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AN IMPACT OF GOODS AND SERVICE TAX IN INDIA

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ABSTRACT

India's biggest indirect tax reform in the form of Goods and Services Tax (GST) has completed 1 year. A comprehensive dual GST was introduced in India from 1 July 2017. he idea of moving towards the GST was first mooted by the then Union Finance Minister in his Budget for 2006-07. The talks of ushering in GST took concrete shape with the introduction of Constitution (122nd Amendment) Bill, 2014. The Bill was passed by the Parliament on 8 August 2016. This was followed by the ratification of the Bill by more than 15 states. On 12 April 2017, the Central Government enacted four GST bills. The GST Council, a recommendatory body consisting of representatives of Central as well as state governments, has met on several occasions and taken important decisions relating to tax rate structure, exemptions, rules, composition scheme etc. Over the period, the Council has recommended a reduction in the tax rates of various goods and services. It is also considering the various issues faced by trade and industry and endeavouring to simplify the new tax regime and ease compliance.

Keywords: Reason for GST Proposed, Need for GST, Positive Impact of GST in India, Negative Impact of GST in India, Loopholes in GST, etc.

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INTRODUCTION TO GST

GST is one indirect tax for the whole nation, which will make India one unified common market. The GST intends to subsume most indirect taxes under a single taxation regime. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stages of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages. This is expected to help broaden the tax base, increase tax compliance, and reduce economic distortions caused by inter-state variations in taxes.

Why GST has been proposed?

Our Constitution empowers the Central Government to levy excise duty on manufacturing and service tax on the supply of services. Further, it empowers the State Governments to levy sales tax or value added tax (VAT) on the sale of goods. This exclusive division of fiscal powers has led to a multiplicity of indirect taxes in the country. In addition, central sales tax (CST) is levied on inter-State sale of goods by the Central Government, but collected and retained by the exporting States. Further, many States levy an entry tax on the entry of goods in local areas.

This multiplicity of taxes at the State and Central levels has resulted in a complex indirect tax structure in the country that is ridden with hidden costs for the trade and industry. In order to simplify and rationalize indirect tax structures, Government of India attempted various tax policy reforms at different points of time. A system of VAT on services at the central government level was introduced in 2002. The states collect taxes through state sales tax VAT, introduced in 2005, levied on intra-state trade and the CST on inter-state trade. Despite all the various changes the overall taxation system continues to be complex and has various exemptions.

This led to the idea of "One nation One Tax" and introduction of GST in Indian financial system. This is simply very similar to VAT which is at present applicable in most of the states and can be termed as National level VAT on Goods and Services with only one difference that in this system not only goods but also services are involved and the rate of tax on goods and services are generally the same.

Need for GST:

1. The main reason behind introducing GST is to improve the economy of the nation.

2. VAT rates and regulations differ from state to state. And it has been observed that states often resort to slashing these rates for attracting investors. This results in loss of revenue for both the Central as well as State government.

3. On the other hand, GST brings in uniform tax laws across all the states spanning across diverse industries. Here, the taxes would be divided between the Central and State government based on a predefined and pre-approved formula. In addition, it would become much easier to offer services and goods uniformly across the nation, since there won't be any additional state-levied tax.

4. GST rollout missed several deadlines due to disagreement among many states over certain important issues on the new tax reform. However GST is scheduled for a nation-wide rollout on July 1st, 2017

Features of GST

1. GST is one indirect tax for the entire nation, which will make India "one unified common market".

2. It will replace multiple taxes like VAT, CST, Excise Duty, Entry Tax, Octroi, LBT, Luxury Tax etc.

3. There are four types of GST namely:

a) SGST – State GST, collected by the State Govt.

