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Goods and Services Tax
- Manufacturing Sectorsector

Shashwat Tulsian, Partner

I am a Qualified Chartered Accountant, Lawyer and Company Secretary. As a result, I have a unique ability to manage multi-disciplinary projects and to navigate complex challenges. I have helped work on more than 5000 such projects for multinationals over the last few years.

“GST increase competition amongst and between the players and reduce the prices further which will be beneficial for the end-consumer. An increase in consumption demand will boost the economic growth. the GST implementation is vital to accelerate India’s triumphant growth story. However, these provisions need deeper evaluations as further details are awaited.”

Nisha Kulthia, Partner

I am a Qualified Chartered Accountant,Company Secretary. I like to think strategically and i'm driven to help businesses solving there financial and taxation needs. I also like to add value to research on economy and industry Analysis and its impact on business.

“India’s desire to become a manufacturing hub, the government launched its much publicised “Make in India” initiative. A pet project of the Modi government, it proposes to provide domestic entrepreneurs and international players with various opportunities and transparency in the compliances required for investing and manufacturing in India.I would recommend contacting your CA for understanding the impact of GSTand plan accordingly.”

Why India need GST?

We have always heard that '**Business drives tax**, and not the other way round'. However, in the Indian context, **indirect taxes have driven businesses** to re-structure and model their supply chain, systems etc. owing to multiplicity of taxes and costs involved.

- Purpose- GST is introduced majorly due to two reasons:

  1 - The current indirect tax structure is full of uncertainties due to multiple taxes and multiple rates.

  2 - Due to multiple rates, there are multiple forms and intern cumbersome compliances. This will improve Tax compliances.

- Because of above transparency, Taxation would increase and lead to reduced tax evasion.

- It would also reduce cascading effect(tax on tax) up to much extent.

"The government also realizes that becoming a manufacturing hub will need several strategic reforms to simplify manufacturing in India. One of the proposed reforms, in line with Make in India, is the implementation of the Goods and Services Tax (GST). "

Which Central Taxes will be subsumed??

