
365 days of GST: a historic journey



Foreword

It's been one year since the introduction of the GST in India. In view of the magnitude of changes it required, it may be premature to pass a final verdict on its success. However, its impact is enough for reflection on what worked and what did not. This is a good time to explore new ways of doing business, which are more efficient and largely driven by commercial imperatives. It is also the right time to assess the risks we need to mitigate as we navigate through this phase of frequent twists and turns in GST laws and processes.

There is hope that GST 2.0, which is at the works currently, will be a much improved version compared to the first one.

This report tries to trace the experience of the first year of implementation of the GST, but more importantly, take a look at current opportunities and challenges faced by businesses and the Government.

We have endeavoured to outline what we can reasonably expect in terms of changes over the next one year or so as the 'work in progress' GST takes final shape. In this context, I would like to thank Mythili Bhusnurmath for her valuable contribution to this report.

I do hope that you will find this report useful and look forward to your feedback.

Kind regards,

Pratik Jain

Partner & National Leader – Indirect Tax

Table of contents



Introduction *p4*



Initial challenges *p5*



The experience so far *p8*



Emerging challenges *p14*



The road ahead *p18*



Key policy-related suggestions *p20*



Introduction



The year 2017 will forever be etched in Indian history as the year that saw the implementation of the biggest and most important economic reform since Independence—the Goods and Services Tax (GST).

The reform that took more than a decade of intense debate was finally implemented with effect from 1 July 2017, subsuming almost all indirect taxes at the Central and State levels. It got overwhelming support from industry, with a few exceptions, such as from the textile sector and small businesses at certain places.

Publicised as the ‘one nation one tax’, the GST brought with it expectations of free-flowing credits, resulting in an overall reduction in the prices of goods and services as well as barrier-free movement of goods across India. Furthermore, in light of the Government’s commitment to foster ‘ease of doing business’, the public was expecting the tax regime to be substantially simplified, with fewer rate slabs applicable across all goods and services, as in countries such as Singapore.

The US Federal Reserve referred to the GST as an ‘inclusive’ policy.

Both end customers and the industry were optimistic about the complete overhaul of the previous Indirect Tax regime and were eager to make the shift to the GST model.

Roll out of the GST across the states was smoother than what was expected. Industry supported it, consumers were confident that it would lead to reduction in prices and the Government was expecting buoyancy in revenue collections.

“The progress of the GST is like building of a flyover in a city. A lot of traffic jam when it is being built, but once built, it is as sweet as jam”

*– Sashidhar Jagdishan,
CFO, HDFC Bank Limited*

The GST is expected to be positive for India’s GDP growth and credit profile, contribute to gains in productivity and support increased government revenue through enhanced tax compliance.

– Moody’s Global Rating Agency

As the GST journey progressed, there was a growing realisation of its far-reaching impact.

During the year, the Government adopted a refreshed and expeditious approach in addressing challenges faced by industry. The authorities have been quick to address public concerns by issuing a series of notifications, clarifications, press releases and FAQs, to resolve a wide range of issues. Its extensive use of social media, especially on Twitter, was unheard of till now. Furthermore, the Government has launched various web-based mobile applications to facilitate dissemination of information on a real-time basis. Moreover, several working groups have been formed to work on sector-specific issues. In addition, the GST Council has convened numerous meetings during the last one year to address industry’s concerns, and has to a large extent resolved issues.

While there is seemingly a gap between expectations of India Inc. and actual delivery in terms of simplification, ease of doing business and overall reduction in prices, the Government’s report card after 365 days of implementation of the GST reflects an overall positive impact in terms of macro-economic growth and simplification of processes and digitalisation.



Initial challenges

After implementation of the GST, industry has been facing various challenges, ranging from new and unique concepts, customisation of IT systems to meet new requirements, supply-chain reengineering, complex documentation and high tax rates for certain goods and services to complex or no clear treatment of many common transactions. Some of the challenges faced by India Inc. are elaborated on below:



A. Technology-related challenges

One of the major areas of concern for India Inc. since implementation of the GST is functioning of the online compliance portal. The experience of compliance in the first year has not been smooth and the Government has had a difficult time fixing the bugs ever since the portal was made functional in July 2017.

To address performance-related issues on the portal, the Government has constituted a committee to look into the teething problems and provide a quick resolution to these. Some technical glitches, such as amendment of past period information, electronic filing of letter of undertaking, automatic adjustment of tax liability with credit or cash, release of offline utility for filing of GSTR-3B and GSTR-6 (ISD return) as well as accelerated accessibility, have been more or less fixed. However, there are still issues such as the slow response rate and fixing of errors that remain unaddressed. This should be a significant area of concern for the Government.

The experience with the introduction of the E-Way Bill system was similar when it was introduced for the first time in February 2018. Due to frequent breakdowns, the Government decided to defer implementation of E-Way Bill system for a few months and emerge with a more robust and problem-free portal. The portal was revamped and finally the system was reintroduced from April 2018, first for inter-state movement of goods and subsequently for their intra-state movement in a phased manner. Today, the E-Way Bill system is fully functional across India.

Automation of compliance and procedures is the backbone for successful functioning of the GST. The Government has endeavoured to set up an automated compliance system, which enables ease of functioning and complete automation of various processes. This is still work-in-progress and needs to be closely monitored in this dynamic environment, especially in view of the rapidly growing number of taxpayers.



B. Complex tax structure

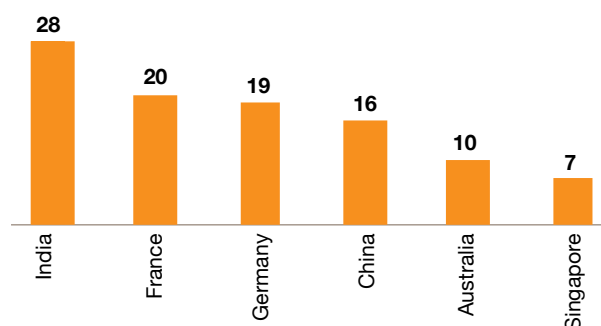
Most countries levy the GST at a single rate. In India, the initial proposal was to keep a single GST rate for both goods and services (for implementation of a simple and easy to understand Indirect Taxation system). In 2010, the then Empowered Committee of Finance Ministers had proposed a single tax rate structure with unification of the rates for goods and services. The Committee was of the view that this should be achieved in a phased manner, as follows:

Particulars	Year 1	Year 2	Year 3
Goods – CGST and SGST			
Standard rate	10%	9%	8%
Lower rate	6%	6%	8%
Services – CGST and SGST			
Standard rate	8%	8%	8%

Source: Empowered Committee Report

Thus, over a period of three years, a single rate of 16% (i.e., 8% SGST and 8% CGST) was expected to be in place both for goods and services. However, the GST rate structure that was finally implemented had multiple tiers of tax rates for goods and services, without a roadmap for eventual unification of GST rates. The multiple rate structure not only complicates the taxation system, but also leads to unwarranted disputes pertaining to classification. The following statistics indicate that India has among the highest peak rates in countries that have implemented the GST or VAT.

Peak rate of GST or VAT in some countries



Source: secondary research

Moreover, the GST law prescribes levy of a compensation cess on a specific category of goods including motor vehicles, tobacco and aerated drinks. However, while this has been coined as a ‘cess’ (which generally applies to the tax element), in reality it is levied on the base value of goods. Therefore, the compensation cess is in effect another tier of tax on such goods. Apart from adding to the cost of supply, it also necessitates requisite configuration of Enterprise Resource Planning (ERP) to capture and report this cess separately.

