



GST IMPACT ON INDIA'S ENTERTAINMENT INDUSTRY AND MEDIA SECTOR



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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.

“ India's media and entertainment market which is the 5th largest in the world .GST will do more good than harm for the entertainment industry on the whole profits for multiplexes are likely to go up”

WHY INDIA NEEDS 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.

Which Central Taxes will be subsumed??

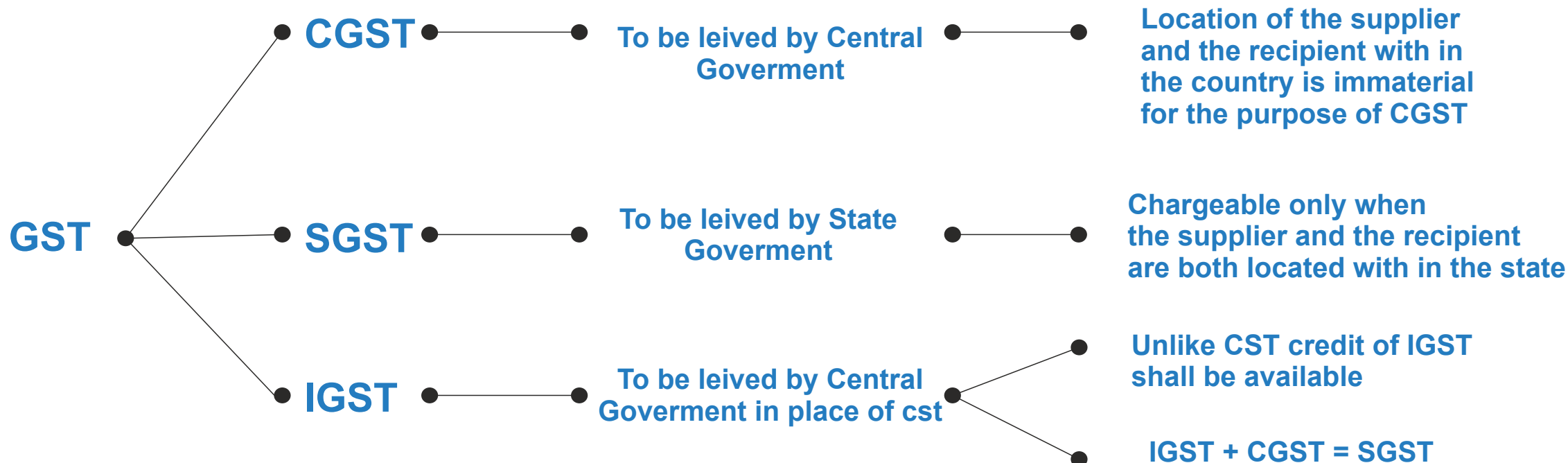
Only CGST

- ✗ 1 Custom Duty
- ✓ 2 Tobacco Products
- ✗ 3 Petroleum Products
- ✓ 4 Central Excise Duty
- ✓ 5 Central Sales Tax
- ✓ 6 Service Tax
- ✓ 7 Counter-Veiling Duty on Imported goods
- ✓ 8 Cess, Surcharges

Which State Taxes will be subsumed??

Only SGST

- ✗ 1 Excise On Liquor For Human Consumption
- ✗ 2 Stamp Duty On Immovable Properties
- ✗ 3 Electricity Duty
- ✗ 4 Petroleum Products (Will Depend Upon The GST Council But till now no)
- ✓ 5 State VAT
- ✓ 6 Luxury Tax, Entertainment Tax, Purchase tax
- ✓ 7 Entry Tax



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

PROPOSED INDIRECT TAX STRUCTURE

INTRA STATE
TAXABLE SUPPLY

EXCISE AND SERVICE TAX
WILL BE KNOWN AS
CGST

LOCAL TAX AND OTHER TAXES
WILL BE KNOWN AS
SGST

INTER STATE
TAXABLE SUPPLY

CST WILL BE KNOWN AS
INTEGRATED GST (IGST)

APPROX. SUM TOTAL OF
CGST AND SGST

INTER STATE
TAXABLE SUPPLY

CUSTOM DUTY

IN PLACE OF CVD AND SAD,
IGST WILL BE CHARGED

INPUT TAX CREDIT

Since entertainment tax is getting subsumed in GST, it will result in persons liable to pay entertainment tax coming under the GST chain, and consequently, becoming eligible for credit of GST paid on procurements.

This will be positive for businesses such as cinema exhibitors, etc.

If there is a mismatch between the details of outward supplies uploaded on the GST Network by vendors and the inward supplies uploaded by the recipient, such mismatches will be communicated to the recipient. Key Action points
Locations to be identified where there may be accumulated credit and insufficient output liability – ISD registration may be taken in such State to distribute credit to other locations
Revamp IT systems for such changes
Key Action points. To analyse tax liability for all ongoing projects (likely to overlap with GST implementation) in line with transition provision. Transition planning for timing of supplies, advances and payment of tax. Representation to be filed to provide less ambiguity on transition provision for ongoing contracts.

If the mismatch is not rectified by the vendor in the month of communication, the recipient will be liable to pay the differential GST along with interest in the subsequent month. This provision places the liability for noncompliance on the recipients, i.e., the companies, as against their vendors.