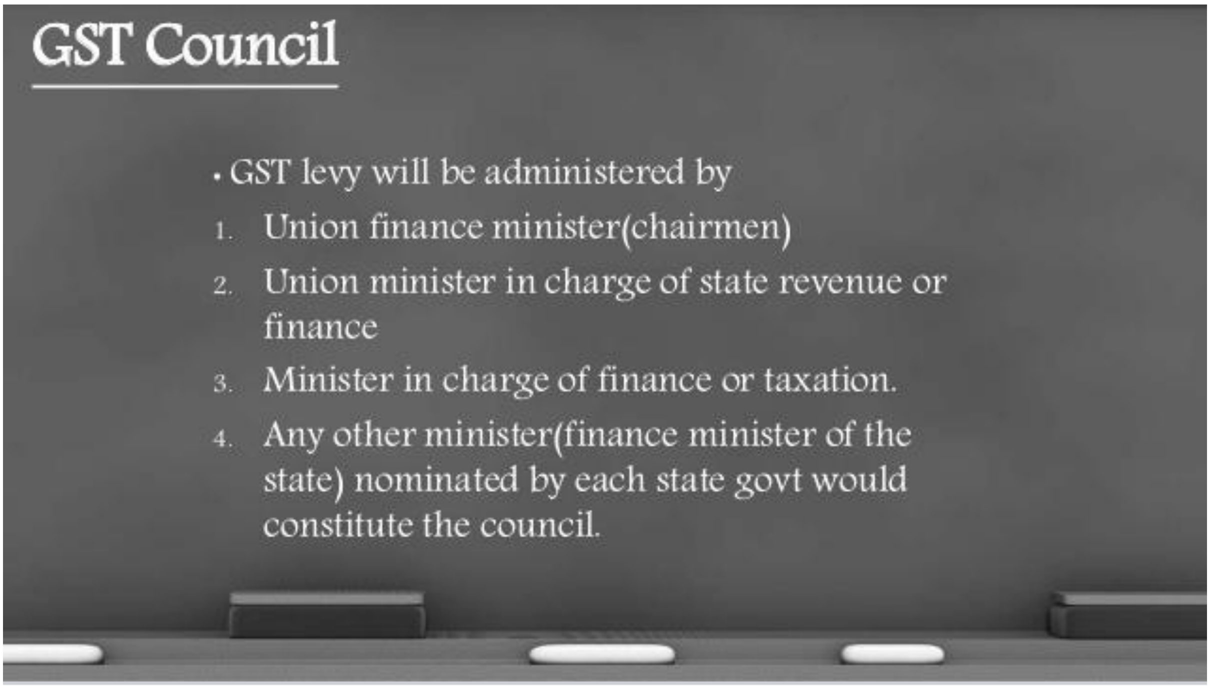
b) CGST – Central GST, collected by the Central Govt.

c) IGST – Integrated GST, collected by the Central Govt.

d) UTGST – Union Territory GST, collected by the Union Territory

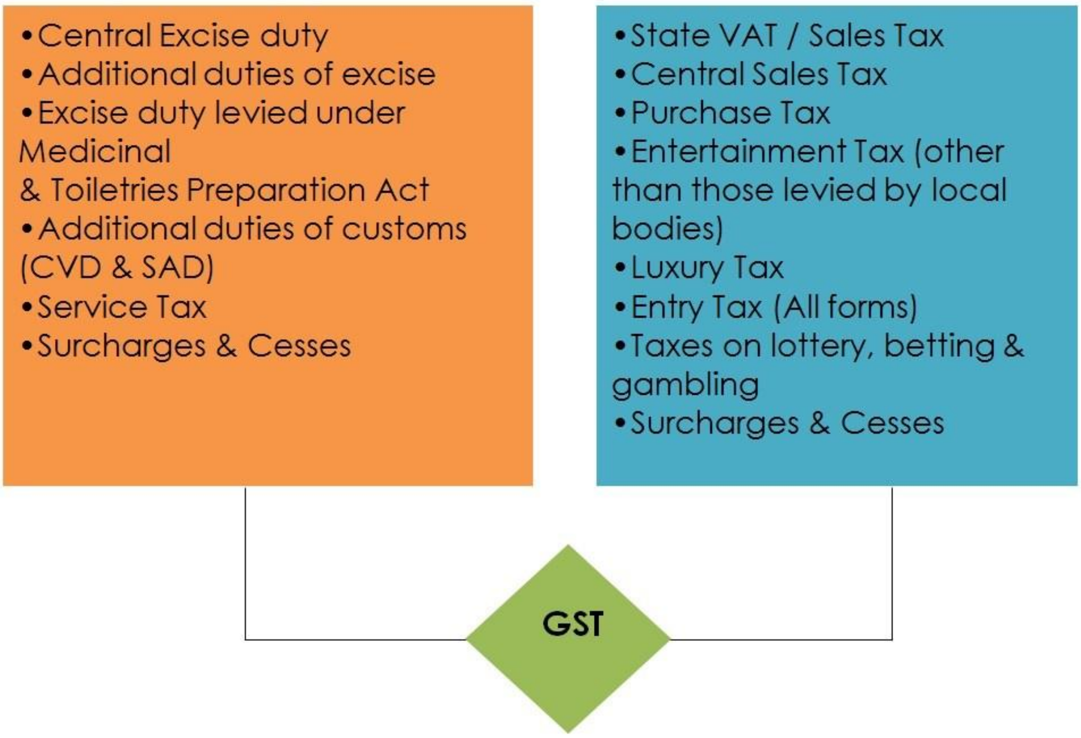
4. Tax Payers with an aggregate turnover in a financial year up [Rs. 20 Lakhs & Rs. 10 Lakhs for North Eastern Sates and Special Category States] would be exempted from tax.