Furthermore, determination of the applicable rate of the GST has an additional layer of complexity. On select categories of goods and services, the Government has decided to fix the GST rates on the basis of their value and the special features of the product or service under consideration rather than on classification under their tariffs—a harmonised system of nomenclature (commonly known as the HSN description). For instance, footwear priced at less than INR500 attracts a GST rate of 5% and those priced above INR500 at 18%. A similar logic applies to determination of applicable GST rates for hotel stays (charged on the basis of the published tariff rate). For instance, if the tariff rate is INR7500 or more per day, the GST is payable at 28%, otherwise it is reduced to 18% or less). Compared to global GST practices, this is a unique approach to determination of tax rates.

Effectively, in many cases, the Government has chosen to levy the tax on the basis of the status of the buyer instead of the product, and this has resulted in a great deal of complexity. Additionally, in certain cases, a distinction has been made, based on the mode of supply of products, which is unheard of anywhere in the world. For instance, in the case of goods procured through e-Commerce, additional compliance-related requirements have been proposed.

Around 50 products still remain in the 28% tax bracket and are classified as ‘luxury or sin goods’. However, it is debatable whether products such as ACs, refrigerators and cameras still merit classification as luxury goods and warrant a higher GST rate. It is therefore important that policy-makers revisit their definition of the term ‘luxury items’, considering standards of living in today’s world.

Another feature of the new regime, which adds to its complexity, is the applicability of the GST on related party transactions, even without a consideration. The GST law prescribes payment of the GST even on transactions that do not entail payment of any consideration. Therefore, not only is identification of such transactions a challenge, but determination of the value on which the GST is payable is equally complex.

The following table illustratively summarises applicability of the GST on the basis of its different attributes:

Structure of GST rates

Value-based classification	Footwear with a retail price of more than INR500 is taxed at a different rate from those that cost less than this amount.
	Apparel and clothing accessories that have a sale value of more than INR1,000 are taxed at a different rate from those that cost less than this amount.
	Cotton quilts that have a sale value of more than INR1,000 are taxed at a different rate from those that cost less than this amount.
	Hotel rooms are taxed on the basis of their tariff rates
Specification-based classification	Apparel and clothing accessories are taxed differently, depending on the material used to make them, for instance, fur, leather, etc.
	The rate of tax applicable on electrically operated vehicles is different from that levied on other motor vehicles.
Status of buyers	Transportation, catering, housekeeping, security, cleaning services, etc., when provided to educational institutions, are exempt from tax.
	Services including transport of passengers through a regional connectivity scheme airport, when provided to the Central Government, are exempt from tax.
	Supply of construction work contract services, when provided to the railways, monorail and metro, are taxed at a different rate from such supplies made to other recipients.

Source: Government notifications



C. Taxability on advances for supply of goods and procurements from unregistered dealers

The Government proposes to levy the GST on advances received for supply of goods on similar lines as those applicable to services under the erstwhile regime. Moreover, procurement of goods and services from unregistered vendors has been made liable to the GST. Although the tax payable is available as a credit, tracking such transactions and the need to make adjustments every time there is a subsequent payment, cancellation or amendment has led to significant procedural and compliance-related issues. Implementation of reverse charge taxability on procurement from unregistered vendors was aimed to keep a check on

the unregulated sector. In these circumstances, additional compliance-related challenges have made large businesses reluctant to make purchases from small and unregistered vendors.

Introduction of the provision relating to advances has been deferred. Moreover, taxability of procurements from unregistered dealers has already been deferred twice—first till 31 March 2018 and then till 30 June 2018. However, it remains to be seen when these provisions will come into effect.

Frequent deferment of tax provisions creates an atmosphere of uncertainty among the taxpayers and corporate houses looking at setting up new ventures. Therefore, in the interest of trade and business, the Government should consider deferring these provisions till such time as the GST law is firmed up.

“The Government needs to be appreciated for its implementation of the GST, a complex reform. There was hardly any business disruption in the first month and the Government has been receptive to issues faced by industry. The performance of the GSTN was the biggest challenge, which we expect will be streamlined soon. However, the GSTN, the E-Way Bill and anti-profiteering are the areas the Government needs to simplify.”

– Prashant Bhatnagar, Associate Director, Procter and Gamble India



Despite some teething problems in managing compliance-related requirements, implementation of the GST is seen as being directionally positive. As it progresses on its journey, it is clear that the GST is not merely a tax reform, but a complete overhaul of the entire business scenario.

The GST is seen as an important change and critical for businesses to remain competitive in the market. Today, when we are celebrating the first anniversary of its implementation, it can be said that the Government has been proactive in bridging the gap between the expectations of India Inc. and actual implementation of the GST. Nevertheless, there are still some gaps that need to be bridged on a priority basis to boost domestic and foreign investors' confidence in India's taxation system.

A period of one year for implementation of such a transformational change is hardly adequate to put in place a perfect tax system. Keeping this in mind, we have discussed below some key indicators to reflect on the experience of the first 365 days of the GST in India.

A. The macro economic impact

The GST, as described by our Hon'ble Prime Minister Mr. Modi, is a "good and simple tax", and marks a fundamental resetting of the Indian economy. It redefines the way business is done (with increased formalisation), expands the market for goods and services (replacing many small and fractured markets with a single common one) and totally overhauls the Indirect Tax regime. In view of all these benefits, its impact on the macro-economy cannot be anything but good.

Let us now look at three macroeconomic fundamentals that can be expected to be affected by the shift to the GST regime, i.e., GDP growth, inflation and the fiscal deficit.

Impact on GDP growth

One of the main discussion points during the implementation phase of the GST was its impact on the Indian economy, specifically on the GDP. The Government and industry had high hopes that the GST would be instrumental in reducing economic distortion and give the necessary impetus to India's economic growth.

The Economic Survey predicted that the GDP is likely to be between 6.5% and 6.75% in 2017-18, compared to a GDP of 7.1% in 2016-17. This meagre dip in the GDP in the initial phase of implementation of the GST was expected in view of the scale of changes it brought about in business and tax administration.

According to the latest numbers, growth picked up significantly in the last quarter (January-March 2018) of FY 2017-18. Recent statistics indicate that our GDP growth rate increased by 0.7 percentage points in each successive quarter of 2017-18. Manufacturing, a sector that could have been adversely affected by the GST, grew by close to double-digits at 9.9%, while investment, as reflected in the formation of gross fixed capital, grew at 14.4% in the last quarter.

Reports from financial institutions indicated that the dip in the GDP is likely to be short-lived and eventually grow to around 7-7.5% in 2018-19. This is largely due to the simplified tax structure and the concept of 'one nation one tax'.

Impact on CPI

There is no clear evidence that the GST has reduced inflation. The Consumer Price Index (CPI), which was at a low of 2.4% in July 2017 moved up to 5.2% in December 2017, only to dip to 4.3% in March 2018 and then move up again to 4.6% in April 2018. With primary articles accounting for close to 50% of the GDP, the impact of GST on these is likely to be more muted than in the case of the Wholesale Price Index (WPI). Unfortunately, the movement of the WPI mirrors that of the CPI, suggesting that it is much too early to draw any clear conclusions regarding the impact of the GST on inflation in the country.

