Introduction to Goods and Services Tax (GST) after proposals in 122nd Consitution Amendment Bill 2014

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Introduction:

Presently under the existing taxation system for indirect taxes, number of indirect taxes are being levied and collected both from Central Government and State Governments on different activities undertaken.

Taking cue from international best tax practices, and to ease out the complications and compliances under different taxation laws and different statutory authorities, thought process was started to consolidate number of taxes in to one system of taxation uniformly across the county.

In that direction though reforms were thought of many times and partial reforms were being undertaken in the respective taxation laws, move was made towards introduction of Goods and Services Tax (GST) announcement was made by the then Finance Minister Mr. P. Chidambaram in 2007-08 budget to introduce GST from 2010.

Though lot of effort went into it, still standing at the end of 2014, we are still in the first technical step in the implementation process i.e. amendment of Constitution of India.

This article discusses the proposed model for expected GST as per first discussion synchronized with the proposals made in the 122nd Constitution Amendment Bill, 2014.

Present Taxes

Presently State Government are levying and/or collecting taxes such as sales tax called as VAT, entry tax, Entertainment Tax, Luxury Tax etc. Similarly Union Government is levying and collecting taxes such as Central Excise Duty, Service Tax, Additional Customs Duty and various types of cesses in the nature of Excise duties. Among them the major types of taxes on business transactions can be tabulated as follows:

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Tax	Levied on -	Collected by -
State VAT	Sales or purchases effected within the State	Respective State Governments
Central Sales Tax (CST)	Sales or purchases effected in interstate trade or commerce	State Government from where sales are done.
State Excise	Manufacture of Alcoholic brewages in the state	State Government where manufacture happens.
Central Excise	Manufacture of Excisable Goods In India.	Union government
Service Tax	Providing of taxable service in taxable territory (India excluding J & K)	Union government
Additional Customs Duties	On goods imported into India.	Union government

Proposed GST Model

Standing Committee on Finance laid 73rd Report in Parliament in August 2013 giving report on the then Constitution Amendment Bill, 2011 containing proposed changes related to GST. Now 122nd Constitution Amendment Bill, 2014 is placed before parliament. The highlight of the said report and also considering the new constitution amendment bill, GST model is expected to be as follows:

a) There will be three types of Tax as follows:

Type of Tax	Leviable on -	Levied by -
State Goods and Services Tax (SGST)	Supply of Goods, or of services, or both within the state.	Respective State Governments
Central Goods and Services Tax (CGST)	Supply of Goods, or of services, or both within the state.	Central Government
Integrated Goods and Services Tax (IGST)	Supply of Goods, or of services, or both in the course of interstate trade or commerce.	Central Government

b) In other words going by the types of transactions –

Type of Transaction	Type of Tax	Levied by -
Supply of Goods, or of services, or both within the state. (Same transaction will suffer both types of tax)	State Goods and Services Tax (SGST)	Respective State Governments
	Central Goods and Services Tax (CGST)	Central Government

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Supply of goods, or of services, or both in the course of interstate trade or commerce.	Integrated Goods and Services Tax (IGST)	Central Government
Supply of goods, or of services, or both in the course of Import into the territory of India.	Integrated Goods and Services Tax (IGST)	Central Government

c) There will be mechanism between the State Government and Central Government for distribution of the IGST collected by Centre as per the recommendation by GST council (constitutional body to be created after amendment to constitution). From the business entity perspective this may not have direct implications.

d) **Following are the Central tax/levies to be subsumed in GST –**

i. Central Excise Duty;

ii. Additional Excise Duties;

iii. The excise Duty levied under the Medicinal and Toiletries Preparation Act;

iv. Service Tax;

v. Additional Customs Duty, commonly known as Countervailing Duty (CVD);

vi. Special Additional Duty of Customs – 4% (SAD);

vii. Surcharges; and

viii. Cesses.

e) **Similarly following State taxes and levies to be subsumed**

i. VAT/Sales tax;

ii. Entertainment tax (unless it is levied by the local bodies);

iii. Luxury tax;

iv. Taxes on lottery, betting and gambling;

v. State Cesses and Surcharges in so far as they relate to supply of goods and services; and

vi. Entry tax.

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f) The levy of GST will be based on supply of goods, or of services, or both.