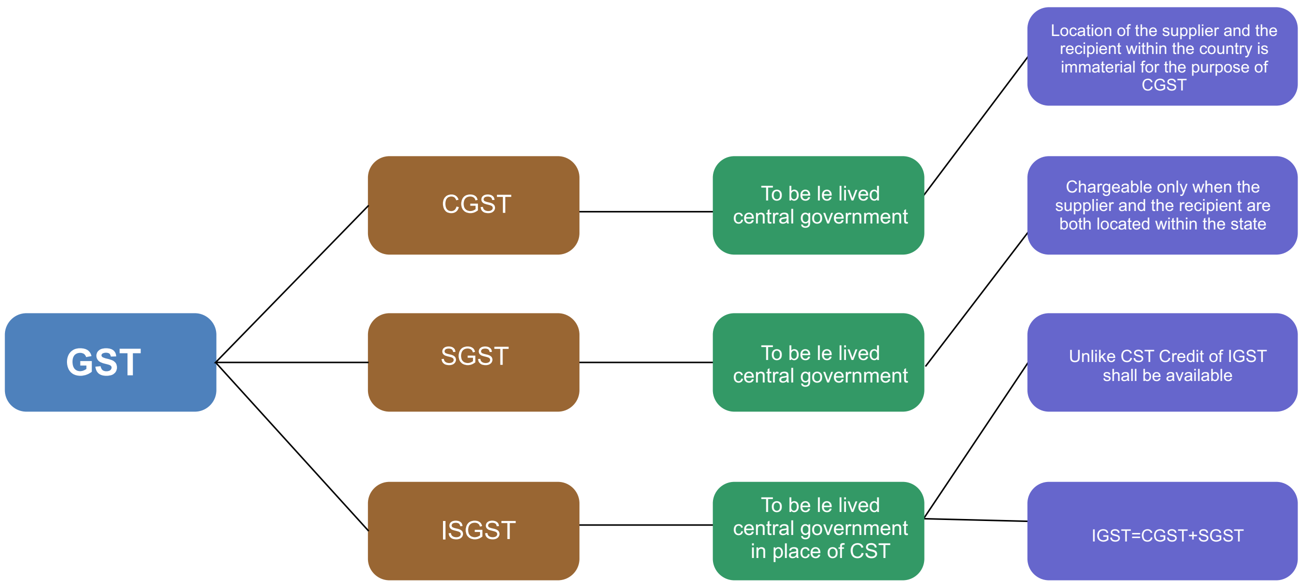
ONLY CGST

- Custom Duty
- Tobacco Products
- Petroleum Products
- Central Excise Duty
- Central Sales Tax
- Service Tax
- Counter-Veiling Duty on Imported goods
- Cess, Surcharges

Which State Taxes Will Be Subsumed??

ONLY SGST

- Excise On Liquor For Human Consumption
- Stamp Duty On Immovable Properties
- Electricity Duty
- Petroleum Products (Will Depend Upon The GST Council But till now no)
- State VAT
- Luxury Tax, Entertainment Tax, Purchase tax
- Entry Tax
- Lottery , Betting , Gambling



Current taxable event: Manufacture, sale of goods or provision of service
Taxable event under the GST: Mere '**supply**' of goods and services.

Praposed Indirect Tax Structure

Intra state taxable supply	Excise and Service tax will be known as CGST	Local VAT and Other taxes will be known as SGST
Inter state taxable supply	CST will be known as intergrated GST(IGST	Approx. Sum Total of CGST and SGST
Import from outside India	Custom duty	In place of CVD and SAD, IGST will be charged

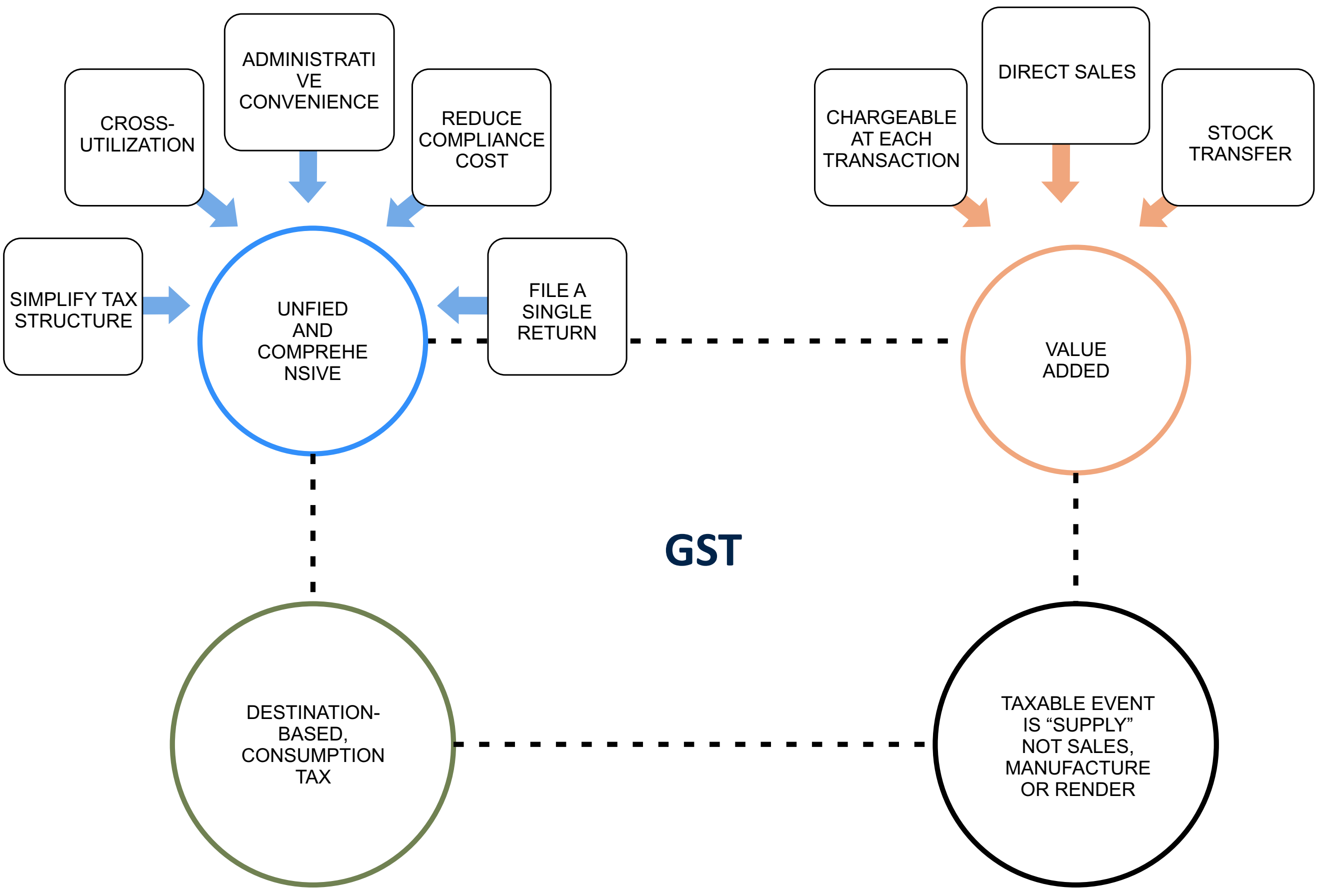
The taxable event under GST is supply of goods and services. The term 'supply' includes all forms of supply, such as sale, transfer, barter, exchange, license, rental, lease or disposal made in the course of business, and importation of service. Transactions between principal and agents are deemed to be supplies. 'Supply' also includes specified transactions such as permanent transfer of business assets, temporary application of business assets to a non-business use, services put to non-business use, assets retained after deregistration, and supply by a taxable person to another taxable or non-taxable person in the course of business.