5. GST slabs are pegged at 5%, 12%, 18% & 28%.



Taxes to be subsumed by GST:

Central Taxes **State Taxes**



INDIRECT TAXES THAT WERE NOT SUBSUMED IN GST	
A	Tax on Alcohol
B	Basic Custom Duty
C	Tax on Petroleum Crude commonly known as Petrol
D	Tax on High Speed Diesel
E	Electricity Duty
F	Tax on Aviation Turbine Fuel
G	Tax on Natural Gas
H	Property Tax/ Stamp Duty charged on House Property or any other property

Positive Impact of GST in India:

1. GST is a single taxation system that will reduce the number of indirect taxes. From now, a single taxation term would cover all of those indirect taxes.

2. The prices of products and services would reduce, thus this system would prove to be beneficial for the people who are fed up of paying high prices.

3. This would reduce the burden from the state and the central government. With the introduction of GST, all indirect taxes would come under a single roof.

4. GST would not be charged at every point of sale like other indirect taxes so in this way, market would be developed.

5. Corruption-free taxation system. GST would introduce corruption-free taxation system.

6. Less tax compliance.

7. Removes cascading effect of taxes.

8. Manufacturing costs will be reduced, hence prices of consumer goods likely to come down.

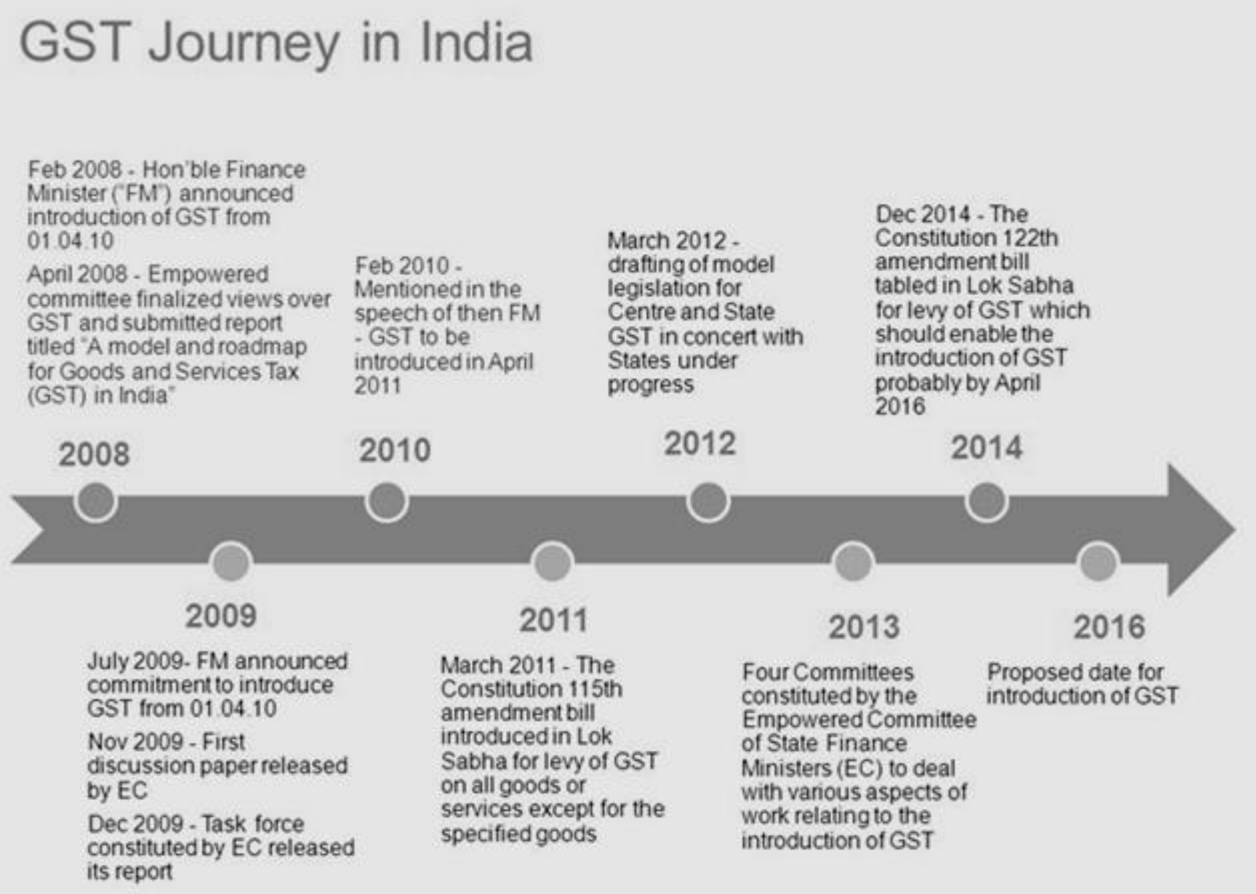
9. Due to reduced costs some products like cars, FMCG etc. will become cheaper.

10. Control of black money circulation as the system normally followed by traders and shopkeepers will be put to a mandatory check.