GST related to Specific Products

Though GST is to consolidate tax code on all products considering various political aspects of our country, certain specific products are dealt separately. The highlights of the same are as follows:

a) Manufacture of alcoholic beverages for human consumption are kept out of GST. State Excise duty would continue to be levied by the respective state Government.

b) On the other hand on Tobacco and Tobacco products Central Government would continue to levy Central Excise Duty (or under some other name) in addition to GST.

c) Levy of GST on Petroleum products are postponed till that time the GST council recommends for its inclusion in GST. Till then States would continue to levy Sales tax and Centre would continue to levy Central Excise duty. The products are as follows :–

   i. Crude petroleum;
   ii. Diesel;
   iii. Petrol;
   iv. Natural gas; and
   v. aviation turbine fuel

Set off / Adjustment/ Credit

Main objective of the GST scheme is to avoid double taxation and cascading effect of different taxes levied by states and center. Therefore it becomes essential that set off / adjustment / credit of all taxes paid on both goods and services which are received against the liability to be paid on goods and services supplied.

However such seamless credit set off/adjustment/credit seems to be not envisaged. Detailing and restrictions may be given in the law framed in this regard. As per the present understanding it is proposed to be in following manner broadly.

Type of Tax Paid	Tax can be adjusted against
SGST	Adjusted against SGST
CGST or IGST	Adjusted against CGST or IGST interchangeably

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Enactment of Laws Governing GST

As per the proposed scheme law for levy of CGST and IGST will be formulated by Parliament for levy and collection of such tax. The tax also will be levied and collected by the Central Government. There will be common enactment for entire country.

As regards to levy of SGST each state is going to enact law for the respective states based on the model law formulated by GST council. The levy and collection will be by the respective state Governments. This may create issues of disparities between transactions happening in different states.

Rate of GST and threshold exemption limit:

One of the essential aspects of GST is rate of GST. As per the present status this is not yet finalized by GST Council and is being expected between 20% – 27% (both SGST & CGST together).

As regards to threshold exemption limit, again it is yet to be finalized by GST council. It is expected to be 25 lakhs to 50 lakh.

Additional tax of 1% on interstate supply of goods (not service):

Though GST is proposed to be implemented, an independent provision is envisaged in the Constitution Amendment Bill, 2014 whereby it is proposed to have levy an additional 1% tax on supply of goods in the course of interstate trade or commerce for two years or further period as may be recommended by GST council.

This additional tax will be assigned to states. Further the 122nd Constitution Amendment Act, 2014 also empowers parliament for enacting law setting out the principles for determining the place of origin from where the supply of goods take place in the course of interstate trade or commerce.

Conclusion:

With the processes involved in the implementation of GST from the present position, in view of the authors, earliest date can be April 2016. However in spite of serious effort to implement as early as possible it gets postponed to April 2017, it would not be surprise.

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More important, from the businessman and consumer perspective, this change is going to have substantial impact on the business as well cost to consumers depending upon the structure of the business and location of business and consumer. Therefore it becomes essential to restructure the business and location depending upon the assessment of implication of GST on each type of transactions.

The impact analysis and planning for restructuring can be done only after the draft law is released.

However as per the analysis of paper writer, depending of components of cost, in case of most of the services, the cost to final consumer is going to go up at least by 10%.

Transition challenge on Credit, Carry forward and Claim through declaration

- CA Madhukar N Hiregange

Introduction

Tax credit in any value added taxation is the second most important aspect after the levy as it goes to reduce the basic cost. It provides that only on the value added at each stage tax is paid. Most times the GST payable rate maybe far in excess of the gross margin of the assessee.

In the GST regime there would be 3 tax parts and consequently 3 input tax credit parts as under: n

- ➔ Central Goods & Service Tax Credit – The CGST is payable on all transactions of supply of goods or services at rates to be prescribed whether within the State or Outside. This accrues to the Centre.
- ➔ State Goods & Service Tax Credit – The SGST is payable on all transactions of supply of goods or services at rates prescribed whether within or outside the State. This amount accrues to the State of destination in normal course. See chapter on Intra/ inter State supply for understanding when destination principle may not apply.
- ➔ Integrated Goods & Service Tax Credit – The IGST is payable on all transactions where supply is interstate. The rate would be a combination of the State and Central GST. It is expected that a standard rate may be prescribed for transaction liable to IGST. Maybe applicable for imported goods, stock transfer outside the State.

The availment of credit by the assessees therefore would be in 3 different baskets. It is possible that there could be some accumulation of one or the other depending on the type of transactions and mode of distribution of goods or services.

