Commission to be set up by the Centre has also been proposed in the draft law for settlement of cases under the proposed GST Act. The National Commission chairman will be a High Court judge and the commission will have one bench for one or more states.
- For service providers, there would be a sea change as they need to gear up for transition into a multi-State registration and compliance landscape.
- The law appears to suggest that a taxable person shall obtain Central/State/integrated GST registration.
- They must also undertake compliances in each State where there is a 'place of business' in terms of either a "business establishment" or "fixed establishment".

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- The concept of a centralised billing for services could continue in cases where the services are delivered out of a single office. But many service providers can expect to face the issue of services being delivered under a single contract from multiple branches across the country.
 - The law has simplified the existing provisions to determine “place of supply.” It has also mitigated several anticipated complexities in its implementation.
 - For businesses, the critical aspect would be to interpret and apply “place of supply” regulations such that credits are not accumulated in States where the company has no ability to recoup the same.
 - On the positive side, the law has sought to specifically address the bane of an overlap in taxation. For example, some supplies were in the past deemed as sales as well as declared to be services.
 - Now, supply of intangibles, works contract supplies and restaurant supplies are classified as supplies of services. The clarification should hopefully aid in putting an end to the prevailing confusion on their tax treatment.
-
- But on the flip side, the law retains some of the existing input tax credit restrictions and also seeks to introduce complex rules for valuing supplies of goods and services between related or associated enterprises.
 - Exporters, particularly of services, may need to work with the government to ensure their interests are safeguarded. They may want a viable upfront zero-rating scheme or at least a robust refund scheme.
 - The law envisages a refund scheme involving sanction of 80 per cent of the refund amount provisionally in a time-bound manner to a notified category of exporters. But there is apprehension over its implementation given the not-so-great experience on refunds so far.
 - The issue of dual control has been discussed. The general consensus was that turnover below `1.5 crore will be taxed by the states and beyond that by the Centre,” Empowered Committee Chairman Amit Mitra said.

Threshold limit for registration : If aggregate turnover in a financial year exceeds Rs. 9 lakhs (north eastern states Rs. 4 lakh).

Now chapterwise:

1. REGISTRATION AND ITS REQUIREMENTS:

- It is important to note that in terms of the envisaged GST regime, registration would have to be applied individually for each State.
- Reporting and return filing would be correlated to each individual registration.
- This would further complicate and dilute the refund process as for each export transaction, there may be different refund sanctioning authorities, leading to, among other things, duplication of the entire refund processing exercise for the same transaction.
- The threshold limit for registration has been prescribed at 4 lakhs for North Eastern States on Rs 9 lakhs for others.

This limit includes all supplies, whether on own account or on behalf of principal, except supplies in the capacity of a registered job worker, which shall be treated as supplies by the principal. The said threshold is to be computed on an all India basis

- A person shall not be liable to registration if his aggregate turnover consists of only goods and / or services which are not liable to tax.
- **A person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed. For example one firm has textile show room; mobile phone show room; car show room in the State; then separate registrations can be obtained for each of these activities in the same State.**
- A person, though not liable, may get himself registered voluntarily.
- Every person shall have a Permanent Account Number issued under the IncomeTax Act, 1961, in order to be eligible for grant of registration.
- If a person, other than an Input Service Distributor, is already registered under an earlier law, it shall not be necessary for him to apply for fresh registration and he shall follow the procedure as may be prescribed in this regard.
- A causal taxable person or a non resident taxable person shall, at the time of submission of application for registration, make an advance deposit of tax of an amount equivalent to the estimated tax liability for the period for which the registration is sought. The certificate of registration issued to such class of persons shall be valid for a period of 90 days, which may be extended up to 90 days further.
- Powers have been provided for cancellation of registration, if the assessee contravenes the provisions or obtains the registration by fraudulent means. However, such cancellation may be revoked, in terms of the prescribed procedure.
- The concept of a single/centralized registration for multiple places of business has not been provided

2. Levy of Tax:

The person registered under this law is liable to pay tax if his aggregate turnover in a financial year exceeds Rs. 10 lakh (north eastern states Rs. 5 lakh). A negative list has also been prescribed for transactions and activities of Government and local authorities which shall be exempt from GST levy , like activities of issuance of passport, visa, driving license, birth certificate or death certificate etc., IGST (Integrated GST) will be levied on interstate supply.

