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Decoding goods and services tax

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Abstract
Goods and Services Tax has been hailed as the single biggest tax reform of India. This research paper provides a detailed insight about the concept, relevance and application of GST in India. This study further provides a comprehensive sectoral based analysis of GST implementation.

Keywords: GST, VAT, Indirect tax, Tax regime in India, Tax structure in India

1. Introduction
Indirect taxation structure in India constitutes numerous types of taxes. The power to levy and collect such numerous taxes has been segregated amongst the Centre and State Governments. Every activity, presently, constitutes some kind of indirect tax, viz manufacturing attracts Excise Duty, service attracts Service Tax, sales of goods invites VAT and so on. Such taxes are levied multiple times in a transaction related to goods and services. This multiplicity of taxes makes the system difficult and complex. Further in the prevailing structure of indirect taxation, a single commodity may be taxed twice which may lead to cascading effect of taxes with limited availability of input tax credit and truncated application of Centre and State taxes in certain cases. Such cascading of taxes and duplicity adds up to the costs which are ultimately borne by the end consumer. Goods and Services Tax (GST) aims to overcome these challenges in a sophisticated manner. Therefore it becomes imperative to understand its concept in detail.

2. Research objectives
The objectives of this research is to understand the provisions of GST and to evaluate its impact over the Indian industry. The further objective of this research is to juxtapose the multiple indirect tax regime and the GST regime.

3. Research methodology
The present research has been conducted after considering multiple sources on indirect tax regime. Several reports of different committees, commissions have been studied. The views of different scholars have been adequately addressed in this research paper.

4. Research analysis
The concept of Goods and Services Tax ("GST") was first introduced in France in the year 1954. GST aims to be a single and a comprehensive tax levy on all the transactions related to manufacturing, sale and consumption. It is levied at every stage of the production - distribution chain with the provision of applicable set – offs at every stage. The following table highlights the significance of GST in establishing a tax transparent economy:

Table 1: Comparative evaluation between the two indirect tax structures

Particulars*	Mechanism under Excise and VAT	Mechanism under GST
Products base price	100	100
Excise Duty @ 10%	10	-
VAT @ 10%	11	-
Central Goods and Services Tax ("CGST") @ 10%	-	10
State Goods and Services Tax ("SGST") @ 10%	-	10
Total Sale Value	121	120
Amount of taxes paid	21	20
Net savings under GST regime	-	1

**Tax rates have been assumed. Education cess has been ignored for illustration purposes*

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The provision of availability of set-off between the tax charged by the Centre and State Government is the essence of GST. Such a provision enables the industry to compete effectively in the international markets. The Goods and Services Tax Bill has been tabled in the Parliament as the Constitution (122nd Amendment) Bill, 2014 which is now proposed to be implemented with effect from April 01, 2017. Keeping in view the government structure of India, GST Model has been designed as the Dual GST Model, wherein the Centre and State will each levy, collect and legislate Central GST ("CGST") and State GST ("SGST"). The bill also purposes to subsume taxes like Central Excise Duty, Service Tax, Additional Customs Duty, Special Additional Duty of Customs (SAD). Central Sales Tax, Value Added Tax. Octroi, Entry Tax, Purchase Tax, Luxury Tax, Entertainment Tax etc.

All goods and services have been proposed to be covered under the GST Model Law with only a few exceptions. Most of the countries across the world have today implemented GST. GST rates may vary from 27% in Hungary to 5% in Taiwan. GST provides a mechanism for establishment of seamless credit throughout the supply chain under a common tax base. GST will be a landmark tax reform in the Indian history. GST would have a substantial impact on the businesses, would affect prices, investments, profitability in almost every sector of the economy. Article 279A provides for the constitution of a Goods and Services Tax Council which shall have the power to determine and direct the procedures and the associated functions. The GST Council shall be chaired by the Union Finance Minister. Regarding the expenses related to the Council and how such expenses shall be accountable if the proposed changes are not favoured, it has been provided that the objective of the proposed law is to enhance the competiveness of the Indian goods in the international industry and to contribute to the Indian economy which may result in streamlining of tax administration, higher revenue collection for Centre and State. Thus the relatable expenses are not much as compared to the benefits to be achieved.