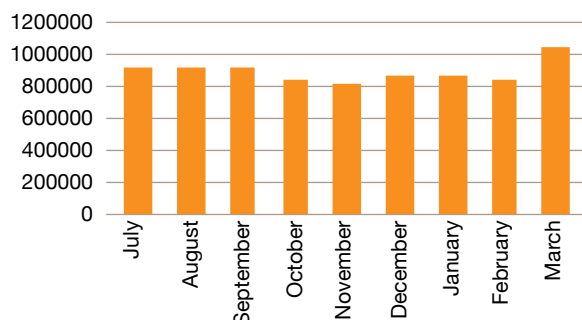
Impact on revenue collections and fiscal deficit

The Government expected a substantial increase in revenue collections with smooth rollout of the GST by following an extensive implementation plan. However, instead there was a dip after steady collections during the first two or three months of its implementation. This was largely due to processing of transitional credits claims and a reduction in tax rates on several mass consumption goods.

Revenue collections (for March 2018) crossed the INR1 lakh crore mark for the first time in April 2018. After this high mark, collections dipped to INR94,016 crore in May 2018. Average monthly collections for FY2017-18 fell short of the expected INR90,000 crore, making

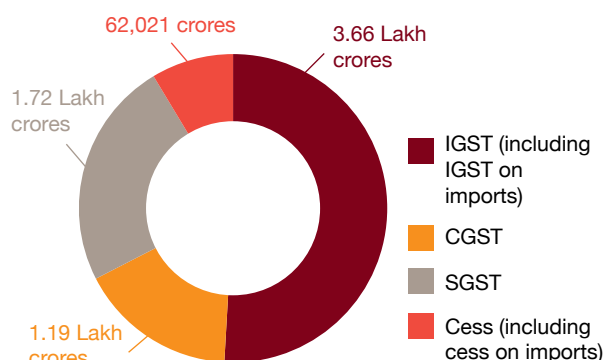
the Government's Budget estimate for 2018-19 seem even more ambitious. Nevertheless, there is no doubt that collections during the first year of implementation of the GST were good enough to enable the Government to achieve its fiscal deficit target for the year (with the final figures being 3.53% compared to its target of 3.5%), although only for 11 months. However, this augurs well for future collections as well as the Government's fiscal goal.

Gross revenue collection (amount in INR million)



Source: Pib.nic.in

Tax type-wise revenue collections



Source: Pib.nic.in

These collections (as depicted in the figure above) are for the period July 2017 to March 2018, and include domestic collections for eight months and import collections for nine months after rolling out of the GST. Therefore, the collections amount to INR1.19 lakh crore of the CGST, INR1.72 lakh crore of the SGST, INR3.66 lakh crore of the IGST (which includes import collections) and INR62,021 crores of cess (which includes the cess on imports).

Furthermore, after settlement of the relevant IGST between the CGST and SGST component, the CGST collection was approximately INR2.49 lakh crores and SGST collection around INR2.91 lakh crores during the period till March 2018.

As we know, the Government has divided all taxpayers between Central and state tax officials. Therefore, in spite of officials from the Centre and the states working closely, the GST has created significant competition among the officers, and revenue collections have become the benchmark for their performance.



B. Rationalisation of rates

GST rates applicable to various goods and services have been rationalised time and again. The number of goods under the 28% tax bracket has been reduced from more than 200 goods to almost 50 goods. A special concessional tax rate has been prescribed for precious metals and supplies to exporters (merchant exporters). Furthermore, the rate applicable to most commonly used items such as tamarind powder, hair oil, wrist watches, sunglasses (including spectacles to correct vision), razors and razor blades and LPG supplied for domestic consumption has also been reduced. Similar reductions have been made for specified services such as restaurants, tailoring and construction of metro or mono rail projects. Moreover, various exemptions have been granted for goods and services for example, legal services provided to the Government, etc.

Industry is hopeful that the Government will further rationalise the rates on some more mass consumption products, such as white goods, e.g., washing machines, refrigerators and air conditioners. This will lead to a reduction in their prices and spur the demand for such products.



C. Re-engineering of supply chain

The GST has brought about many changes, and companies have used this opportunity to create value for their businesses across their procurement, manufacturing, distribution and logistics functions.

Supply chain-related costs are divided into two broad categories, fiscal costs (Central and state taxes) and physical supply chain costs (costs attributable to transportation, warehousing, inventory, etc.).

With the advent of the GST, supply chain costs and efficiencies not only involve tax-optimisation strategies, but the value proposition is visible across all its touchpoints, specifically in the areas mentioned below:

Procurement

A unified tax and seamless availability of credit has reduced the cost of supply and created re-negotiation opportunities in procurement of raw material. In the Retail sector, we have observed cost reduction in the range of 3% to 5% across different categories through re-negotiation with vendors.

Manufacturing

Exemptions in Excise Duty available in the erstwhile tax era have been transitioned to the GST regime in the form of a budgetary support scheme. Therefore, manufacturing units located in Jammu & Kashmir and the North Eastern states are enjoying tax benefits and will continue to do so for the next few years.

In this scenario, certain FMCG companies continue to have a competitive advantage because their manufacturing setups are located in these Excise-free areas, although the quantum of the benefits have gone down.

Distribution

Elimination of the Central Sales Tax (CST) on inter-state sale transactions has in a true sense contributed to making India a single-tax country.

Consequently, distribution has benefitted the most from implementation of the GST. Consolidation of storage points and a reduction in the number of inefficient nodes in supply chains has helped such companies to reduce their distribution costs by 8%-12%. This has also helped organisations achieve efficiency in their working capital through effective planning of inventory and by improving their service levels.

Logistics

While the benefits under the GST regime through consolidation of warehouses, closure of inefficient nodes, etc., are obvious, the larger issue while taking such decisions are their impact on inter-state serviceability, availability of infrastructure, etc. Therefore, decisions relating to re-engineering of supply chains are largely driven as a long-term strategic priority by companies.

Several business groups are evaluating the options of entering strategic partnerships with 3PLs service providers to leverage their large multi-user facilities, freight corridors and multi-modal hubs.

Supply chain re-engineering requires long-term planning. Consequently, GST, along with development of infrastructure in the country, is expected to continue being the key driver for achievement of supply chain-related efficiency and the key enabler of innovation, evolution of operating models and growth in the logistics industry over the next five years.



D. IT landscape

Implementation of the GST has paved the way to a simpler Indirect Tax structure and a uniform IT landscape in India. The Government has undertaken multiple rounds of test and pilot runs to mitigate the risk of IT portals collapsing. India Inc. has also been working hard to prepare itself with continuous upgrades in ERP systems to align these with GST reporting- and other compliance-related requirements. Thousands of software solution providers have been working continuously to ensure timely release of GST-compliant applications or patches to handhold India Inc. in its seamless transition to the GST regime. Technology service providers have been focusing on providing solutions to ensure timely compliance in a cost-effective manner and have built innovative cloud-based solutions.

Apart from ERP vendors and consultants, who were configuring ERP systems for clients to comply with

the GST, the IT landscape also saw the rise of two new types of players—Application Service Providers (ASPs) and GST Suvidha Providers (GSPs).

Technology, which is considered the backbone of successful functioning of the GST, has however not lived up to expectations. Compliance has been a pain area for India Inc. since its implementation.