However, supply of goods to a job worker would **not** be treated as supply. It is specified that, inter alia, sale of under construction properties, temporary transfer of intellectual property rights, works contracts (including transfer of property in goods involved in execution of works contracts), transfer of right to use any goods and development, upgradation, customisation etc., of software would be supply of service

Job work transactions

The principal has the option to send taxable goods without payment of GST to a job worker and bring it back, after processing, to any of his own place of business, for supplying such goods on payment of GST or export it. The principal also has the option to directly supply final products to end customers on payment of GST or export from the premises of job worker itself, subject to fulfilment of applicable conditions. GST credit is allowed in case of direct receipt of inputs or capital goods by the job worker, subject to receipt of goods back by the principal within specified period.

HOW GST SOLVES PRESENT PROBLEMS



Time of supply

Time of supply of goods is the earliest of: i date of removal/ making available goods by the supplier; ii date of issue of invoice; iii date of receipt of payment by the supplier; or iv date on which the recipient shows the receipt of goods in his books of accounts. Time of supply of services is the earliest of: i date of issue of invoice or date of receipt of payment, if invoice is issued within prescribed period, ii date of completion of service or date of receipt of payment, if invoice not issued within the prescribed period, iii date on which recipient shows the receipt of services in his books of accounts, where (i) or (ii) above does not apply. Time of supply under reverse charge is the earliest of: i date of receipt of supply; ii date of payment; iii date of receipt of invoice; or iv date of debit in the books of accounts. In addition to the above, there are provisions to determine the date of supply in case of continuous supply of goods/ services

Value of supply

The value of supply of goods/ services for levy of GST is the transaction value. To determine transaction value, specific additions are prescribed to be made to the price charged. Such additions include value of goods/ services supplied free/ at concessional rates by the recipient to the supplier, subsidies linked to the supply, reimbursable expenditure, etc. In addition, royalties or licence fees related to the supply of goods and/ or services are to be added to the value of taxable supplies. The valuation provisions retain current provisions relating to pure agent in case of services. The discounts, including the post-sale discounts known at the time of supply (and linked to specific invoices), are allowed as deduction from transaction value, which is quite similar to the provisions prevalent presently. When the supply consists of both, taxable as well as non-taxable supply, the taxable supply is to be deemed to be for such part of monetary consideration as is attributable thereto. The concept of justification of transaction value in case of related party transactions continues in the valuation provisions. The draft law also provides for rejection of value of supply if accuracy of valuation is doubted. There is no provision to levy GST on the basis of maximum retail price, where the transaction value is below maximum retail price.