The eligibility of utilization could be as under:

1. CGST could be used to pay CGST or IGST. Cannot be adjusted towards SGST.
2. SGST could be used only to pay SGST. Cannot be adjusted towards CGST or IGST.

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3. IGST could be used first to pay for IGST then CGST and then SGST. Can be adjusted with any tax but in order specified.

The input tax credit [CGST/ SGST or IGST] could have eligibility criterion for credit as under:

1. When goods or services are procured for supply/ resupply (resale), then credit is available for all.
2. The credit on goods or services which are in the restricted list also are eligible for credit when resold.
3. When any capital goods are procured for the business other than the ones which are specifically excluded. [Maybe Motor Vehicles]
4. When inputs and consumables are procured for the manufacture and supply of goods other than those which are specifically excluded as ineligible.
5. When goods or services are procured by the resident agent within the State. The agent is required to pay the GST on his supplies but not eligible for the credit on supplies made on behalf of the principal.

Input Tax Restrictions

a) Input tax may not be deducted in respect of
   1. Goods services supplied by unregistered person unless GST paid under reverse charge.
   2. Tax paid on supply of goods and services related to supply or manufacture or processing or packing or storing of exempted goods and services, except when such goods are exported.
   3. Tax paid on restricted goods such as those specified when such goods not used for
      i. Supply of goods (resale) or,
      ii. manufacture or any other process of other goods for further supply (sale) and
      iii. used for supply of services.
   4. Tax paid on petroleum products when used as fuel to motor vehicles except when used as fuel in the production and supply of goods.

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5. The input credits may not be available if the inputs are lost/ destroyed/ damaged prior to them having entered the manufacture or service process.
6. ITC would not be available unless supply of goods or service is evidenced by tax paying documents.
7. When deduction/ abatement claimed and tax paid only on part of value if conditions prescribe no credit availment.
8. When special rates prescribed for small businesses or lower rate prescribed under special schemes.

The GST envisages seamless credit. Therefore it is expected that the restrictions on tax credits would be at a minimum. The credit of service tax would be available for payment of CGST. Except of the 1% CST levy to continue for 2 years all taxes would be available for credit. The reasonable restrictions on no credit for exempted goods as well as for personal and non-business use would continue.

Documents on which credit is eligible.

The documents on which credit could be availed could be as under:

1. Bill of Entry where GST is charged,
2. Supply Invoice for Goods or Services [issued by manufacturer, dealer or service provider],
3. GST payment challan,
4. Supplementary Invoice for Goods or Services,
5. Certificate of Customs appraiser
6. Any other document specified/ prescribed in the rules.

Transfer of Credit

In normal course the transfer of GST credit would not be available. However in cases of Large Tax Paying Units this may be allowed.

Transfer would also be available in case of shifting of factory/ place of business, merger, acquisition and similar events. However some safeguards maybe put in place.

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Transitional Provisions

In the initial stages of implementation of GST two critical activities are to be carried out:

A. Carry Forward of Credit under VAT, Service Tax, And Central Excise. As per the books to GST.
B. Duty / tax paid on stocks on which credit has not been availed as they were not admissible in earlier period. This could be:
   - ➔ CST which was not allowed as credit to manufacturers/ service providers or dealers,
   - ➔ Central excise on goods procured by dealers/ service providers,
   - ➔ Additional duties of excise credit for imported goods to dealers,
   - ➔ VAT credit not availed by service providers
   - ➔ All taxes on those who were not liable / exempted in earlier regime.

Most businesses have at least 2 months of stocks of goods in raw material, work in process or finished stage. On these stocks, credit may have been availed partially or not at all. Under GST any tax or duty paid on the goods which are in future going to suffer GST would be eligible for credit.

The quantitative confirmation of stocks in hand as on date of transition would be important. Assessees may plan for taking the stocks in all the places where they exist. This would cover the goods for resale, job work as also the capital goods. This may require certification by a Chartered Accountant or other professional.

These stocks may be represented by duty/ tax paying documents wherein proportionate credit could be claimed. In case tax quantum not available in the documents, then the rules would have to be referred on how and to what extent credit could be claimed.

The carry forward of credit as well as the declaration/ claim for credit on stocks in hand are detailed in chapter on *Transitional challenges* which also includes a *check list for verification*.