The first month of return filing under the GST saw the collapse of the GSTN portal. To overcome the resultant chaos, the GST Council allowed an interim measure, a summary return (Form 3B), to enable taxpayers to report their tax liabilities and avail tax credits.

Over the next few months, with other compliance-related requirements having been nearly suspended, GSTR3B and GSTR1 tax filing seemed to achieve stability.

The unnerving experience on the technology front has led to the GST Council revisiting tax laws and proposing a new GST compliance structure. This is expected to be simple and fast, and give some breathing space to businesses and service providers. Under the new proposed structure, there will be a provision for direct uploading of invoices on a real-time basis and reconciliation of invoices will need to be done offline. This model does not envisage a facility at the recipient's end to upload missed invoices (i.e., invoices the supplier has failed to upload). With this proposed change, technology and tools provided by ASPs for completion of smart reconciliation of vendors' and customers' invoices will become all the more crucial.

Moreover, with the introduction of the provisions of the E-Way Bill, several software solutions providers have been able to provide effective solutions to India Inc. to help them comply with the requirements of the E-Way Bill system. In times to come, integration of GST-related solutions (GSPs and ASPs) with E Way Bill solutions is expected to ease the overall compliance burden on businesses.

Existing dynamics pertaining to GST return-filing and other compliance-related requirements have led to India Inc. working hard on formulating IT strategies and implementation plans. Furthermore, the proactive attitude of Indian IT industry professionals in acclimatising themselves with ever-changing laws and requirements is likely to play a crucial role in coming days. Moreover, a lot can be gleaned from the perspective of data and analytics, and help India Inc. solve its other business problems once compliance-related data on basic business processes becomes a part of IT systems.



E. E-Way Bill

The E-Way Bill system under the GST regime replaces Way Bills (commonly known as entry or exit permits) that were required under the erstwhile VAT regime for movement of goods in many states.

The Way Bill system under the VAT regime, which varied from state to state in terms of its format, requirements and procedures has now been replaced with a single pan-India electronically generated E-Way Bill.

After an aborted attempt in February 2018, the Government managed to roll out the E-Way Bill system on 1 April 2018, to track movement of goods on inter-state and intra-state highways. The use of E-Way Bills for intra-state movement of goods is being introduced in a staggered manner by the quarter ending 30 June 2018.

The main objective of the introduction of the E-Way Bill system is to curb leakage of revenue. As we move ahead, the Government will expect taxpayers to match outward supplies reported in their GSTR1 with the value of E-Way Bills generated and provide the necessary reconciliation-related data for any differences.

This is a significant step forward, which will help tax authorities track differences and question businesses on a real-time basis in the event of significant discrepancies, especially where the value of E-Way Bills generated is more than outward supplies reported in GSTR 1.

Under the erstwhile VAT regime, officers had to manually check Way Bill-related information with tax returns filed by taxpayers. This exercise was limited to the state level. With the introduction of the GST, which unifies India into a single market, this exercise is expected to take place at the pan-India level in the future.

The format of an E-Way Bill is designed to capture invoice-related information so that the Government can use data analytics to identify concern areas and plug leakage of revenue. The Government is optimistic that automation and standardisation of the entire process will help it monitor tax evasion and shore up its collections from the GST.

The Government's proactive attitude in addressing the challenges being faced by businesses was evident during implementation of the E-Way Bill system. Some of its clarifications include an explanation of E-Way Bill-related requirements in the case of bill-to ship-to-transactions; the process to be adopted in the event of a single consignment being moved in multiple lorries; the procedure for detention, release and confiscation of goods and conveyances; a user manual on processes pertaining to the E-Way Bill, replies to various FAQs on related topics, etc.

After interruptions during the initial phase of implementation, the Government has made every possible effort to expand its technological capacity to handle multifarious requests relating to the generation of E-Way Bills. It was well-prepared in its re-launch of the portal on 1 April 2018 and almost



2.80 crore E-Way Bills were generated during the month (according to the official twitter report dated 11 May 2018). Among these, 73% were procured for inter-state movement of goods and 27% for intra-state transportation.

While the E-Way Bill process has been stabilised, businesses need to ascertain whether they need technological interventions to manage their compliance. Finding answers to the following questions can help them evaluate the need to put in place such technology:

- Does your business have multiple GST registrations with several users generating E-Way Bills and no pan-India visibility of compliance at the Central level?
- Do you have a mechanism in place to track utilisation of all E-Way Bills generated, cancelled and closed in your organisation?
- Do you have any mechanism to reconcile supplies (against which E-Way Bills have been generated) with those reported in your GST returns? (This should include E-Way Bills generated by counter-parties in the area of procurement.)
- Have you implemented a mechanism to track users created on the Government portal, and frozen or amended their user accounts once they leave your organisation?
- Have you uploaded various Masters (including Customer Master, Supplier Master, Product Master, Logistics Master and Transport Master) so that the relevant details can be auto-populated for manual generation of E-Way Bills?
- Do you have a history (under the GST or an erstwhile VAT regime) of goods or vehicles being seized or notices being issued by the authorities due to non-generation or incorrect generation of E-Way Bills due to clerical errors?
- Do you want transporters to generate E-Way Bills, but keep track of these to avoid incidents of non-compliance?

Large businesses with a multi-state presence should therefore consider the following aspects in their compliance:

- Mapping various business transactions that are relevant for E-Way Bills and preparing a standard operating procedure for various stakeholders.
- Identifying and fixing responsibility to avoid non-compliance.
- Incorporating changes in contracts and agreements with vendors, customers and transporters to safeguard their interest.
- Determining the changes required in IT systems to automate the E-Way Bill generation process.
- Evaluating the need for technology- based solutions to minimise incidences of non-compliance due to manual interventions.



F. Advance Rulings

The GST is a new law. It is at its nascent stage and is seeing significant issues relating to taxability, its procedural aspects and applicable rates of tax on goods and services. Acknowledging the need for suitable clarifications, the Government has been proactively addressing several procedural and legal aspects through official circulars, media sources such as tweets and sector-specific guidelines. However, there are still many critical aspects on which clarity is needed to avoid possible litigation at a later stage.

Like the erstwhile Central Indirect Tax laws, GST laws also provide for a formal advance ruling process to seek clarity on several aspects relating to taxability of supply-related transactions, including inter-alia classification, time of supply and valuation. The Authority for Advance Ruling (AAR) has been set up in multiple jurisdictions across India to address these issues. Advance rulings issued by the AAR are binding on the taxpayer as well as on the jurisdictional officer.

Unlike the mechanism under earlier laws, GST law allows applicants to seek advance rulings on existing transactions and not just for proposed business ones.

This shift gives significant relief to businesses, which can officially seek clarity on contentious issues well before they undertake transactions rather than struggle with the consequences of assuming an incorrect tax position at a later stage, which may result in penal consequences.

The AAR have been fairly proactive in disposing of applications expeditiously. Karnataka, Maharashtra, Kerala and Gujarat are among the most active states in this area and have speedily disposed advance ruling applications. Action has picked up significantly in the past three to four months during with nearly 100 advance rulings being pronounced on a range of debatable issues, including *inter-alia* taxability of merchandising transactions, liquidated damages, sales by Duty Free shops, employees' recoveries and work contract-related transactions.

The majority of these rulings have been in favour of the Revenue. Furthermore, some of the decisions are seemingly contrary to settled judicial precedents.