Place of supply

One of the most important aspects of GST is determination of place of supply. Detailed provisions to determine the place of supply, separately for goods and services, are laid down in the IGST Act. The place of supply of goods is the place where the **goods are delivered**, except in few cases. The place of supply of services to a registered person, is the location of such registered person. For services provided to an **unregistered person**, it is the **address of recipient**, and if it is not available, the location of the supplier of services. There are various exceptions provided to these principles, such as services pertaining to **immovable property**, **training and appraisal**, admission to the **events and organisation of events, transportation, telecom, financial services** etc.

Input tax credit

- The GST law provides for credit of GST paid on all the inputs, barring some exceptions. The exceptions include the services received and used by employees and also vehicles (except when they are used for specified purposes), supplies received for execution of works contract for construction of immovable property, etc. Supplies used for personal consumption are also ineligible for credit. The following procedural conditions also need to be fulfilled for claiming credit: possession of tax invoice; receipt of the underlying supply of goods/ service; payment of tax changed in invoice by supplier; filing of GST return In addition, the credits claimed need to be matched with the tax liability of the supplier, and in case of any discrepancies, the amount of excess credit claimed will be added in the tax liability of the recipient. The time limit for claim of credit is one year from the date of the invoice. However, no credit pertaining to a financial year is allowed to be claimed post filing of the return for September of the next financial year, or the filing of the annual return for the year to which the credit pertains, whichever is earlier. Effectively, for the purchases made post September month in a financial year, the time period for claiming credit is curtailed. The concept of input service distributor is continued in the GST regime. However, credits of GST paid on inputs or capital goods cannot be distributed. The provisions of distribution of credit to outsourced manufacturing unit are also not available.

- Additionally, the GSTN will have an audit trail of the movement of goods across the state boundaries. Representation by the industry should be made to the government for the removal of check-post related compliances. This will lead to optimisation of delivery schedules and the operational costs of transporters, resulting in competitive pricing.

Input Tax Credit	Priority Order Of Utilization
CGST	1 CGST 2 IGST
SGST	1 SGST 2 IGST
IGST*	1 IGST 2 CGST 3 SGST

*IGST will be transferred by the centre to the state where goods are supplier state will transfer to the centre the credit of sgst used on igst payment

CGST: Central GST | **SGST:** State GST | **IGST:** Integrated GST

Current Taxes in Manufactureing sector

The manufacturing sector is currently with multiple taxable events

- central excise, service tax,
- value added tax (VAT) and
- central sales tax (CST)

Current Tax Structure v/s Post GST Tax Structure

Current Scenario (Rs)	Manufacture	Distribution	Retailer	Price to Consumer
Cost of Production	100	172	216	
Value Add	50	20	30	
Total	150	192	246	
Excise@12.5%	19	0	0	
Total	169	192	246	253
CST@2%	3	0	0	
Vat@12.5%	0	24	31	
Vat set off	0	0	-24	
Total	172	216	253	

Specified Consumer price is interstate, if goods are moving in the same state. in such a situation, the price for the end consumer will reduce by 3 rupees, which is equal to the CST paid by Manufacturer

Post GST Scenario (Rs)	Manufacture	Distribution	Retailer	Price to Consumer
Value Add	100	120	210	
Total	50	20	30	
Excise@12.5%	150	200	240	248
GST@20%	30	40	48	
GST set off	0	-30	-40	
Total	110	210	248	