CGST (Central GST and SCGT (State GST) will be levied on intrastate supply of goods and /or services.

Option for Composition Scheme : If turnover in a financial year does not exceed Rs. 50 lakh. Rate of tax (termed as 'Amount' not 'Tax') shall not be less than 1%.

Taxable event: The taxable event under GST regime will be supply of goods or services. Supply includes all forms of supply of goods and /or services such as sale, transfer, barter, exchange , license, rental, lease or disposal made or agreed to be made for a consideration. It also includes importation of service, whether or not for a consideration. So the erstwhile taxable heads such as manufacture, sale, provision of service etc., will lose relevance.

3. POINT OF TAXATION:

Tax will be payable on earliest of the following dates:

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A. In case of supply of goods:

- i) Date on which the goods are removed for supply to the recipient of movable goods.
- ii) Date on which the goods are made available to the recipient (in case goods are not required to be moved).
- iii) Date of issuing invoice by supplier, or
- iv) Date of receipt of payment by supplier. Or
- v) Date on which recipient shows the receipt of the goods in his books of account.

B. In case of supply of Service :

- i) The date of issue of invoice or date of receipt of payment, whichever is earlier (provided invoice issued within prescribed time).
- ii) Date of completion of service or earlier (if invoice not issued within prescribed time).
- iii) Date on which recipient shows receipt of service in books of account (if not covered by case i and ii above).

4. INPUT TAX CREDIT:

Every taxable person shall, subject to specified conditions, be entitled to take credit of input tax, as self-assessed, in his return and such amount shall be credited, on a provisional basis, **to his electronic credit ledger to be maintained in the manner as may be prescribed.** However, a taxable person who has not furnished a valid return as per law shall not be allowed to utilize such credit till he discharges his self assessed tax liability.

The duplication of claims of input tax credit shall be communicated to the recipient and the corresponding tax value shall be added to the output tax liability of the recipient.

Verification and matching will be carried out qua the credit notes relating to an outward supply, issued by the supplier, with the corresponding reduction in the claim for input tax credit by the corresponding receiver, with similar consequences, with the exception that additions to liability, owing to any mismatches, shall be to the account of the supplier.

TCS on online sales of goods or service: Every e-commerce operator engaged in facilitating the supply of any goods and/or services shall collect tax at source at the time of credit or at the time of payment whichever is earlier.

Valuation rules: The tax shall be levied on transaction value of taxable supply. It will also include expenses in relation to supply.

Utilisation of credit : The Tax may be paid after availing credit on inputs. Order of utilization shall be as follows:

- i) IGST to be used for IGST, CGST and SGST in that order.
- ii) CGST to be used for CGST and IGST in that order.
- iii) CGST to SGST and SGST to CGST credit adjustment not allowed.

Excess credit may be carried forward to next tax period. Credit can be claimed as refund where accumulated tax is due to export of where tax on input is higher than tax on output.

Payment of any tax, interest, penalty, fee etc. shall be paid via internet banking or by using Credit/ Debit cards or NEFT or RTGS.

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TDS: The Central and State Government may mandate certain, departments (viz, local authority, Govt . agencies) to deduct tax at the rate of one percent on notified goods or services, where the total value of such supply, under a contract, exceeds Rs. 10 lakh.

5. REFUND:

A person can claim refund of any tax and interest by making an application in that regard to the prescribed officer of IGST/CGST/SGST.

The application can be made before the expiry of two years from the relevant date as may be prescribed. It has been provided that the limitation of two years shall not apply where such tax or interest or the amount has been paid under protest.

6. RETURNS (E-FILING) :

Dealers shall be required to furnish following returns

Taxable person other than composition dealer or TDS deductor under section 37 shall file monthly returns by 10th of each succeeding months giving details of outward supplies of goods and/or services during the preceding month and such details shall also be communicated to the vendors to whom such supplies were made within the time as may be prescribed. Details of outward supplies shall include details relating to zero rated supplies, interstate supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices issued during the said tax period.