Negative Impact of GST in India:

1. The introduction of GST in the country will impact real estate market. This would increase new home buying price by 8% and reduce buyers' market by 12%.
2. GST is a mystifying term where double tax is charged in the name of a single tax.
3. The short-term impact of GST is expected to be neutral-to negative for the broader economy.
4. Production processes are likely to take some time to align with the new framework as firms adjust to the input tax credit system and better manage working capital requirements.
5. For consumers, it will be a mixed bag as some goods become cheaper while others will be expensive.
6. Services will become expensive e.g. Telecom, banking, airline etc.
7. Being a new tax, it will take some time for the people to understand its implications.
8. It is easier said than done. There are always some complications attached. It is a consumption based tax, so in case of services the place where service is provided needs to be determined.
9. If actual benefit is not passed to consumer and seller increases his profit margin, the prices of goods can also see a rising trend.

However, GST is a long term strategy and the positive impact shall be seen in the long run only. Let us hope GST proves to be a game changer in a positive way and proves to be beneficial to the common man.



Loopholes In GST

<u>Inter-state movement</u>: Companies use this technique to move goods from one state to another state. Once the vendor in the state which receives the good claims input credit the vendor in the state who sells it vanishes.

Stay small: Tax experts said that smaller companies with a size of Rs 50 crore or below are more difficult to track. Hence, they stay small and redirect revenues into personal accounts.

Engage small tax firms: The big four accounting firms look at client reputation before working with them. Hence, these companies would have smaller chartered accountants to manage their accounts.

Cash transactions: Cash does not leave a trail behind. Hence, companies have been found to deal heavily in tax so that they can avoid taxes.

Billed versus unbilled revenue: Several smaller entities including pharmacies and grocery chains do not prepare bills for transactions. Only those who insist on them are given bills. This can be used to hide revenue earned as long as the cash is not deposited in bank accounts.

Backdate transactions: One of the most common methods used to avoid paying taxes is to backdate the transaction to a particular day which is convenient to both the payer and the claimant.

Changing product category: One of the mechanisms which some companies use to avoid paying taxes or cut down on tax is to change the category of product that they manufacture. GST tax rates have been revised for 80,000 items in the country depending on the type of product and the ingredients used in its manufacturing. Hence, a chocolate could be categorised as a toffee, cocoa-filled confectionary, and candy, biscuit or wafer-coated biscuit.

Threshold exemption limit: Those with a turnover of Rs 40 lakh or below are exempt from GST. Smaller tax consultants are also seeing a demand for splitting larger businesses into smaller multiple units to claim tax relief.

Trade in exempted goods: Several products including pooja products, khadi, agricultural equipment, earthen pots and local handicrafts are exempt from taxation. Tax experts said that entities, especially, in South India, dealing primarily in pooja articles and products, have been seen to change the category registration to 'religious articles' to avoid taxes.

Change registration location: Underdeveloped areas like the North-East have access to tax holidays as an incentive. Companies operating in those areas are also giving tax-breaks to boost their business which is in fact misused by smaller entities to incur zero taxes. Often these 'registered offices' are unmanned and exist only on paper.

Tax Rates wrongly charged

Frequent changes and multiple rates have become an easy way to evade tax in GST regime. There are many entries in Tax rate schedule where the rate of tax depends on the price of a commodity like in case of clothing, footwear etc. In these industries retailers are artificially vivisecting the invoice value into two or more components to claim tax advantages.

For Ex. One suit that cost more than INR 1,200/- is liable to 12% rate of GST. However, if that suit is broken into two parts (Coat and trousers) of INR 600 each then tax rate is only 5%. This mechanism of splitting the invoice value often results into a loss for the tax authorities.

This mechanism of tax avoidance is very difficult to identify and track in real-time due to its non-conspicuous nature, even though it could pegged as one of the most polished form of tax lowering.

Menace of fake invoices

Fake invoices have become a popular term in last one year, however actual meaning of this is unknown to many. Fake invoices basically mean issuance of an invoice without any underlying supply of goods or services. Issuance of fake invoices is commonly seen for goods which are supplied to retail customers not claiming any tax credit.

Till date tax authorities have zeroed in on fake invoices of cement, steel, high-value luxury bags and clothes, beauty products, papers, high-cost electronic items like I Phone, IPod etc. and hospitality services including banqueting.

Earlier invoice wise matching was proposed under GST regime, however due to technology challenges this proposal was not implemented and thereby gave an entry to the tax evaders in the supply chain.

It is continuously found by the taxing authorities that registered persons are buying fake invoices through an agent, who is accountable for finding such suppliers and also ensuring smooth flow of cash in the chain. Fake invoices are a double whammy as it reduces GST collections and also have an immediate impact on direct tax collections.

How to evade loopholes

The GSTN can now approach the IT department and request for exchange of information related to assessee through the nodal officer. The information can be on status of filing of income tax returns; turnovers declared and gross total income among others.