Level of supply	Sales of price(including GST at 6%)	Payment to Goverment
Raw material supplier	Sales price = RM50.00 GST = RM3.00 Total sales price = RM53.00	GST collection = RM3.00 Less: GST paid = RM0.00 GST payable = RM3.00
Manufacturer	Sales price = RM100.00 GST = RM6.00 Total sales price = RM106.00	GST collection = RM6.00 Less: GST paid = RM3.00 GST payable = RM3.00
Wholesaler	Sales price = RM125.00 GST = RM7.50 Total sales price = RM132.50	GST collection = RM7.50 Less: GST paid = RM6.00 GST payable = RM1.50
Retailer	Sales price = RM156.00 GST = RM9.00 Total sales price = RM165.36	GST collection = RM9.36 Less: GST paid = RM7.50 GST payable = RM1.86

Manufacturing companies likely to gain under GST

The manufacturing sector has been a major economic driver for many developing economies across the world, however, unlike most others, India's manufacturing performance has been lacklustre. Even though India enjoys a favourable demographic and geographicposition, it has not been able to capitalise on this advantage.

Manufacturing in India has been plagued by

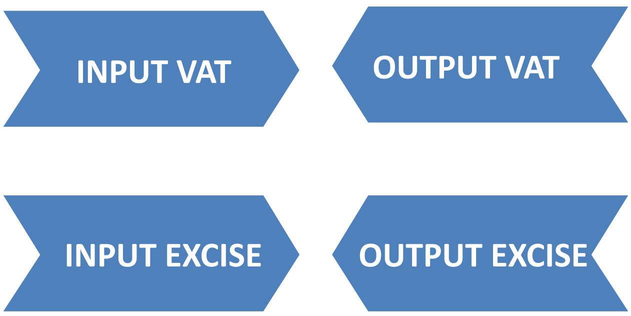
- A complex tax structure,
- inadequate infrastructure and
- bureaucracy, halving its ability to perform well on a global scale.
- With only a 16% share in GDP, India's manufacturing sector has been close to stagnant for the last two decades.
- However, now manufacturing may be revived with the focused efforts of the new government.
- India, traditionally an agrarian economy, could even experience a paradigm shift from an agricultural economy to a manufacturing and service based economy.
- The new GST regime will have a far-reaching impact on business avenues, compelling organisations to realign bottlenecks such as production cost, production time, supply chain, compliance, logistics, etc. with the changing indirect tax structure.
- Furthermore, all major business dynamics will have to be thoroughly analysed to assess the impact of GST on business.

- **Make the Manufacturing Industry More Competitive**

  India had a very burdensome tax system which makes its manufacturing sector very uncompetitive in both local and foreign markets. Currently a product manufactured in one state, transformed in another state and sold in a third state is taxed at a higher level than an imported product. A 2 per cent central sales tax is imposed on interstate shipments between two different parties. Trucks have to wait for hours or days at the tolls between states, where they often have to pay bribes, this has a heavy cost in terms of money and time, and the deliveries are often delayed because of that. To circumvent these hiccups, many manufacturing companies have adopted strategies such as having small factories or self-owned warehouses across different states. So that goods remain in their own company's possession when moving from one state to another. However, maintaining these scattered warehouses or facilities add to the unnecessary operational costs.

Reduced Cost of Production

Manufacturing is a very competitive industry and reducing the cost of production while creating incremental value for customers remains a challenge for every business. The new GST regime will be greatly beneficial as a reduction in tax cascading may lead to a lower cost of production.
Also, one of the major defects of the current indirect tax regime – the non-availability of tax credit of central/union taxes over state taxes and vice versa – could be eliminated by allowing unrestrictive tax credit under GST.



-Credit of **VAT** is not available against **Excise** and vice versa.

-This shows that there is a **tax on tax**

- **Hassle-free Supply Of Goods**
  One of the factors leading to the downtime of vehicles is trade barriers, such as
  check-post inspection,
  filing of waybills/entry permits,
  compliances under Entry Tax laws and local levies

  State-border checkpoints, which are tasked with material scrutiny and location-based tax compliance, negatively impact the overall production and logistics time and account for roughly 60% of a truck's transit time. These unproductive transit hours coupled with regulatory impediments reduce the efficiency of Indian manufacturers compared to their international counterparts. The new GST regime will unify the Indian market and assist the smooth flow of goods within the country. Although border checkpoints may not be done away with immediately, reduced compliance scrutiny at these checkpoints will reduce transport hassles.