Ineligible Credit

The GST law would not allow credits on all GST paid on receipt of goods and services. Credit could have been availed in excess, ineligible credits taken, reversal of credit for non-business

/ personal use not done. Credit available in SGST may be used for CGST or credit available in CGST may be used for payment of SGST. At times the assessee maybe supplying both taxable and non-taxable goods/services. In these cases a simple method of proportionate credit reversal needs to be put in place rather than formulae's like the Rule 6 (3) of the CCR 2004.
In all such cases the interest and penalties would be attracted.

Cost of eligible credit not availed.

The past experience in indirect tax laws indicate that there are several reasons why credits are not availed. In normal circumstances all credits are to be taken, unless restricted or barred. This could be due to lack of knowledge, proper system of accounting not followed, non-integration of credits to accounting package among many other reasons.

The credit when not availed would directly increase the cost of services or goods and be a hit on the net profit of any enterprise. This may also lead to losing out on orders due to not being competitive.

Time Limit for Credit

Presently under many of the VAT laws as well as the Cenvat credit rules, the credit is available only for invoices of the last 6 months/ 1 year. Therefore old invoices credit would not be available.

Under GST it is hoped that this practice would not be continued as when tax is payable for the past the availment of credit should also be allowed for the past. The quantum and percentage of credit under GST as a proportion of the goods would be very high. The stated objective of GST to allow seamless credit would also not be furthered if time limits were put in place.

1. Carry forward of stock as on transition date

As on the transition date, an Assessee may have stock of goods in the nature of raw material, packing material, consumable, stores, fuels, semi-processed goods, finished goods and capital goods lying. The said stock including capital goods may be subject to GST on subsequent supplies. Transition provisions are required to provide a clear procedure for transitional credit on such stocks including on capital goods.

2. Refund of Credit

The refund of credit would be eligible normally where the accumulation is due to supply to 100% EOU, SEZ or exports. One of the major advantages of GST is that the goods and services from India would not have components of tax as a cost. This would ensure that the exporters can compete with suppliers across the globe who also would not allow taxes to stick to their goods or services.

One of the simple methods of providing these benefits is to allow refund in cash immediately. In fact travelers in USA and Europe may remember that they can claim the VAT paid in the visited country at the airports and at times the refund is given across the counter. Even for business enterprises the refund takes not more than 1 week. This speed needs to be emulated by the Government in India. Verification of the documentation needs to be done post refund sanction only.

3. Goods lying at job-workers premises

In the ordinary course of business, goods are sent to job-work for further processing. It is possible that on the date of implementation of GST, the goods are lying with job-worker. Transitional provisions are required to ensure that an Assessee's right to credit of appropriate tax paid on goods lying in stock with the Job-worker is made available as Transitional Credit.

The possible situations with respect to goods lying at job-worker's premises are:

i. The goods (after being processed) are lying at job-worker's premises on the implementation date and would be returned back to the principal
ii. The goods are being used by the job-worker for further processing
iii. The goods are in the nature of capital goods

4. Goods lying with agents

In the ordinary course of business, goods may be sent to agents for subsequent sale. It is

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possible that on the date of implementation of GST, the goods are lying with the said agent. Transitional provisions are required to ensure that an assessee's right to credit of appropriate tax paid on goods lying in stock with the agent is made available as Transitional Credit.

Potential Concerns:

The possible situations with respect to goods lying at Agent's premises are:

i. The goods are lying at Agent's premises on the implementation date for sale therefrom

ii. The goods are in the nature of capital goods

5. Unutilized input tax credit

Under the current system of taxation, in case eligible input tax credit is in excess of output tax payable, the assessee, subject to conditions, is allowed to carry forward the said excess.

Transition provisions are required to provide a clear procedure for treatment of unutilized input tax credit.

6. Partial credit taken under Pre-GST for tax paid on capital goods

In the ordinary course of business, a dealer would be eligible to avail input tax credit for tax paid on capital goods. The entitlement to credit is conditional and it is possible that certain conditions are yet to be fulfilled on the date of implementation of GST. Transition provisions are required to protect the right of the Assessee for the tax paid on eligible capital goods that are entitled to credit under the current regime.

7. Pending refunds

Under the current system of taxation, an Assessee may have filed refund of input tax or rebate claims, which may be pending before the adjudicating authority or appellate authority for disposal. Transition provisions are required to provide a clear procedure for protection of pending refund claims.