Further, spontaneous and automatic exchange of data would also occur under specific conditions which would be decided by concerned authorities, the CBDT order said. “While furnishing the information, the specified income-tax authority shall form an opinion that sharing such information is necessary for the purposes of enabling the specified authority in GSTN to perform its function under the Goods and Service Tax,” the CBDT order said.

The exchange of information would be contingent on the agreement entered into by the nodal officers of the GSTN and IT department. The agreement would dictate norms for exchange of data and maintenance of confidentiality, mechanism for safe preservation of data, weeding out after usage among other aspects.

A slew of recent circulars by the central and some state GST authorities, along with notices being shot off questioning previously undetected discrepancies in returns, suggests that both central and state GST departments are getting their act together and patching up holes in intelligence sharing and on-ground action.

At a recent meeting of a 'Working Group on Intelligence Apparatus', the finance secretary noted that there was sporadic and selective information sharing among all investigative agencies and the Central Economic Intelligence Bureau. He directed the agencies to share intelligence real time.

Already, with the requirement of reporting GST-related procurements in income tax returns (which while now has been deferred till March), there seems to be a clear intention at the government's end of reconciliation between disclosures made in income tax and GST returns.

"With the requirement of reconciliation between company financials and GST returns in the GST annual return (the final return for which forms are still to be released), there seems to be harbouring of some data analytics in the government's agenda

The government is already matching the GST paid on imports (under customs) and that disclosed in GST returns. Businesses found to have discrepancies between the two are getting notices. The revenue department is also matching whether sales in relation to imports are duly accounted for or not

The tax department is sending notices to businesses where supplies reported by suppliers and total credits availed of as per the summary return don't match.

Tax authorities are using data analytics to check on fake credit claims and diving deep into revenue department data pools to catch evaders, tax experts said.

Around the globe, whenever new tax system is introduced there are always conflicts between Taxpayers and the revenue authorities. The Government wants its revenue to be as high as possible and for that it regularly amends the tax law to curb the novel tax resorts used by the taxpayers. Due to economic, social and political reasons a Governments have to grant a few tax exemptions, deductions, abatements and rebates which is usually mis-utilised by other sectors who does not fall in its ambit.

Taxpayers wants their tax liabilities to be as low as possible and thereby resort to three mechanisms which are Tax Planning, Tax Avoidance and Tax evasion. Tax evasion is illegal and results into hefty penalties. Drawing a line between acceptable and unacceptable tax avoidance depends on the tax laws of the country and its jurisprudence, thereby there is no single rule across different jurisdictions to distinguish between the two.

CERTAIN CASE LAWS UNDER GST

1. Bharat Raj Punj Vs Commissioner of Central Goods And Service Tax (Rajasthan High Court)

Case: Input tax credit availed fraudulently by issue of fake or fictitious sale invoices.

Decision: Arrested senior officials of the company after recording their statements. Also, Rajasthan High Court dismissed the Writ petition of the petitioner and imposed a cost of Rs. 1, 00,000/- only.

Comments: It is an offence committed under Section 132 of the Act. It specifically covers cases leading to wrongful availment of Input tax credit. The Department has the power to issue summons or arrest the offender on reasonable grounds, without first determining the tax.

2. Optival Health Solutions Pvt Ltd Vs UOI (Calcutta High Court)

Case: Rectification or Revision of GST TRAN-2 form should be allowed or not.

Decision: Allowed petitioner to file a revised Form GST TRAN-2 either electronically or manually.

Comments: Law permits a person to rectify or revise the Form, who voluntarily admits to have made a mistake in the form or admits to have submitted detail that is not true. The tax authorities have the right to retain original Form GST TRAN-2 for assessment purpose and they may ask the petitioner to provide proper explanation for such revision/rectification.

3. Vikas Goel and another Vs Central Goods and Services Tax Commissionerate (Punjab and Haryana High Court)

Case: Bogus billing under GST.

Decision: Arrested the petitioner and denied their bail in GST fraud.

Comments: Petitioners made bogus bills and adjusted the amount without any actual transportation or sale of goods. Transactions appeared only on paper. On search, it was found that premises were closed for a period of 5 years and there was tax evasion.

So, the Department has the power to arrest under Section 69 of the Act.

4. Tvl. R K Motors Vs State Tax Officer (Madras High Court)

Case: Powers conferred on a statutory authority should be exercised in a reasonable manner.

Decision: Directed the authority to release the vehicle and goods detained.

Comments: Authority detained the vehicle, seized the goods when driver enrouted the vehicle to some other place instead of the place of delivery. Also, asked for a huge penalty for release of vehicle.

Since the tax in respect of goods had already been paid and transportation was duly covered by proper documentation, authority is wrong in taking such harsh steps. Instead, authority should have asked the driver to reroute the vehicle to the place of delivery.