Similar provisions have been prescribed wherein details of credit notes issued by a supplier have to match with the corresponding reduction of input tax credit claimed by the recipient. Accordingly, if the recipient does not adjust the input tax credit, the tax and interest would be recovered from the supplier. This provision places liability on companies for non-compliance by vendors.

Valuation under GST

- No choices available as of now.
- Full value of consideration to be treated as a service.
- Subject to GST at Full rate.

Valuation Determination of value of Supply of Goods & Services:-

↓ “transaction value”

↓ Value by Comparison.

↓ Value shall be cost of goods / services + Charges + profit - Computed value method

↓ The value shall be determined using reasonable means consistent with the principles and general provisions - Residual method

Territory

- The GST Act extends to the whole of India.
- Currently under the service tax law, J&K has been excluded.
- Under the GST Act- J&K is included under the GST Act.

IMPACT OF GST ON PRICE AND COST :



1 Barter and exchange

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.

2. Free services

Presently, as per the definition of the term 'service', only those activities which have a **consideration** are liable to service tax. The Model GST Law proposes to also tax services by a taxable person to another person **in the course of furtherance of business, without any consideration**. For example, viewing of news channels for limited period of time, free music downloads, free subscription for limited period, etc. could be subject to GST.

3. **Discounts:** Explicitly mentioned in the invoice to arrive at transaction value on which GST is applicable. Any post sale discount will attract GST.



1 Seamless credit chain and fungibility of credits

2 India would become a common market and drive uniformity, reduce compliance costs.

3 Overall rate of tax on consumers will reduce significantly

REGISTRATION

- **Separately** for *each of the States* where he has a **business operation** and is liable to pay GST
- Multiple business verticals *within a State* may obtain **separate Registration** for each business vertical, subject to conditions as may be prescribed.

Place of Supply

Place of supply for broadcasting services would be determined based on the location where the cable connection or dish antenna is installed. Direct to Home ('DTH') operators would be required to determine the customers' location, as SGST would accrue to the state where the cable connection or dish antenna is installed. In case of paper vouchers, location of the cable connection or dish antenna may not be known at the time of sale of such vouchers. Further, such paper vouchers are actionable claims, which will add to the ambiguity. There should be clarity on this aspect.

Currently, service tax being a central levy, an option of centralised registration is available, and hence the place of supply of services is not very relevant. However, considering that states will also charge SGST, and considering the absence of a centralised registration option, determination of place of supply becomes crucial.

Video streaming services provided by an entity located outside India to subscribers (private individuals) may become taxable under reverse charge, if the payment exceeds a threshold limit, which is not specified in the draft law. However, there is no clarity on how this scheme would be operationalised.

COMPANIES LIKELY TO GAIN UNDER GST

IMPACT ON PRODUCTION HOUSES AND THEATRE CHAINS

Currently -

- 1 Film producers are expected to pay exorbitant amounts of money as service tax for processes like theatrical rights, satellite rights etc.
- 2 Theatre chains like PVR that currently has to deal with different tax processes in all different states in the country

GST -

- 1 All taxes will come under one umbrella making it much simpler for film producers.
- 2 This further means that since the tax cost will reduce, profits for companies like PVR will shoot up.
- 3 The hassle of dealing with different state governments with varied rules too will be done away with.

IMPACT ON CONSUMERS

Currently

1. service tax ranging between 14.5-15% for all broadcast services like Television (Cable + DTH), films as well as digital content.
- AND**
2. Entertainment tax ranging between 8-12%

Average tax to as much as 25%.

GST- consumers will have to pay a single tax the likely rate for which will be anywhere between 18-20%. Hence the overall rate of tax on consumers will reduce significantly.

TRANSITIONAL PROVISIONS

Impact on ongoing contracts

■ Specific transition provision has been stipulated vide Section 159 and 160 for works contract/ periodic supplies as under:

- ‘159. The goods and/or services supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.
- 160. Notwithstanding anything contained in section 12 and 13, no tax shall be payable on the supply of goods and/or services made on or after the appointed day if the consideration for the said supply has been received prior to the **appointed day** and the duty or tax payable thereon has already been paid under the earlier law’

Per the above, it appears that in case of periodic supply of goods/ services, GST Act would not apply on advances received prior to the GST law for goods/ services to be provided during the GST regime, provided tax has been paid on the same.

This provision does not cater to the scenario where tax has not been paid, but is payable under earlier law post enactment of GST regime.

Also, there is no provision for treatment of supplies prior to GST law where either the invoice has not been raised for the same, or payment has not been received, or tax has not been paid prior to enactment of GST law.

This could result in dual taxation both, under the previous regime as well as under the GST regime.

■ Coverage of the transition provision to be analysed as to whether implications for all its possible transactions during the transition period are clear. Accordingly, necessary representation would need to be filed for clear transition provisions

To analyse tax liability for all ongoing projects in line with transition provision

- Transaction structuring may be undertaken depending on impact of GST. If GST has negative impact, consideration may be made earlier even for supplies to be undertaken post GST

Input Tax Credit

- Eligible CENVAT Credit can be carried forward – clause 143(1)

- Eligible State VAT Credit can be carried forward – clause 143(2)
- Credit can be availed if the person switches from composition to normal scheme – clause 146

Transitional Provisions – Missing Points

- Service tax/ Excise credit for VAT dealers or vice-versa The underlying principle is that- these goods and services would be used in the provision of output goods or services chargeable to tax under GST regime.

REFERENCE

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