Details of outward supplies shall include details relating to zero rated supplies, interstate supplies, return of goods received in relation to/ in pursuance of an inward supply, exports, debit notes, credit notes and supplementary invoices issued during the said tax period

7. RETURN OF INWARD SUPPLIES:

- Taxable persons other than composition dealers and tax deductors under section 37 shall file monthly returns by 15th of the succeeding months giving details of inward supplies of taxable goods and/or services that the taxable person received during the previous month. Also the taxable person shall verify the correctness of the details of outward supplies and if any corrections are to be made or if any debit notes or credits notes are to be issued, he shall do so.
- The details of every inward supply furnished by a receiver would be matched with the corresponding details of the outward supply furnished by the corresponding supplier. The claim of input tax in respect of invoices and/or debit notes relating to inward supply that match with the details of corresponding outward supply shall be finally accepted and such acceptance shall be communicated, in the manner as may be prescribed, to the recipient.
- Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons. Where such discrepancy is not rectified by the supplier the corresponding tax value shall be added to the output tax liability of the recipient. The amount so added may be subsequently reduced if the

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supplier declares the details of the invoice and/or debit note in his valid return within the prescribed time limit.

a) Monthly return : Within 20 days after the end of such month.

b) Return for composition scheme.

Each quarter or part thereof, electronically within 18 days after the end of such quarter.

c) TDS Return : Within 10 days after the end of month in which deduction is made.

d) Return for input service distributor : For every calendar month or part thereof, within 13 days after the end of such month.

e) First Return : From the date on which dealer became liable to registration till the end of the month in which the registration has been granted.

f) Annual return : On or before the 31st day of December following the end of such financial year.

g) Final return : Every registered taxable person who applies for cancellation of registration shall have to furnish a final return within three month of the date of cancellation or date of cancellation order, whichever is later, in a prescribed form.

14. Transitional provisions: Under the Model GST Law, a registered taxable person will be entitled to take credit of the amount of CENVAT credit/Value Added Tax (VAT) carried forward in a return furnished by him in respect of the period ending with the day immediately preceding the appointed day.

15. Migration of existing tax payers to GST: Every person already registered under extant law will be issued a certificate of registration on a provisional basis. This certificate shall be valid for period of 6 month. Such person will have to furnish the requisite information within 6 months and on furnishing of such information, final registration certificate shall be granted by the Central/State Government.

8. ACCOUNTS AND RECORDS:

Every registered taxable person shall be required to keep and maintain at his place of business, for a period of five years from the end of financial year, [including the principal place of business] a true and correct books of account including the following

- Production or manufacture of goods
- Inward or outward supply of goods and/or services
- Stock of goods
- Input tax credit availed
- Output tax payable and paid
- Such other particulars as may be prescribed in this behalf

9. ASSESSMENT:

Self assessment based on a valid return Under the Provision.

Under the Provision, Where the taxable person is unable to put final value on the goods and or services the proper officer may allow him to file return based on provisional values subject to prescribed conditions.

10. SCRUTINY OF RETURNS:

The proper officer may inform the taxable person of the deficiencies in the returns and if the reply filed is found satisfactory further action will be dropped. However if the proper officer is

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not satisfied then he may undertake audit, special audit, inspection, search and seizure and ultimately may determine the additional tax, interest and penalty to be paid by the taxable person.

11. ASSESSMENT OF NON – FILERS OF RETURN

In case the returns are not filed then the proper officer will allow time to file the same and then proceed to create best judgment assessment. In case the person later on files a valid return within 30 days then the proper officer may withdraw the best judgment assessment order.

12.ASSESSMENT OF UNREGISTERED PERSONS:

Limitation is five years.

13.SUMMARY ASSESSMENT IN CERTAIN SPECIAL CASES:

The proper officer may, in case of sufficient grounds to believe that delay in assessment will adversely affect the interest of revenue, may proceed to assess the tax liability

14. Audit:

- a) The Commissioner of CGST/SGST may authorize audit at business premises or in the department.
- b) Audit to be completed in 3 months and under certain circumstances the time may be extended by another three months.
- c) On conclusion the audit officer shall advise the taxable person of his findings.
- d) Where the audit results in detection of tax not paid or tax short paid or tax erroneously refunded or input tax credit erroneously availed, the proper officer may initiate suitable action for recovery.