- **Improved logistics and fast delivery of services**
  Octroi was one of the traditional taxes introduced by the government.
  no Entry tax -ease the movement of goods

  The overall tax on the supply of indigenous goods is approximately 29.37%. With the implementation of GST, the RNR rate will be much lower than the present tax rates on goods. This will lead to a lower tax burden for consumers.

  On account of seamless credits, the issue of tax cascading will be minimised to a large extent (with certain exceptions). Procurement costs may be reduced on account of reduction of non-creditable taxes. This will make the Indian industry competitive,
  increase cross border business.

- **Supply Chain Restructuring**
  Three specific aspects of GST –
  1. The additional 1% tax on supply of goods, envisaged as a replacement for Central Sales Tax, may not be available for credit, which will add to the cost burden in the price of products.

  2. The terminology used in The Constitution (122nd Amendment) Bill, 2015 relates to "supply" and does not differentiate between "supply to oneself" and "supply from one person to another". The Select Committee has specifically stated that the additional tax should only be applicable in cases where there is a consideration i.e. **supply to self** should not be covered within its ambit. Clarity regarding "supply" is expected from the GST Act, which is yet to be proposed by the GST Council. If such a shift materialises, it will warrant a redrawing of warehouse strategy to optimise organisational profits.

  3. Availability of input tax credit on inter-state sale of goods and services may lead to warehouse re-engineering which can remove an extra level of warehousing in the supply chain, thereby leading to greater cost benefits.

- **Elimination of distinction between Goods & Service**
  Under GST, there will be no ambiguity between goods and services. This will address the various legal proceedings related to the packaged products. Further, it will streamline the complex tax structure into one tax rate. This will in turn simplify the Invoicing process as there will no longer be a distinction between the material and the service component, thereby reducing malpractices of tax evasion.

- **Reduction of classification disputes**
  Currently, due to varying rates of excise duty and VAT on different products, as well as several exemptions provided under excise and VAT legislations, classification disputes are a regular cause for litigation under both central excise and VAT, especially for the manufacturing sector. It is expected that the inception of GST which is based on the principles of a simplified rate structure and minimization of exemptions will significantly reduce disputes regarding classification of products.

- **MRP valuation**
  Currently, various pre-packaged products for retail consumption are subject to excise duty not on the ex-factory transaction value but on a specified percentage of the maximum retail price (**MRP**) printed on the package. The MRP based value (which is usually between 30%-35% of the MRP) is in most cases, much higher than the ex-factory transaction value leading to a higher excise duty liability than would otherwise be the case. This increased excise duty itself, results in a higher MRP, ultimately leading to a higher cost burden for the consumers. Under the GST regime, GST is payable by the manufacturer at the transaction value, and is creditable for all subsequent resellers up to the final consumer. Accordingly, the unnecessary tax burden of the MRP regime will no longer be relevant

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ed standard rate of 17
come down by 10-12 p

"Most goods manufactured in the country have an average 27-30 per cent indirect taxes component. If the proposed standard rate of 17-18 per cent is implemented, the final prices of these goods can come down by 10-12 per cent,"

- At present, manufactured goods attract 12 per cent excise duty, 5-15 per cent value-added tax (VAT) and in case of inter-state sales, a central sales tax of 2-15 per cent. Besides, some states also impose entry tax and Octroi of up to 15 per cent. With GST, all these taxes would be subsumed and a standard rate would be applicable across the country.

- Currently, most consumer companies in India incur tax rates of around 22-25 per cent, due to which a standard rate of 17-18 per cent should benefit them.

companies which are into food processing business - edible oils, biscuits, chocolate, cocoa and baked items - may get negatively impacted as they would reap the benefits exemptions extended to processed food items.