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8. Tax paid on goods in transit or pending approval

An Assessee may have paid tax on goods in the current regime which may be in transit before delivery to customer and is received by the said customer post implementation of GST or may be pending with customer for sale by approval. Transition provisions are required to provide a clear procedure for mechanism to avail transitional credit on goods in transit or pending for approval.

Transition provisions are required to provide a clear procedure for mechanism to avail transitional credit on goods in transit or pending for approval.

Potential Concerns:

The possible situations on transit goods are:

i. The goods are in Transit

ii. The goods are pending with the customer for approval before sale

9. Present Registered Dealer [Including Importer]:

The central excise duty and CST paid on stocks [in hand, in semi-finished and finished goods] and capital goods used for business and VAT missed for procurement in pre GST period are eligible for credit under GST.

However for the unaccounted stocks or stocks not represented by valid duty/ tax paid invoices, the credit would not be available.

10. Present Product/ Service being Exempt:

Now with product or service becoming liable for GST for 1st time, the credit for stock in hand of which CST, Central Excise or VAT,CVD as well as SAD has been paid would be eligible.

11. Credit Reversal Under Protest:

Manufacturer or service provider or dealer may have reversed credit under protest in pre GST period. This would have to be close out with the due process of law under the old law and if eligible for refund under the old provisions.

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12. Other Transitional credit

a. Credit of VAT or CST paid on available stock- composition scheme under existing State VAT Act

b. Balance 50% credit of CG- credit (CGST)?

c. **Reversal of Credit**: Manufacturer should be eligible for credit reversed in pre GST period due to non-receipt of goods from job worker within 180 days. The credit on stock with the job worker therefore should be allowed.

d. Check if credit for SAD & CST paid on inputs and consumables available for the service providers on the stock available?

e. Credit reversed on becoming obsolete - used after implementation of GST?

f. Sales returns after implementation of GST – ED & VAT.

g. Credit of TDS deducted under the existing VAT Act available as credit under GST law.

Claim through declaration

a) Under GST, the assessee must be allowed to carry forward the tax paid in the Pre-GST regime in respect of eligible inputs such as raw materials, component parts and inputs consumables, etc., whether or not lying in stock, provided the said amount was rightly availed and carried forward in the returns filed by the assessee. In this regard, the entitlement to carry forward may be subject to fulfillment of certain conditions such as transitional credit to be provided only in respect of goods that have suffered appropriate tax and in respect of which the assessee has maintained day-to-day stock records, etc., or as required under the law of the appropriate State.

b) The burden of proving that such goods have suffered tax would be on the claimant. Purchase invoices along with appropriate stock records must evidence tax paid on such inventory, which must be duly certified by a Chartered Accountant.

c) Under GST, the Assessee may be required to file a declaration **[Appendix 1 &2]** providing complete details of inventory lying in stock, which should be filed before the jurisdictional tax officer in the prescribed manner. The Prescribed Officer on satisfaction

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of the claim must issue a certificate which will entitle the dealer to avail the Credit under GST and carry forward the appropriate credit.

How to Get awareness / start practice in GST?

⇒ Start focused reading/ practice in CST/ VAT, Central Excise or Service Tax **now!!**

⇒ Use online resources – google gst, caclubindia, yahoo CA groups, taxindiaonline, linked in.

⇒ Form a small group for GST in your area, meet regularly to understand the latest developments.

⇒ Be ready before GST is implemented to add value to your organisation / clients.

⇒ Read books/ attend seminars on topic

Conclusion:

Input Tax Credit being an important part of any business at times exceeding the net margin of the business needs to be understood comprehensively. Businesses may necessarily have to enable maximum credit to be able to survive in this competitive world. The non availment of ITC on restricted categories would avoid the cost of interest and penalties. India is slowly increasing its exports would also have many situations where the SGST, IGST and CGST would be accumulating. It is imperative that speedy refund without any delays and restrictions is put in place as it also leads to high transaction cost. The businessman always ensures that his margins are protected and availing credit under GST which could be upto 20% of the cost would obviously be critical to keeping oneself viable.

Bibliography:

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2. Excerpts from the Research Committee of ICAI – Transitional Issues in GST.

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Appendix 1:

DECLARATION FORM FOR STATE LEVEL TRANSITIONAL CREDITS

(To be filed before the Jurisdictional State GST officer)

To,

The Jurisdictional GST Officer
…………………..