An important factor is that the AAR functions at the state level, so there is the possibility that contrary rulings are passed on identical issues by two different AARs (as recently witnessed in applications relating to taxability of solar power projects disposed of by the Maharashtra and Karnataka AARs). This indicates a need for a centralised review team, which will review these orders before they are issued to the concerned parties and released to the public.

Another worrying factor is that despite there being a formal process of filing appeals against an advance ruling order, the authority that takes up such appeals is yet to become functional in some states.

These factors are placing the efficacy of the advance ruling mechanism in doubt in the minds of the tax-paying community.



G. Transitional credit

Transition from one tax regime to another is always a difficult process, especially when a complex and multi-layered tax system is subsumed into a single tax across a country.

With the implementation of the GST regime, the Government has allowed transition of all input tax credits in books of accounts to the new regime, and taxpayers had to file declarations of such credits in Form TRAN 1 by 27 December 2017.

This step taken by the Government was appreciated by the industry, but the complexities relating to the eligibility of credits (whether these can or cannot be transitioned to the GST regime) were not appropriately addressed. The Service sector, which has a large chunk of transitional credit, faced the challenge of accumulated credit on account of the Krishi Kalyan



Cess (KKC). There was no clarity whether this could be transitioned to the GST regime. However, the Government (vide an advance ruling) has now clarified that such credit is not eligible and cannot be transitioned to the GST regime. The legality of the clarification is likely to be tested before the courts.

Moreover, due to reduced revenue collection in the initial months of implementation of the GST, the Government had issued various notices to dealers claiming transitional credit beyond a prescribed limit in order to verify their transitional credit claims. The Government was of the opinion that companies had taken higher tax credits than they were eligible for, which adversely affected its revenue collection.

Apart from the above, there are other issues relating to transitional credit, e.g., in some cases, credits transitioned are not reflected on the GST portal. In some cases, IGST credit is being shown as SGST or CGST credit. In other instances, dealers have failed to report some of their eligible credit inadvertently. In this scenario, there is no respite for dealers for their genuine claims, which are either not reflected on the GST portal or appear in the wrong section.

Some dealers were not able to file Form TRAN 1 by the due date due to IT-related challenges they were facing.

Many Writ Petitions have been filed in the last four to five months on the points mentioned above and those relating to restrictions on claims of actual and deemed input tax credit beyond the stipulated timeline. Favourable decisions have been issued in cases where dealers have failed to file TRAN 1 due to bonafide reasons, including IT-related issues they have faced, although they have made an all-out attempt to do so and provided documentary evidence to prove this. The Government has been proactive in addressing these concerns and has set up an IT grievance redressal committee to take up such matters. In addition, it has issued a circular extending the timeline for filing TRAN 1 for dealers who attempted to file TRAN 1 by 27 December 2017, but were not able to do so due to valid reasons.

“We expect to see a stable compliance environment where mutual trust is created through transparency and proactive consultations leading to smooth and flawless execution. We also expect to see significantly reduced GST rates for items such as small cars. This will help the middle class and also support the Government’s initiative to reduce our carbon footprint and import bill.”

– PB Balaji, Group CFO, Tata Motors

However, no respite has been offered in situations where dealers have failed to report their eligible credit due to inadvertent errors or because incorrect amounts have been transitioned at the portal.

It is expected that the Government will address these concerns soon and give relief to taxpayers who have huge amounts that are blocked due to the procedural challenges they faced or where they have failed to report credits due to inadvertent errors.



H. Other facilitation measures

In addition to rationalising tax rates on most goods and services, and easing compliance-related requirements, the GST Council has taken several other measures to facilitate smooth transition to the GST regime. These include deferment of some of the following provisions that put an additional tax- and compliance-related burden on industry:

- Tax liability on receipt of advances for supply of goods
- Tax liability under reverse charge mechanism on procurement of goods or services from unregistered vendors
- Tax Collection at Source provisions applicable for e-Commerce players
- Tax Deducted at Source provisions applicable to works contracts

Furthermore, upfront exemption from import GST has been allowed for export-oriented units and software technology parks. Amidst this, exporters’ serious cash flow-related concerns, provisions for e-Wallet services and notional refunds have been suggested to streamline the refund process. This is currently being examined by the GST Council.



I. Clarity on various aspects

The Government has been proactive in issuing various clarifications (either on a suo-moto basis or on the basis of representations made by trade bodies) to clear up doubts. Some of these include:

- Taxability of transactions that take place on the high seas
- Clarity on time and point of levy of tax on goods sold from bonded warehouses (In Budget 2018, the Government provided clarity on the valuation aspect of such transactions. A further clarification in this regard has been issued vide Circular no 3/1/2018 dated 25 May 2018.)
- Taxability of hotel services by clarification on what constitutes a published tariff
- Clarification on supplies made to SEZ units
- Clarification on levy of tax and the rate at which it is levied on various contentious transactions including the cost of hostel accommodation provided for students and rental services for self-propelled access equipment.



GST law is evolving day by day with the Government issuing notifications and clarifications from time to time. It is imperative for the Government to adopt a structured approach in policy-related issues, while industry needs to keep pace with the changes. Initial structural issues are gradually getting resolved with industry players learning with the passage of time. As a natural progression in the life of a tax law, in coming months and years, several policy-level, jurisdictional, interpretational and operational issues are likely to emerge, some of which (discussed below in this section) are already being witnessed.

A. Fate of matching concept

At the time the GST was introduced, the Government also rolled out a matching concept for claiming input tax credit, which formed the backbone of online tax compliance. This concept is unique to India, compared to other countries that have implemented the GST.

The matching concept requires a buyer to reconcile its tax payments with the tax collected, deposited and reported by the supplier on the government portal (against its outward supplies) on a month-on-month basis in order to claim credits. Any incorrect or unmatched transactions filed by the supplier leads to denial of credit to the buyer. The concept has twin objectives—first, to integrate tax payments and credits seamlessly to ensure minimal discrepancies, and second, to ensure proper management of vendors.

However, due to IT-related glitches, the facility of online matching has never taken off since GST was implemented. Consequently, in November 2017, the Government decided to defer its requirement of the matching concept till necessary technological upgrades were carried out to cater to such a huge flow of information.

It is not clear what will happen to past-period credits that have been claimed without a matching concept. The moot point here is whether the Government will ask taxpayers to repay such tax credits (along with interest and penalties), which have been rightly paid to suppliers who have either failed to deposit this to the Government treasury or report it on the online portal.

In a recent GST Council meeting held in May 2018, the Government decided to formally put on hold the matching concept. There is now a proposal to allow credit to buyers on the basis of information uploaded by their suppliers on the GST portal. The Government is finalising the methodology for this and is expected to issue detailed guidelines shortly. It will be interesting

to see whether this change will affect credits claimed by dealers till date (i.e., the retrospective impact) or the credits claimed by them henceforth (i.e., the prospective impact).

It is imperative for the Government to clarify this aspect, since it will result in large-scale implications for India Inc. Apart from the financial burden, companies will need to modify their IT software to cater to the new requirements and take another look at vendors' or customers' contracts, to safeguard their interest.

The internal processes set up by companies for tracking credits will undergo a change. Any significant changes in reporting requirements are bound to lead to customisation of IT systems. Businesses will need to be prepared for this in terms of the cost and disruption of business.



B. Past-period payments—no provision for availing credits

To pave the way for the new taxation system, the Central Government and state governments have issued directives to their tax departments to conclude pending tax investigations and disputes quickly. This has naturally led to a surge in the number of pending matters before the various forums, especially at the Appellate level.