Since 2004, Dr. Kelkar Task Force recommended the implementation of GST. Since then there has been works and researches of Joint Working Groups, Committees. In April 2008, the Empowered Committee finalised a view on the GST structure. In 2009, Mr. Nandan Nilekani was given the responsibility for the IT infrastructure. Also 2009 saw the partnership with NSDL for the implementation of the IT structure. Following up with the procedures, the draft GST bill has been tabled and passed by both the houses of the Government and has also received the assent of the President on September 08, 2016. The first meeting of GST Council was held on September 22, 2016 for deciding the tax rates and the legislative framework. GST being one of the landmark taxation reforms in India, would have a global effect on the Indian economy. With the provision of complete setoff benefits, a detailed framework and comprehensive guidelines, rules etc. will be required so as to facilitate the same. Few illustrative areas where GST would provide much needed lucidity include Cross-utilisation of credit between the Centre and the State, Continuous litigations regarding the levy of both VAT and service tax, Litigations arising because of lack of clarity on taxability by Centre or State, Complete overhauling of software, Revision of all existing contracts, deeds in terms of the proposed law etc.

GST also provides a major professional opportunity wherein professionals can play a key role in understanding the amendments and implementing the same in big corporates which might need a complete overhaul and entire business dynamics may have to be looked at. A sector specific impact has been analysed which may summarise the key highlights of the proposed amendments on the industry:

A stagnant growth has been observed in the manufacturing sector. Its share in the GDP has been around 16%. With the proposed efforts, a paradigm shift may be seen with the Indian economy targeting of being a manufacturing hub. Manufacturing sector has been encumbered with Central Excise, Service Tax, VAT. One of the manufacturing sector update is the convergence of the taxable events i.e. manufacturing and sale with the term "supply". Under this scenario, one has to identify each transaction and whether it falls under term "supply" or not.

The industry anticipates a tremendous change in the funding requirement of the business especially for the requirement of working capital. The working capital requirement may fall because of the availability to a manufacturer to move from a slow market to a relatively high turnover markets, assisting him in lowering down its stock holding costs etc. with a margin. Presently, there have been some issues for the companies to set up their warehouses. Few warehouses may be setup within the same state so as to be eligible to claim the set-off benefits which are not eligible under Central Sales Tax. While the other companies may organise warehouses across different states and may be claiming exemption under stock transfers within the branches. Since under GST, the taxes on inter branch movement will be subsumed (as discussed above), GST may facilitate free movement of stocks and goods.

Overall impact of GST may be deflationary in nature. Since the sale of food items today attract sales tax which is broadly exempted from CENVAT. Such items, if covered, within GST would provide a set-off credibility lowering down the overall cost. Another alternative which has been evaluated in such sector is about zero rating the products i.e. a complete exemption from tax net, but this would certainly have an adverse impact on the Revenue Neutral Rate.

Currently, transfer of stock from one state to other state's branch may get exempted on submission of the required forms. However, when Central Sales Tax Act will be abolished, the consignment agent may be treated as inter-state sale and may fall under the tax ambit. Also the issues relating to stock transfers arose only for the case of Central Sales Tax. However if there is a movement from one branch to another branch within the same state, then again the GST may be attracted unless the transferor and the transferee entity have the same Business Identification Number (BIN). To illustrate, if Store A in Delhi, transfers some stock to its another branch Store B in Delhi, if both the stores have the same BIN, then there would not be any levy of GST, but if for any reason the BIN is different, GST provisions may have to be referred to.

Under International Trade, importers of goods and services may be affected under the GST regime due to the probable withdrawal of exemption high-seas sales under the CST Act and the impact which may arise due to change in tax rates. Exporters of goods and services shall continue to be zero rated and will be eligible to claim refund of input tax credit.

There had been numerous litigations regarding the taxability of works contract is to be treated as a "supply of goods" or "provision of services" or to be treated as a "composite contract". Consequently there has been overlapping of both the taxes on the same quantum. Model GST Law has defined works contract as "an agreement for carrying out for cash, deferred payment or other valuable consideration, building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair, renovation or commissioning of any moveable or immovable property". Also it has been mentioned that works contract (including any transfer of property in goods in the execution of such contract) is to be treated as a service. Hence the proposed regime has provided specifically regarding its treatment. Another segment relates to the tax rates. Presently, due to certain specific exemptions contractors are generally exposed to maximum 12.5% tax rate, such exemptions might not be available under the GST regime and contractors would be liable to a total tax say 20%, leading a supplementary tax of 8%; particularly, in relation to projects where contractor / contractee could not obtain the benefit of input tax credit.

There has been some kind of vagueness in the provisions for taxation of Leasing Companies. Often it has been observed that the companies might be obligated to both VAT and Service Tax. If it is deemed that the delivery of goods is on hire purchase or any system of payment on instalments it will be deemed as "Sale of Goods"; otherwise, it is a matter of service tax. However, without any lucidity on how to decide such nature, litigations are often invited. Therefore, GST may be a revolutionary factor in clarifying whether a transaction is subject to VAT or service tax.