Sir,
I/We ………… (name) …………….. (TIN) and GST no.………………… (address) do hereby declare that the refund / rebate of tax (VAT / CST / General Sales Tax / Entry tax *) paid on goods held in stock on 31st March, 2016 is as under:

1. Eligible Input tax credit as per State Tax Return as on 31.03.2016 is Rs…………

Sl.No.	Tax Period	Amount in Rs.	Description	Remarks / Comments

2. Others#

Sl. No	Value of Goods in Rs.	Rate of VAT / General Sales Tax / CST / Entry tax/other State taxes to be subsumed under the GST law	Tax paid as per the sale bills/ calculated as prescribed in Rs.	Transition relief Claimed in Rs.

Note: Others (Ineligible input tax, URD purchases, etc.) would include those items which has not been claimed as eligible input tax credit in serial number 1 and which are lying in stock as on 31.03.2016.

I/We undertake to maintain the records relating to the purchases on which relief is claimed for a period of two years and shall make them available for inspection by any authorised officer of the Commercial Taxes Department at any reasonable time.

Place: ……………… Signature ………………………

Date : ……………… Status …………………………

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Appendix 2:

DECLARATION FORM FOR CENTRAL LEVEL TRANSITIONAL CREDITS

(To be filed before the Jurisdictional Central GST officer)

To,
The Jurisdictional GST Officer
…………………..
Sir,

I/We ………… (name) …………….. Excise No./ST No./IEC No. and GST no………………… (address)do here by declare that the refund / rebate of Excise duty/ Customs duty/Service tax/Swachh Bharat Cess paid on goods/services held in stock on 31st March, 2016 is as under:

1. Eligible Input tax credit as per Return under Cenvat Credit Rules, 2004/Service Tax Rules, 1994 as on 31.03.2016

Sl.No.	Tax period	Amount in Rs.	Description	Remarks / Comments

2. Others

Sl. No	Value of Goods/Services in Rs.	Rate of Excise, Customs, service tax/Swachh Bharat Cess and other Central taxes/cess subsumed under the Central GST law	Tax paid as per the sale bills/ calculated as prescribed	Transition relief Claimed in Rs.

Note: Others (Ineligible input tax, Service tax paid by traders/wholesellers/retailers, etc.) would include those items which has not been claimed as input tax credit and which are lying in stock as on 31.03.2016.

I/We undertake to maintain the records relating to the purchases on which relief is claimed for a period of two years and shall make them available for inspection by any authorised officer of the Central Excise/Customs/Service tax/Central GST Department at any reasonable time.

Place: ……………… Signature ………………………
Date : ……………… Status ………………………

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TRANSITION PROVISIONS W.R.T. LEVY AND OTHER ASPECTS

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Introduction:

The entire country is waiting with bated breath for unveiling of the greatest tax reform of independent India in the form of introduction of GST. It is expected that GST would replace many existing indirect tax laws in force at the central and state levels. The tax payers in the present regime would have to transit or migrate to the new system to be unfolded w.e.f. 1.4.2016. This paper attempts to discuss the transition issues in brief relating to levy and certain other important aspects like levy, registration, litigation, information technology environment, accounting aspects, training and refunds.

Meaning of 'Transition':

The word 'transition' means passage from one state, place or stage to another. Thus in the context of GST law, the said expression would mean passage from present indirect tax laws to GST law.

Why transition provisions?

- For a successful implementation of any new law (particularly tax law), the Government always aims at less hassles and hindrances both for the tax payers and tax gatherers (officers).
- Hence there is a need to plan proper transition and also ensure that a proper mechanism is put in place.
- Smooth transition is to be ensured not only by the tax payers but also by the departmental officers.
- If the transition is not properly done it may even lead to errors both by the tax payers and also the departmental officers. It would also lead to confusion and increase in litigation.

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Transition – Different aspects:

This paper covers certain key areas like registration, levy, exemptions, refunds, IT environment, accounting aspects, refunds, training, where there are potential concerns as regards transition to GST regime.

Levy: Levy of tax is attracted on the occurrence of a taxable event. There are different taxable events in the context of different tax laws. As for example, in service tax law the taxable event is service provided or agreed to be provided. In Central Excise law, the taxable event is production or manufacture of excisable goods in India. In VAT/CST laws, the taxable event is sale/purchase (including deemed sale/purchase). In Customs law, the taxable event is import or export of goods.