Moreover, GST laws do not provide specific transitional provisions on several relevant aspects, for instance, enabling a recipient to avail credit of a tax demand on a transaction for which a supplier did not pay tax because of a bona-fide mistake or belief, or allowing payment of a demand because of denial of CENVAT credit through reversal of CGST credit.

Industry is hopeful that the Government will roll out a mechanism to address such situations at the earliest, in order to avoid unnecessary confusion and address the challenges faced by taxpayers due to this momentous change in tax law.





C. Refunds under the GST

Enabling ease of doing business through uniform tax laws across India with simpler compliance-related processes and rapid processing of tax refunds have been the key drivers behind implementation of the GST in India. Before it was introduced, the refund procedure (especially for the Service sector) was cumbersome and would take months and sometimes years for refunds to be processed.

Under the GST regime, tax refunds could be due to many factors—one of these being exports. According to GST provisions, an exporter is to be sanctioned 90% of the refund amount provisionally within seven days of a refund application being filed. This came as huge relief to industry, especially to exporters, whose working capital was earlier blocked due to the cumbersome refund process. However, because of technical glitches on the GSTN portal, many exporters were unable to file for refund of Input Tax. As a result, there was a backlog of a huge amount of funds in the initial months.

It is necessary to process tax refund claims quickly to facilitate trade under the GST regime. The Government has undertaken several initiatives to expedite this process. This is evident from the fact that refunds amounting to more than INR40,000 crores have been sanctioned till June 2018. This includes INR16,000 crore of IGST refunds and INR14,000 crore of ITC including refunds sanctioned by the Central and state governments.

According to a government press release dated 20 June 2018, more than INR40, 000 crore worth of refunds have been processed.

The most recent initiative in this regard is the ‘Special Refund Fortnight’ organised by the Government in March and June 2018, when Central and state GST officers have been instructed to expedite clearance of pending applications for GST refunds.

The Government’s commitment to clearing pending refund-related applications are undeniably praiseworthy. However, certain scenarios that merit refund-related claims remain unattended under the current GST law, e.g., claims of unutilised credits on closure of a business, refunds in the case of inverted GST structures due to the increased GST rate levied on input services earlier and refunds in the case of international tourists.

The momentum set in process by the Government on ensuring quick processing of refund-related applications and its specific statutory provisions for cases that merit refund claims (e.g., the ones mentioned above) will help industry release blocked working capital. It may also explore the option of minimising accumulation of credits in the first place. These measures are expected to play a vital role in achieving the Government’s stated objective of improving ease of doing business in India.



D. Anti-profiteering

The Government has taken a bold decision to reduce tax rates (from 28% to 18%) on a large number of products with the hope that this measure will increase demand from the public, enhance consumers’ confidence in the Government’s trade-friendly policies and ultimately give that much-needed boost to the Indian economy. However, these measures require industry to consider reducing prices and passing on the net benefits arising from implementation of the GST to end consumers to keep inflation under control.

To enforce this, the anti-profiteering provisions introduced by the Government (in line with those implemented in countries such as Australia) play a significant role.

Anti-profiteering provisions in the Central GST legislation mandate that any reduction in the tax rate on supply of goods or services, or the benefit of input tax credit should be passed on to recipients by a commensurate reduction in prices.

The Central Government has constituted the National Anti-Profiteering Authority (NAPA) to examine whether credits availed by registered persons or the reduction in the tax rate have actually resulted in a commensurate decrease in the prices of goods or services (or both) supplied by them.

The NAPA is to function for a period of two years from the date on which the Chairman of the Authority takes over office (unless the Council recommends otherwise).

As is evident, these regulations prevent entities from making excessive profits due to the GST. The thumb rule is ‘profit is fine, profiteering is not’. However, despite sound international experience, implementation of these regulations have been facing significant challenges in India.

The Government is of the view that in addition to the legal requirement, passing on of GST benefits to end consumers by way of a reduction in prices, in compliance with anti-profiteering measures, is also a social obligation for businesses.

On the other hand, critics maintain that these provisions are an attempt to regulate prices—a practice that has no place in a free economy. In their opinion, market forces will ensure that prices remain competitive.



According to industry, while the Government's intention cannot be questioned, it is difficult for businesses to implement complex pricing decisions immediately after there is a change in tax rates. Moreover, lack of clear instructions on how reduced prices are to be decided is leading to doubts and apprehension among industry players.

While the Government has, in principle, been encouraging a trust-based approach to implementation of most tax- and regulatory-related procedures, an overarching anti-profiteering provision under the GST law without a clear notification on corresponding explicit rules for its rollout could lead to lack of trust between the Government and businesses at this point. The Government is issuing notices to a wide range of industries, including Real Estate, Pharma and FMCG companies, asking for details of benefits passed on by them due to rate cuts in the GST in the recent past.

Some key concern areas for industry:

- There is lack of clarity on the granularity required for anti-profiteering analyses being conducted, i.e., at the aggregate company level, the product family or SKU levels. To elaborate on this, it is not clear whether a company can choose not to reduce the price of a particular product (for business reasons) and instead offer an increased quantity or freebies, or reduce the prices of select products, so long as the overall benefit is passed on to consumers.
- In the absence of any prescribed procedures, can a company resort to methods prescribed under the GST laws of foreign countries such as Australia? And if it can, to what extent will these computations be acceptable to the Indian tax authorities?
- While transitioning to the GST regime, various costs have been incurred by companies to build or modify their IT backbone. There is still no clarity on whether such costs can be taken into account or need to be absorbed while computing a revised, anti-profiteering and tax-compliant product or service rate.
- Another ambiguity is about the date on which such price reductions are to be made effective.

All these questions remain unanswered till date.

Moreover, perusal of the notices issued to taxpayers does not provide clear insight into the anti-profiteering mechanism, but could give rise to additional complications. For instance, if a complaint is received against a particular product, entity-related details are sought from the company. In one case, in a notice issued against a food chain store, the authorities asked for company-related details, while the complaint against it was for not reducing the price of a specific product!

Recently, the NAPA has issued two orders—one for a company dealing in automobiles and another for one engaged in the rice business. The moot questions for the authority were:

- Is the reduction in the tax rate, if any, passed on to the recipient?
- Has any benefit of credit been passed on to the applicant by the respondent?

In both these cases, the authority ruled in favour of the companies and held that the benefit (if any) has been appropriately passed on to the recipients. Interestingly, while passing the order for the company dealing in rice, the authority also considered the increase in the price of input for computation of benefits earned under the GST.

Listed below are some queries on which industry hopes for clarification from the Government:

- What are the cost components to be considered to arrive at reduced prices in order to comply with anti-profiteering provisions?
- What are the documents that need to be maintained to demonstrate due compliance with the anti-profiteering mandate?
- Does industry need to revisit prices every time there is a change, either in the tax rate or in the business structure, leading to enhanced efficiency in operating costs? Moreover, there is no indication whether a 'true-up' exercise is to be conducted at the end of a period, to ascertain that the price has been determined on the basis of accurate assumptions?
- Will the mechanics suggested under international GST or regulatory laws with respect to anti-profiteering be acceptable to Indian tax authorities?