5. M/s. Jeyyam Global Foods (P) Ltd. Vs Union of India (Madras High Court)

Case: Detention of goods cannot extend beyond a reasonable period of time.

Decision: It is not open to the inspecting squad officers to detain goods beyond a reasonable period of time and take action against it.

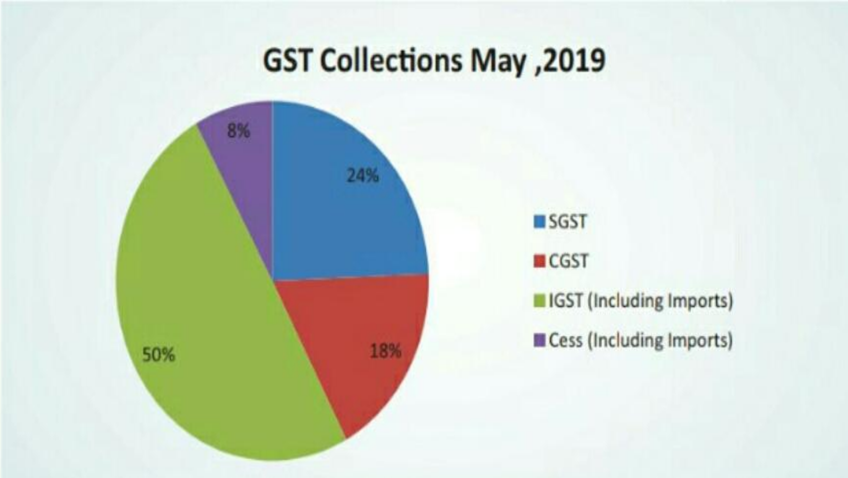
Comments: Inspecting Squad officer raised the issue of wrong classification of goods, issued a detention notice and levied tax and penalty.

Squad officer can detain the goods only for the purpose of preparing relevant papers regarding any issue involved like wrong classification of goods, and handover the papers to the jurisdictional assessing officer. But , final action can be taken only by the jurisdictional assessing officer.

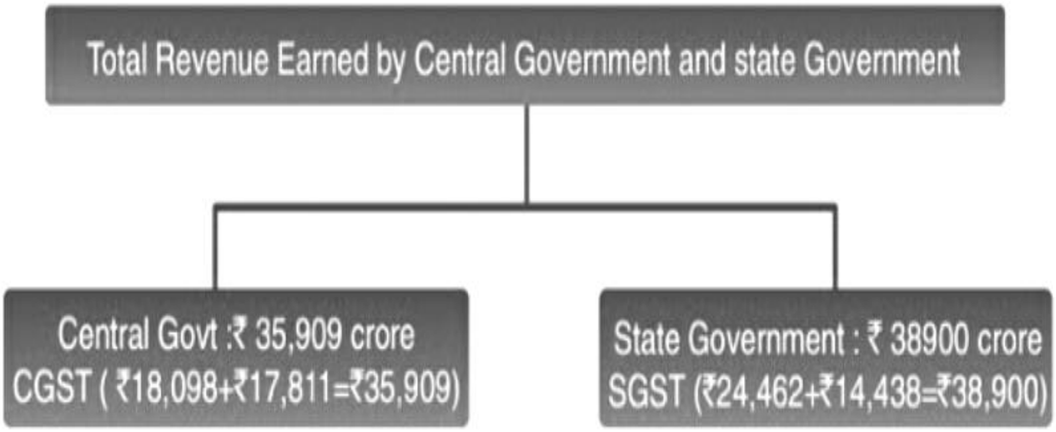
In what would ensure a systematic and formalised exchange of information between direct and indirect tax departments, the Central Board of Direct Taxes (CBDT) on Tuesday appointed a nodal officer to oversee flow of taxpayer's data to the Goods and Services Network (GSTN) – which is the IT backbone for GST. Earlier this year, the income-tax department had released new return forms for assessment year 2019-20, which require the taxpayers to provide additional business details including total income, turnover ratio and other GST payment related information.

STATISTICS ON GST
Break-up of GST Collections

Of the Rs.1, 00,289 crore collected on GST, CGST is 17,811 crore. SGST is Rs.24, 462 crore. IGST is Rs 49,891 crores and cess is Rs.8125 crores.