Once the taxable event occurs the levy is automatically attracted. Once the levy is attracted the tax liability has to be discharged by the concerned person unless the goods or services are exempted from tax. In the context of GST, the levy would be attracted on supply of goods or services (taxable event). Hence the taxable event itself would be totally different. The following issues (illustrative nature) may arise in the context of different tax laws, as the assessees move to GST regime.

Central Excise:

a. Goods manufactured or produced during pre-GST regime but removed from the factory after introduction of GST.
b. Goods cleared during pre-GST regime but returned to factory for repairs, reconditioning, sales returns etc during post-GST regime.

Customs:

a. Goods imported during pre-GST regime but not cleared for home consumption.
b. Goods where let export order is issued during pre-GST regime but goods not physically exported.
c. Goods lying in bonded warehouses.

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Service Tax:

a. Service provided or agreed to be provided during pre-GST regime but payment not received or invoice not raised.
b. Advance received during pre-GST regime but service provided in post-GST regime.

VAT/CST:

a. Goods sold during pre-GST regime but not delivered to the customers.
b. Advances received during pre-GST regime but goods not yet sold.
c. Goods sold during pre-GST regime but returned during post-GST regime.

Other important transition areas:

Registration:

Registration is a basic procedure provided in all tax laws and can be considered as the first step, which enables the department to know about the concerned tax payer. There may be many persons already registered under different tax laws relating to Central Excise, Service Tax, VAT/CST etc. Now the question would be whether these registered assessees would be automatically considered as registrants under the new GST law or they may have to apply for fresh registration. There may be some additional formalities to be carried out in respect of existing assessees including filing of additional documents. As far as the new registrants are concerned the law should provide for a proper mechanism. A new number would be allotted, which is expected to be PAN based. Further, an assessee having presence in different States may have a concern as to whether he can have a centralised registration or State-wise registration.

Litigation:

There are many matters, which are pending before the departmental authorities either in adjudication/re-assessment or first appellate proceedings. Further many matters are pending before higher forums including Tribunal/Courts. With the introduction of GST, these matters may lose precedent value as they may be issue-specific and even the tax payers would not be interested in litigating it any longer. In sum, the litigant-tax payers may not be interested in pursuing these cases for a long time.

Pendency of matters, burden the authorities as well as courts and tribunals. Hence a suitable scheme should be introduced to resolve all disputes and to ensure closure of proceedings. It can be on the lines of Kar Vivad Samadhan Scheme, where the proceedings would be treated as concluded upon payment of part amount of tax (say 50%) with interest and the balance levies including penalty would be waived. Further immunity from prosecution should be granted and where prosecution proceedings have been commenced, it should be withdrawn by the Department. This step would bring down the level of pendency of cases and ensure smooth transition to GST regime. Even departmental appeals should be reviewed in the light of the National Litigation Policy (NLP) and withdrawn. The States should also bring out a State Litigation Policy on the lines of NLP.

IT Environment and accounting software:

Going by the First Discussion Paper on GST and press reports, it is expected that GST regime would be driven by technology where Information Technology would attain significance. Even invoices have to be digitally raised using the GSTN. Hence the tax payers have to transform their system and move towards IT Environment, as a step closer to successful transition to GST. Manual records may not be acceptable in GST context and hence the tax payers have to ensure that they take steps now itself in this regard.

Refunds:

Several refund claims have been filed in the context of present tax laws, which may be pending at the time of introduction of GST. If these refunds pertain to unutilised credits, the Government can think of allowing the tax payers to withdraw such claims with an option to take credit and use it towards output tax in the GST regime.

Exemptions:

Although the transactions may attract the levy, it may still be exempt by virtue of some notification issued in the present context. The big question is whether such exemptions would continue in GST context or would be withdrawn. Further, some exemptions cannot be withdrawn abruptly (like area based exemptions), which may be hit by the doctrine of promissory estoppel. The transition provisions, it is expected, would address the issue of continuation of exemptions.

Training:

GST law would result in a paradigm shift in taxation of goods or services. The concept, levy, procedures etc would be different and hence there is a need to train both the tax payers and departmental officers on various aspects. This would ensure that both of them are better equipped to deal with the changes to be introduced in the GST regime.

Conclusion:

The Government has made repeated claims that GST law would be introduced from 1.4.2016. However, it is advisable to delay it rather than bring it in a hurry. All stake holders should be given an opportunity to present their views about the proposed GST and the Government should give the tax payers and departmental officers adequate time to understand the new law before it is implemented.