E. Enquiry with regard to credit availed and credits appearing in GSTR 2A

A vital part of the GST model is linking of buyers' and sellers' invoices to determine their tax liability and seamlessly facilitate flow of input tax credit through value chains. Accordingly, the GST Law originally provided for monthly filing of outward supply statements with invoice-level details for B2B supplies. The disclosures in such statements were subsequently to be validated by the buyers when they filed their inward supply statements. Finally, the tax liability statements (i.e., the GST returns) were to be prepared and filed by the taxpayers.

While the idea was well-intended, conducting such an elaborate activity on a month-on-month basis was proving to be a gargantuan task for taxpayers. Due to technical glitches encountered by them on the GSTN portal, the Government decided to defer filing of GSTR 2 and GSTR 3, and prescribed a consolidated return in Form 3B, which was to be filed along with GSTR-1 in the interim period.

To the surprise of industry, some state governments have begun issuing notices for discrepancy in credits, based on returns filed by recipients in Form 3B vis-à-vis transactions disclosed by suppliers in their outward supply return (GSTR 1). It is notable that there is no specific provision under the GST Law that requires taxpayers to reconcile their form 3B inward disclosures with vendor supply-related details (which are auto-generated in the form GSTR 2A). Consequently, receiving such notices is rather confusing for taxpayers. Furthermore, the Government has not yet provided clarification on taxpayers needing to file GSTR 2 and 3 for past periods. It is therefore crystal clear that the wider the gap between reporting of compliance and the tax periods for which these filings need to be completed, the greater will be the challenge faced by businesses in completing their filing successfully (especially since they will be doing this for the first time).



F. Accounting requirements—centralised vs decentralised

Under the erstwhile regime, service providers and manufacturers could adopt a centralised accounting approach, whereas traders were required to maintain decentralised accounts, since they needed to be registered separately under the laws of the states from which they operated. The GST, being a tax administered at the state level, posed significant challenges to service providers and manufacturers from the perspective of both accounting and taxation.

The annual return prescribed under the GST Law requires companies to file their profit and loss accounts for each GST registration number. Therefore, it is mandatory for them to maintain state-wise books of accounts to comply with states' annual return filing requirements.

Some businesses saw this as an opportunity to scrutinise their supply chain operations and decentralise their procurements to align their accounting and taxation processes. Consequently, many taxpayers moved to a decentralised accounting system with their transition to the GST regime. But while it was easier for manufacturers and traders, the Service sector continued to face a challenge because of its earlier centralised system of accounting.





The GST journey has been nothing short of a roller-coaster ride. As the most critical tax reform India has witnessed since Independence, it has been the hot topic of discussion in the country.

Despite initial teething problems, implementation of the GST regime will undoubtedly be the catalyst for the Government to achieve its stated agenda of improving ease of doing business in India. Its aim is to simplify GST-related compliance requirements and return formats, and rationalise the tax rate structures of a wide range of products and services. This is in line with its pro-business mindset.

In realising this goal, the Central and state governments are putting into practice their learning from the international GST experience.

As a further step, the Government should also focus on simplifying processes and removing the ambiguity around widely debated tax-related issues to enable a painless experience for India Inc. At the same time, businesses should quickly adapt their operations to the new dynamics and support the Government in making the GST a success.

The following are some areas on which the Government needs to focus in the current year to further improve ease of doing business for Indian industry.



A. Expansion of tax base

The key idea behind implementation of the GST was to levy a single tax on all goods and services, resulting in free-flowing credit in the country. However, at present, certain items such as petroleum products (including petrol, diesel, ATF and natural gas), alcohol and immovable property are outside the GST net.

To compromise with the states, the Government had initially decided to keep petroleum products, which form a major part of states' revenue, outside the ambit of the GST till revenue collections stabilised.

Similarly, the states were concerned about protecting their revenue generation from levies including Stamp Duty, Registration Charges and Property Tax levied on Real Estate, justifying exclusion of the sector from the GST net.

With the input of these products being subject to the GST and the output outside its coverage, the tax structure applicable to these goods and sectors, as well their compliance-related requirements, have become fairly complicated. This is in effect defeating the Government's purpose in implementing the new tax regime.

It is expected that there may be an intense debate about expansion of the GST base by bringing Real Estate and Petroleum within its scope in 2018-19. Already, representations are being made to bring industrial fuel, including natural gas and ATF, under the GST net. However, the bottleneck encountered in including petroleum products under the GST is building a consensus among the states. This is a daunting task! However, in the absence of any constitutional limitations, inclusion of the Petroleum sector under the ambit of the GST is only a matter of time, until the states are assured that they can maintain their levels of tax revenue. The inclusion of Real Estate is however likely to be a little more difficult, with the additional requirement of a requisite constitutional amendment.

To effectively deliver on its promise of implementing a 'one-nation-one-tax' economy, the Government is likely to include the products mentioned above.

"The GST has brought in significant simplification and uniformity in taxation on Real Estate, allowing a transparent flow of input credits. We look forward to further rationalisation of the GST regime and stamp duties to bring down the incidence of tax for consumers."

*– Ashok Tyagi,
Group CFO and Whole-time Director,
DLF Limited*



B. Pruning of tax rates

Currently, there are four rate brackets—5%, 12%, 18% and 28%. The standard rate, under which the majority of the goods and services fall, is 18%, while ‘luxury’ or ‘sin’ goods and services are levied 28% GST.

Another item on the Government’s priority list for the coming year should be further pruning of these rates. While there has been a substantial reduction in the number of products included in the 28% bracket, it should also consider reducing the rate from 28% to around 22%. Another simplification that it could explore is to club together the 12% and 18% bracket and fix it in the range of 14%-16% to make it more reasonable.

These options can, however, only be truly explored once GST collections stabilise.



C. Simplification of compliance-related requirements and ease of doing business

The Government has already taken an initiative in this direction with its proposal of consolidating all periodical returns (whether operational or not) into a single return. The government machinery is already working on the new format and the IT-related changes required. Therefore, a new and simplified return filing process may become effective in the next six to nine months. Taxpayers will need to be prepared to adapt to this change as and when it is implemented. India Inc. will however require adequate time to undertake the requisite IT customisation without any disruption in their business operations.



D. Tax administration

Digitalisation of the Indian economy has been one of the main goals of this Government and it plays a vital role in all of its endeavours. Implementation of the GST was in line with this goal. The GST Law provides for online filing of registrations, returns, refunds and all other compliance-related applications. Therefore, it is imperative that there should be a sound digital backbone to the GST. This is where the GSTN comes in. As widely propagated, the GSTN is a world-class system, which is capable of maintaining a substantial amount of data, including invoices and the range-wise details of all taxpayers who use it to apply for GST registration in order to make payments and file returns.

In the future, it will be interesting to see how the Government plans to use such granular data to its benefit. The GST has resulted in formalisation of the economy, and consequently, the flow of information will eventually augment not only Indirect Tax but also Direct Tax collections. As recently mentioned by the Finance Ministry in its press release, dated 18 June 2018, the implementation of the GST is putting a “premium on honesty” through better tax compliance and transparency in the taxation system.

For an efficacious tax administration, the Government should explore the option of consolidating the GST portal with the Customs portal as an immediate option and as we go along, the Direct and Indirect Tax information sharing should take place to widen the tax base.



E. Legislative changes

Like any critical reform, the GST Law also suffers from certain ambiguities and loopholes that have come to light only after its practical implementation. Certain provisions of the GST seem to unintentionally contradict its objectives, for instance, provisions relating to taxation of transactions (e.g., service to self) between the branches of the same entity in India and overseas. These are likely to see amendments in the near future.