- Pharma and locally manufactured mobile handsets that enjoy lower incidence of indirect taxes

- Sectors such as automobile, capital goods, cement and building materials would gain due to lower incidence of tax post-GST implementation. The report points out that these sectors pay around 24-40 per cent indirect taxes

Boost to e-commerce: Imperative aid for growth of SMEs

- The unified taxation system will strengthen the e-commerce industry with its efficient inventory led model. It will enable seamless movement of goods across inter-state borders enabling better efficacy and stimulating growth of the (e-commerce) sector. It will also remove the surging effect of taxes on customers which will bring adeptness in product costs.

- With GST being a tax on transaction the revenue losses for B2B supplies will be reduced as the tax credit distribution mechanism will be clearly outlined under the GST framework. Ultimately, the GST will result in eradicating deep seeded business inefficiencies including; slow transit times, higher manufacturing costs and disruptions in the businesses. It will lead to easier execution and handling of logistics; quicker movement of goods across the country and provide wider availability of input credit. It will help reduce the tax burden on business owners and manufacturers.

Manufacturing companies fear loss of input tax credit, GST on transfer to self

— Supply to self & cash outflow problems
The tax trigger under GST is the 'supply' of goods and services. The draft model GST law, which is in wide circulation, has defined 'supply' to also include supply made without a consideration. "This significantly widens the scope of the levy.
Taxing stock transfers and elimination of CST, will do away with the need to declare Form C and F, which (for most companies) is an area requiring high compliance, manpower and litigation costs.

For example, transactions in goods and services between the head office and a branch of the same company may be covered and subject to GST levy,"

— **Free supplies**
Under the present indirect tax regime free supply of goods are not subject to VAT. The Model GST Law stipulates that specific transactions without consideration would also be treated as supplies. Accordingly, free samples may be subject to GST, leading to increase in overall costs.

Working capital may also be significantly impacted. Under the new regime, stock transfers will be subject to GST to enable movement of input credit across state boundaries. Though GST paid at this stage would be available as a credit, realisation of this GST would only occur when the final supply is concluded. This is likely to result in cash flow blockages and therefore manufacturers would have to rethink their supply chain management strategies to minimise this impact on their cash flows.

— **Increased Compliance Requirement**
While the new GST regime may offer many benefits to businesses, it also has a flip side. Taking a cue from the OECD's guidelines for place of supply, which were released earlier this year, GST may lead to increased compliance requirements.

— **Area-based Exemptions**
As GST would lead to the entire country being considered a common and unified market, the current area-based exemptions would become **irrelevant**. As we do not have a finalised GST Act in hand, whether or not these area-based exemptions would be available is a matter of concern. If these exemptions are discontinued, those who enrolled due to this incentive would be at a loss

— **State incentives**
Companies have set up units with significant investment outlays based on incentives offered by States under their respective investment promotion policies. These incentives are usually in the form of tariff incentives (lower tax rates, refund /deferment of taxes etc.) and non-tariff incentives (economical land lease terms, lower electricity duty etc.). At present, States have the flexibility to offer such incentives. However, under the GST regime, such flexibility given to the States is likely to be curtailed to achieve the intended effect of uniformity. Further, the Model GST Law does not clarify the fate of current incentives. Companies which have based their financial projections around these fiscal incentives may have to reassess their projections.
The implementation of GST will also signal a move away from the producer State tax system to a consumption State tax system. Producer States will have a lower financial incentive to offer such concessions, as GST will only be credited to the State where the supplies are consumed, as opposed to the present situation where the producer State is credited with central sales tax on inter-state sales. This would lead to a loss of revenue for the producer States and therefore such States may not be in a financial position to continue offering such incentives, even though there may be other compelling reasons such as generation of labour, improvement of infrastructure, market creation etc. However, it seems likely that future incentives may only be non-tariff based.

VAT/ CST incentives offered to manufacturers by various state governments for making significant investments in the state will require a relook, especially on the quantum of taxes available with the states to waive off/refund as well as on the investment recoupment period. Separately, the fate of existing benefits from a 'Make in India' perspective for tablets, IT, etc. is also unclear.