IGST SETTLEMENT BETWEEN CENTRE AND STATES

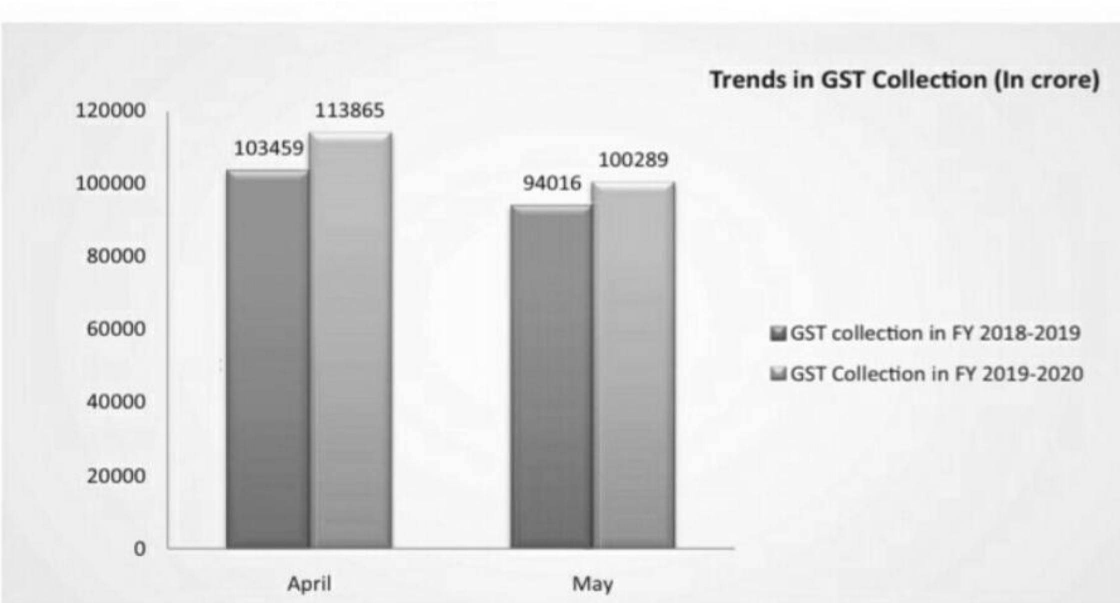


TRENDS IN GST COLLECTION

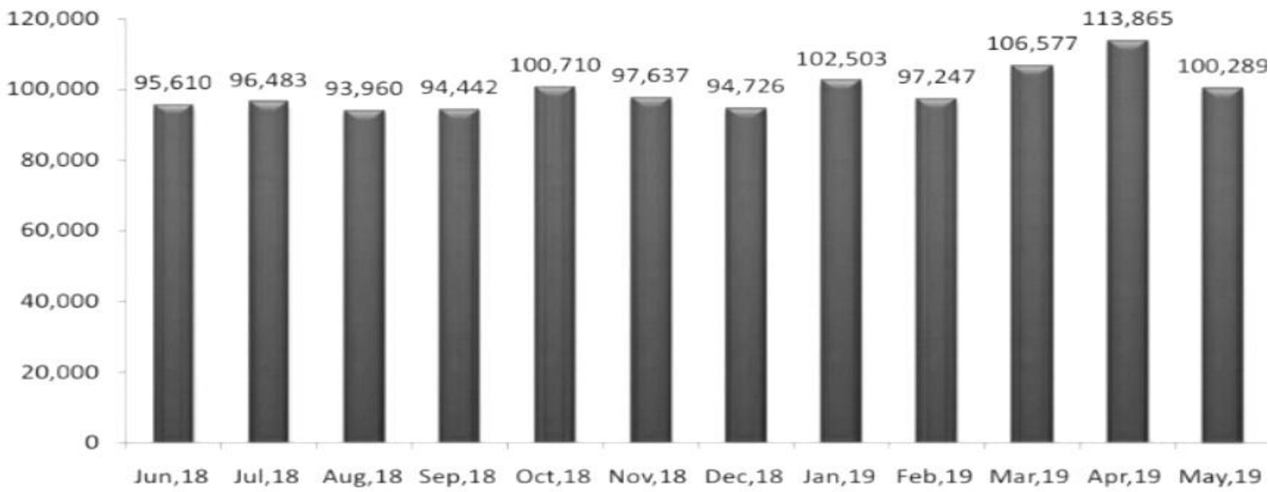
The total gross GST revenue collected in the month of May, 2019 is **₹1,00,289 crore** of which CGST is **₹17,811 crore**, SGST is **₹24,462 crore**, IGST is **₹49,891 crore** (including **₹24,875 crore** collected on imports) and Cess is **₹8,125** crore (including **₹953 crore** collected on imports). The total number of GSTR 3B Returns filed for the month of April up to 31st May, 2019 is **₹72.45 lakh**.

The revenue in May, 2018 was **₹94,016 crore** and the revenue during May, 2019 is a growth of **6.67%** over the revenue in the same month last year. The revenue in May, 2019 is **2.21%** higher than the monthly average of GST revenue in FY 2018-19 (**₹98,114 crore**).