Furthermore, one of the key objectives of the GST was to ensure a seamless flow of input tax credits. Keeping this in view, it is expected that measures to facilitate liberalisation of credit will be implemented and most credit blockages in the law be done away with. However, so far, the Government has only partially achieved this objective. Some genuine business expenses are still excluded from the ambit of Input Tax credit claims (without any explanations). For instance, currently, credit is not allowed on food and beverages, and construction services. Industry expects that these issues will be seriously looked into and addressed.

Certain provisions of the GST also create unnecessary roadblocks for taxpayers’ working capital. An example of this is the need to pay upfront tax on various transactions such as deemed exports and subsequently claim a refund. Such provisions do not result in augmentation of revenue for the Government, but only increase taxpayers’ interaction with the Tax Department. This makes them vulnerable to undue harassment and leads to working capital-related blockages.



F. GST public forum

The Government may consider launching an India GST forum to facilitate public involvement and transparency. It could benefit by setting up an open forum to provide a supervised and regulated discussion platform on which industry and GST authorities can meet to discuss how implementation of the legislation can be improved in practice.

This will give businesses the opportunity to represent their concerns before authorities in a systematic manner. A similar forum was set up in the European Union to improve cooperation between businesses and tax administrations, and saw wide acceptability.

Key policy-related suggestions



The GST Law is fast evolving. However, in view of its far-reaching impact, the Government needs to adopt a structured approach to target problem areas and take policy-related decisions to solve prevalent problems. These are discussed below:



A. Alignment with global principles

The GST has been adopted by most countries, but India's tax structure is a complex one, with multiple taxes and rates. In certain cases, rates applicable for the same products vary on the basis of the status of the buyer or the mode of purchase. This is a feature that is distinctive in Indian law and is a digression from global practices.

Furthermore, even from the standpoint of documentation, Indian law has a unique requirement for exporters to obtain a letter of undertaking for executing exports. There is no such requirement globally.

In order to be competitive in the global market, it is therefore imperative that India presents itself as a structured tax economy, with clear and transparent laws that facilitate ease of doing business in the country.



B. Provision of flexibility in the GSTN

The GSTN is indispensable in India's GST journey, but there is little flexibility offered to users. For instance, there is no option to set off the excess tax paid by an entity under one registration in relation to another registration in a different state, even if it has the same PAN. The network does not allow filing of returns for a subsequent period till the returns for the previous ones are filed along with the penalty. Resolution of these issues and several such concerns, and implementation of a simple and easy-to-use online GST portal is therefore imperative for the success of the GST in India.



C. Minimisation of tax-related disputes

The dispute-resolution system has not been well-accepted in India. Under the erstwhile regime, several such schemes were introduced, but industry has been rigid in its resistance to adopt such measures for various reasons. Therefore, the Government should seriously look at business-friendly measures to resolve long-pending litigation in the country.

In addition, the Government needs to also focus on strengthening the Advance Ruling process to avoid unnecessary litigation, e.g., in the recent Gujarat High Court case, where petitioners challenged the constitutional validity of the composition of the benches of the National Appellate Tribunal.

Furthermore, while the Government has been fairly quick in issuing FAQs and responding through its twitter handle, there is no legal sanctity in such means of communication. For the sake of certainty on a tax position it is therefore important for the Government to bring in necessary legislative changes or issue clarifications officially to put various contentious issues at rest.

Under the Union Budget 2018, a pre-consultative process was introduced under Customs. Similar provisions should also be put in place for the GST.

Additionally, in order to facilitate timely settlement, it should be mandated that closure of disputes under the GST is undertaken in a time-bound manner.



D. Focus on administration

Another important policy on which the Government should focus is structuring of the Tax administration. The process of issuance of notifications needs to be streamlined to give businesses adequate time to implement the changes required.

Issuance of unnecessary notices should be discouraged, and a reasonable amount of time should be given to taxpayers to respond to these.

In addition, measures should be taken to ensure consistency in the approach followed by tax officers across jurisdictions. For example, currently, it is clear that the parameters used to evaluate eligibility of Tran-1 credit vary across jurisdictions. Moreover, it is found that contrary views are held in the Advance Rulings of two states on the same issue.

In summary

Implementation of the GST is truly a remarkable achievement for the Government and India Inc. Although it is at its early days still, the GST started on a positive note and the benefits for all stakeholders are evident. It is now time for the Government to stabilise the system, remove uncertainty, facilitate compliance by easing processes and expand the tax base to make the GST a real success for both the Government and India Inc.



Our offices

Ahmedabad

1701, 17th Floor, Shapath V
Opposite Karnavati Club
S G Highway
Ahmedabad - 380 051
Gujarat
Phone: [91] (79) 3091 7000

Bengaluru

The Millenia, Tower D
#1 & 2 Murphy Road, Ulsoor
Bengaluru - 560 008
Karnataka
Phone: [91] (80) 4079 4000

Chennai

Prestige Palladium Bayan
8th Floor, 129-140, Greams Road
Chennai - 600 006
Tamil Nadu
Phone: [91] (44) 4228 5000

Hyderabad

Plot no. 77/A, 8-624/A/1
3rd Floor, Road no. 10
Banjara Hills
Hyderabad - 500 034
Telangana
Phone: [91] (40) 4424 6000

Kolkata

Plot nos 56 & 57
Block DN-57, Sector V
Salt Lake Electronics Complex
Kolkata - 700 091
West Bengal
Phone: [91] (33) 2357 9100

Mumbai

252 Veer Savarkar Marg
Next to Mayor's Bungalow
Shivaji Park, Dadar
Mumbai - 400 028
Maharashtra
Phone: [91] (22) 6669 1000

Gurgaon

Building 8, Tower B
DLF Cyber City
Gurgaon - 122 002
Haryana
Phone: [91] (124) 462 0000

Pune

Tower A - Wing 1, 7th Floor
Business Bay
Airport Road, Yerawada
Pune - 411 006
Maharashtra
Phone: [91] (20) 4100 4444

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 158 countries with more than 2,36,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com

In India, PwC has offices in these cities: Ahmedabad, Bengaluru, Chennai, Delhi NCR, Hyderabad, Kolkata, Mumbai and Pune. For more information about PwC India's service offerings, visit www.pwc.com/in

PwC refers to the PwC International network and/or one or more of its member firms, each of which is a separate, independent and distinct legal entity. Please see www.pwc.com/structure for further details.

© 2018 PwC. All rights reserved

Acknowledgement

We would like to specially thank Mythili Bhusnurmath, Senior Journalist, for her valuable contribution on the macro-economic impact of the GST.

I would also like to thank Gautam Khattar (Partner), Deepak Malkani (Partner), Kishore Kumar (Director), Prasun Nandy (Director), Chandana Chandra (Director), Angad Ahluwalia (Manager) and Anubha Aggarwal (Associate) for their concerted effort in the creation of this publication.

pwc.in

Data Classification: DC0

This document does not constitute professional advice. The information in this document has been obtained or derived from sources believed by PricewaterhouseCoopers Private Limited (PwCPL) to be reliable but PwCPL does not represent that this information is accurate or complete. Any opinions or estimates contained in this document represent the judgment of PwCPL at this time and are subject to change without notice. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. PwCPL neither accepts or assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take.

© 2018 PricewaterhouseCoopers Private Limited. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.

SUB/June2018-13394