— **Restrictions On Set-Off Of Input Tax Credits**
In simple terms, GST is levied on supply of goods and the manufacturer will be allowed credit for the GST paid on purchases of input (an input tax credit will be available). But there are restrictions on utilization of input tax credit, which could impact cash flows.

"A CGST tax credit cannot be set off against a SGST tax liability. While IGST credit can be effectively utilized, a priority order has to be followed for such a set-off (see table)," says Yusuf Hakim, partner at CNK & Associates. "In case a company has opted for separate registrations of its business verticals in the same state, then a SGST set-off even within that state is restricted only to that business vertical. However, most business houses will opt for a common registration within the state, unless the GST law offers some specific tax incentives for a particular business vertical, which seems to be unlikely, given that incentives are likely to be phased out under the GST regime," adds Hakim.

Further, if a company has business operations in different states, SGST cannot be set off pan-India. "As regards, CGST set-off, there is no express clarity. One hopes that offset of excess CGST paid in one state against the CGST payable in the other state is provided for by lawmakers in the final GST bill," sums up Hakim.

Loss Of Input Tax Credit

If a company's vendor is tax non-compliant and blacklisted, the company as a recipient of goods could also be impacted and denied input tax credit

Transitional provisions

Carry forward of existing credit balance as well as claim of credits on goods available with the taxpayer, subject to such credit being admissible under existing indirect taxes as well as under GST law.

Some of the unaddressed issues in the transitional provisions are availability of credits on goods in transit on cut-off date, availability of credit of excise duty paid by traders and VAT paid by the service providers on goods in stock, etc.

Exemption on Petroleum

The Central government will continue to impose excise duty on five petroleum products (petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel), while the State governments will continue to impose VAT on these petroleum products.

Currently, credit of excise duty paid on specified petroleum products is available. However, exclusion of petroleum products from GST will add to the cost of manufacture as excise duty on such products would not be creditable under the GST regime. Petroleum products such as high speed diesel, are common fuels used in various manufacturing processes, as also for transportation of inputs and final products.

Therefore, industries that consume petroleum products as their main inputs (such as the fertilizer industry which use natural gas as an important input) will get significantly impacted by this exclusion.

MRP based valuation discontinued

With GST being proposed to be levied on each 'supply', the MRP based valuation is all set to be discontinued. While this is welcome from a simplicity perspective, there will be a significant impact on those manufacturing units which have been set up in excise free zones across India, as the quantum of benefits would be significantly confined.

The concept of 'transaction value' has been continued under GST and has been significantly widened (for even unrelated party transactions) to also include – free supplies, subsidies linked to supply, reimbursable expenses, expenses incurred by the buyer, royalties and license fees, etc. The manufacturers will need to revise the pricing mechanism, adopted currently, to accommodate the above aspects in the 'transaction value'.

Discounts

The Model GST Law stipulates that post supply discounts are to be excluded from the transaction value, provided such discounts are known at or before the time of supply of goods and are linked to the invoices for such supply. Companies may need to analyse existing post supply discounts/incentive schemes where the quantum of discount is not known at the supply stage. Example, secondary market incentive schemes, volume based discounts etc.

GST compensation to Manufacturing states proposed at up to 1%

The Cabinet is claimed to have cleared changes in the GST Constitutional Amendment Bill, dropping one-per cent manufacturing tax and guaranteeing states a compensation for any revenue loss in the first five years of rollout of the proposed indirect tax regime. Head by prime minister Narendra Modi, the Cabinet, claim industry sources, have decided to include a clause in the Constitutional Amendment Bill that any dispute between states and the Centre will be adjudicated by the GST Council, which will have representation from both the Centre and states. With states on board and the Cabinet approving the amendments, the government is hopeful of the passage of long-pending Goods and Services Tax (GST) Bill in the current monsoon session of the parliament

Overall, the introduction of GST is a welcome change for the manufacturing sector. As a way forward, industry will need to identify the specific provisions of the Model GST Law that requires a new strategy from an ‘ease of doing business’ perspective, and represent before the Empowered Committee and the GST Council.

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