15.INSPECTION, SEARCH, SEIZURE, SUMMONS AND ACCESS TO BUSINESS PREMISES:

The GST Law:

1. Authorizes inspection of business premises of taxable persons, transporters, warehouses or any other places.
2. Allows confiscation of goods or documents or books that are secretly kept.
3. Under the Provision provides that where the Commissioner of CGST/SGST has a reason to believe that any person has committed an offence wherein the amount of tax evaded is Rs 50 lakhs or above, or if a person is a repeat offender, the Commissioner may authorize any CGST / SGST officer to arrest such person.
4. Where amount of tax evaded exceeds Rs 2.5 corers.
5. The offence. Cognizable and non-bailable
6. Where amount of tax evaded exceeds INR 50 lakhs but does not exceed INR 2.5 crores [approx. USD 3,84,600] the offence is Non-cognizable and bailable

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7. Under the Provision authorises CGST or SGST officers with powers to summon people and documents.
8. Under the Provision authorises CGST or SGST officers to access the business premises of any person.

16.OFFENCES AND PENALTIES:

(1) Provides for imposition of penalty on a taxable person in respect of 20 situations set out in the section. The quantum of penalty would be either INR 10,000/- or, the amount equivalent to the tax amount involved in relation to the offences (for example, the amount of tax evaded, the tax not deducted or short deducted or deducted but not paid to the Government, input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently), whichever is higher.

(2) Provides for imposition of penalty on a taxable person who repeatedly makes short payment of tax. The quantum of penalty would be INR 10,000/- or ten percent of the tax short paid, whichever is higher. A person is deemed to have made short payments repeatedly if there were short payments in any three returns during any six consecutive period.

17. CONFISCATION OF GOODS, LEVY OF PENALTY AND IMPOSITION OF FINE IN LIEU OF CONFISCATION:

(1) Provides that goods will be liable to confiscation and a person will be liable to penalty under the Provision & specified circumstances.

Even the goods vehicles can be confiscated and be released subject to payment of tax determined by the proper officer.

(2) Provides for imposition of fine in lieu of confiscation on the owner of the goods or where the owner is not known, the person from whose possession or custody of such goods have been seized. The quantum of fine can be upto market price of the goods confiscated. The owner or such other person can also be made liable to tax and other charges payable in respect of the goods.

18.PROSECUTION POWERS:

(1) The GST Law: lists down following 12 offences for which a person can be prosecuted

1. Supplying goods and/or services without issue of invoice or issue of incorrect/false invoice
2. Obstructing or preventing any officer in discharge of his duty
3. Issuing invoice without supply of any goods/services
4. Collection of any amount as tax but not crediting to appropriate Government
5. Collection of any tax in contravention of the provisions of the Model law but not crediting to appropriate Government
6. Taking or utilizing input tax credit without actual receipt of goods/services
7. Obtaining refunds of any CGST/SGST fraudulently
8. Falsification or substitution of financial records or producing fake accounts and/or documents or furnishing any false information with an intention to evade payment of tax
9. Dealing with any goods which ones knows or has reason to believe are liable to confiscation

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10. Dealing with any supply of services which one knows or has a reason to believe are in contravention of provisions of the Model law
11. Failing to supply any information
12. Attempting to commit or abetting the commission of any of the offences mentioned in this section

19. PUNISHMENT:

1. Where amount of tax evaded exceeds INR 2.5 crores Imprisonment for a term which may extend to 5 years and fine.
2. Where amount of tax evaded exceeds INR 50 lakhs but does not exceed INR 2.5 crore- Imprisonment for a term which may extend to 3 years and fine.
3. Where amount of tax evaded exceeds INR 25 lakh but does not exceed INR 50 lakhs - Imprisonment for a term which may extend to 1 years and fine.

20. TRANSITIONAL PROVISIONS:

1. Every person registered under the earlier laws shall be issued a certificate of registration on provisional basis, which will be valid for a period of six months. Thereafter, upon information being furnished, certificate of registration will be granted on a final basis.
2. Credit can be taken of the Cenvat Credit/ Value Added Tax carried forward in a return furnished under earlier law.

21. IMPORTANT:

Though credits are allowed to be carried forward under this provision, since refund is not permissible in case of accumulation of credits (Under the Provision of the CGST/SGST Acts), such credit carried forward if not utilized, may lapse. Further, such credit cannot be taken unless the said amount was admissible as Cenvat Credit under the earlier law and is also admissible as input tax credit under the CGST/SGST Acts.

Unavailed credit in respect of capital goods under the earlier law shall be allowed to be taken

The above is a summary of key provisions that affect traders. This is just understanding of Model Law on GST and not legal interpretation.

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