Entry No. 53 of List II of Seventh Schedule of the Constitution of India provides the power to levy tax on the consumption or sale of electricity to the State Governments. It may be seen that electricity might be kept out of the purview of GST which may inflate the cost of the Power Companies. Since such companies would have to pay GST for their procured inputs such as fuel, machinery their will not be any "output tax" to claim setoff from. Increased tax incidence would defile the renewable sector companies, the tax burden on which at the moment may be around 12.5% might shoot up to 18% - 20%. The burden would be felt more in case of huge capital investments. Considering that amplified cost would lead to higher operational and financial cost and the importance of renewable energy aligned companies, it may be recommended that current tax exemptions may be continued in the GST regime as well. Renewable energy projects might be kept zero rated with the vendors eligible to claim credit for the GST paid without any obligation for the output tax.

Telecom sector with more than a billion subscribers has an immense potential for the make or break of GST concept. The draft rules contain specific clauses dealing with telecom services. The service recipient's address has been made the basis for the determination of the place of supply, the telecom companies have to maintain an updated database of their customers on a real time basis. The required accounting would require massive IT overhaul and a lot of setup and operational costs. The compliance part under GST shall increase manifold. The companies shall be required to file numerous returns, assessments, audits etc. What is paid at present is 15% will rise to 18% or 20% (as the rate may be) hence the tax rate is shall inflate prices charged from the ultimate customers. Besides variety of transactions may come under the tax net such as rental on telecom equipment, composite transactions etc.

GST shall provide the much needed transparency in real estate sector. Such sector is engaged with multiple taxation authorities, Service Tax, VAT. Centre and the State Governments levies different taxes for land, property categorising them as the value of services, goods, materials. In some states VAT is not defined clearly on the sale of under construction properties leading to ambiguity. GST would be able to provide lower compliance cost and can reduce the input costs (with the availability of input tax credit) for inputs like steel, cement etc. This can lead to lower construction costs for the developers. However since stamp duty does not forms part of GST, sale of completed houses will remain unaffected by the advent of GST. It is only the under construction properties that will feel its wave. Also it is yet to be clarified whether Land will be excluded from the scope of GST.

Certain exemptions have been provided based on "Area based", such as, North East, Jammu and Kashmir etc. and "Product based". Convertibility of such provisions into cash refunds have also been provided in the provisions. Litigations on the availability of exemptions may be expected post implementation of GST due to lack of proper guidelines.

"Demerit Goods" such as liquor, tobacco products etc., contribute a major share to the government treasury. Such products are generally taxed at a higher rate and multiplicity of taxes may also exist with regard to these products. It may be proposed that such few items may be kept outside the purview of GST. By such exclusion, the input tax credit chain would be affected leading to continued cascading of taxes and inflated prices. However as per GST Council meeting, it has been decided that petroleum products, will fall under GST except five items namely: Kerosene, Naptha, LPG, are to be covered and crude oil, natural gas, aviation fuel, diesel and petrol have been excluded during the initial years.

Services are presently taxed at the place of rendering of service. The GST era proposes that the services shall be taxed at the place of consumption. Therefore irrespective of the fact that the services are rendered from one state to another, tax would be ultimately levied in the consuming State. By subsuming VAT and Service Tax into GST, various controversies, matter of litigation as to the nature of activity will be ascertained, leading to higher collection of revenue. However, in terms of procedure, compliances and legal requirements shall increase substantively.

Complexities and confusion presently faced might be resolved in the GST to a great extent, such as determination of taxable turnover and manner of raising invoice by the contractor and sub-contractor respectively i.e. how much consideration is taxable under the VAT/CST and how much under service tax, and so on.

5. Conclusion

GST impact will be tremendous over the Indian economy. Laws will be simplified, expressing the intricacies of the Law. Professionals are now required to take immediate steps and start discussions, industry specific, to frame their final view on the draft legislation, as and when released. Timely steps are to be taken up to upgrade by the enterprises software and systems. All stakeholders are required to get ready for a Dual GST model. Tax is money and whether the stake holders will gain or loss depends upon the tax schedules, final GST rates and the laws that are framed for availing input tax credit on item-to-item basis or on cross basis.

GST implementation will assist in improving India's rank in ease of doing business index as prepared by the World Bank group. Such improvement will attract foreign investment in India, which will add up to the employment base and will assist in Make in India initiative. Foreign investment will be accompanied with modern technology and will make India a global hub. This will further assists in strengthening India's soft power and will make India a global superpower.

However, GST implementation will be challenging and will require carefully drafted plans and strategy to avoid failures and breakdowns.

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