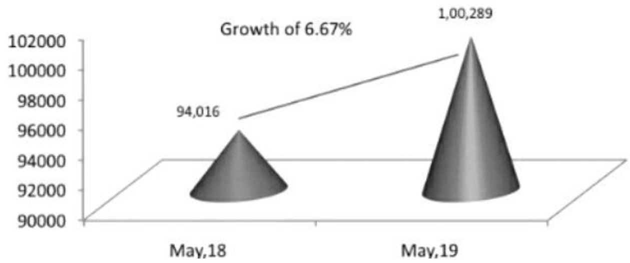
₹18,934 crore has been released to the states as GST compensation for the months of February-March, 2019. The chart shows trends in revenue during the current year.



GST STATISTICAL UPDATES



Revenue collected in May 2018 was Rs.94, 016 crore and the revenue during May 2019 is Rs.1, 00,289 crore depicting a growth of 6.67%over the revenue in the same month last year.



Budget 2019-20: GST, led to increase in tax base, higher collections and ease of trade

The Goods and Services Tax (GST) reforms has resulted in increased tax base, higher collections and ease of trade. While presenting the Interim Budget 2019-20 in Parliament, the Union Minister for Finance, Corporate Affairs, Railways & Coal, Piyush Goyal said "The Goods and Services Tax (GST) reforms lingered on during the previous Government for almost a decade. Our Government implemented the GST, which is undoubtedly the biggest taxation reform undertaken since Independence."

Seventeen different taxes levied by the Central and State/UT Governments with cascading effect of tax on tax, were consolidated into one GST. India became a common market. GST has resulted in increased tax base, higher collections and ease of doing business. This will reduce the interface between the tax payers and the Government for day-to-day operations and assessments. The Minister said that now returns are fully online and e-way bill system is in place. Inter-state movements have become faster, more efficient, and hassle free with no Entry Tax, check posts, and truck queues among others.

The Finance Minister, Goyal said, "The high taxation levied on multiple commodities in the pre-GST regime has been rationalised and the burden on the consumer, especially the poor and the middle class, has been significantly reduced." The GST Council, comprising the Centre and States/UTs, finalised the GST rates collectively mostly lower than pre-GST rates. Since then, GST has been continuously reduced providing relief of about Rs80, 000cr annually to consumers. Most items of daily use of the poor and middle class are now in the 0% or 5% tax slab. Cinema goers who were subjected to multiple taxes up to 50% are mostly paying much lower tax at 12% now.

The Finance Minister, Goyal said that our Government wants the GST burden on home buyers to be reduced and accordingly we have moved the GST Council to appoint a Group of Ministers to examine and make recommendations in this regard at the earliest.

Goyal said that GST aims to benefit small traders, manufacturers and service providers. Exemptions from GST for small businesses have been doubled from Rs 20 lakh to Rs 40 lakh. Further, small businesses having turnover up to Rs1.5cr have been given an attractive composition scheme wherein they pay only 1% flat rate and have to file one annual return only. Similarly, small service providers with turnover up to Rs50 lakhs can now opt for composition scheme and pay GST at 6% instead of 18%. More than 35 lakh small traders, manufacturers and service providers will benefit from these trader friendly measures. Soon, businesses comprising over 90% of GST payers will be allowed to file quarterly return, the Minister added.

SUGGESTIONS

GST is landmark legislation in independent India and every Indian should be proud of it. This has brought the concept of "one Nation- One Tax" in our country. The Convergence of multiplicity of taxes (about 17) and harmonizing the varying interests of several States & Union Territories is a phenomenal achievement, to say the least. To enact a law that takes care of several concerns is a herculean task and a bold initiative has resulted in the enactment of this masterpiece legislation.

While the idea is great and laudable, still if it should meet with success and get willing acceptance of the Traders & Public, it should be simple, convenient & easy to operate.

This Goods & Services Tax can really become a Good & Simple Tax, as described by our Honourable Prime Minister Shri Narendra Modi, if the Compliance is rendered easy, avoiding needless complications. The Govt. has taken measures to improve ease of doing Business. In this context, it is very important that the Compliance burden should be considerably reduced, and our energies conserved for greater things than in carrying out routines. Both at Concept level and Compliance level, there is scope for a lot of simplification to make GST, a sweet pill. One of the ideal canons of taxation is "Simplicity" and we can work towards that.

Conclusion

Implementation of GST is one of the best decisions taken by the Indian government. For the same reason, July 1 was celebrated as Financial Independence day in India when all the Members of Parliament attended the function in Parliament House. The transition to the GST regime which is accepted by 159 countries would not be easy. Confusions and complexities were expected and will happen. India, at some point, had to comply with such regime. Though the structure might not be a perfect one but once in place, such a tax structure will make India a better economy favourable for foreign investments. Until now India was a union of 29 small tax economies and 7 union territories with different levies unique to each state. It is a much accepted and appreciated regime because it does away with multiple tax rates by

Centre and States. And if you are doing any kind of business then you should register for GST as it is not only going to help Indian government but will help you also to track your business weekly as in GST you have to make your business activity statement each week.

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