



Flash on Comments of MoF on the 1st Discussion Paper on GST

The Department of Revenue (DoR), Ministry of Finance ('MoF'), Government of India has released its comments on specific issues outlined in the First Discussion Paper on the Goods and Services Tax ('GST') issued earlier by the Empowered Committee of State Finance Ministers ('EC') in November 2009.

The MoF has re-affirmed the dual GST structure whereby the Centre would levy a Central GST ('CGST') and the States would levy a State GST ('SGST') through multiple statutes. Recommendations made by the EC on input tax credits, uniform procedures for collection of CGST and SGST, tax on tobacco products have been agreed by the MoF.

This flash lists down the key areas where the MoF has differed with view of the EC or have given additional comments on the EC's recommendations.

Rate Structure of GST

The MoF has advocated a single rate of SGST both for goods and services as against a dual-rate GST proposed by the EC. According to the MoF, a two rate structure for goods would pose problems such as likelihood of inversions in duty structure, input credit accumulation, increase in refund claims, higher general rate (RNR) of tax, demand for lower rate on services and continuation of the endemic distinction between goods and services. Of course, the MoF favours a similar single rate of CGST as well.

The MoF has further suggested that the SGST and CGST rates be put out in the public domain much before initiation of legislative action.

Thus the MoF is of the view that there ought to be a single rate of the GST across the Centre and the States and also a single rate across goods and services. This is very welcome.

Base for taxation

The MoF has recommended a common base for taxation between the Centre & States.

Subsumation of existing taxes

Among the State taxes, the MoF is of the view that electricity duty, octroi, purchase tax and

taxes levied by local bodies should all be subsumed under the SGST.

Exemptions

Around 99 items which are presently exempted under VAT may continue to remain exempted in the GST regime. The MoF is of the view that there should be no scope with individual States for expansion of this list even for goods of local importance. Efforts will be made by the Centre to substantially reduce the number of items presently exempted under the CENVAT regime. A common list of exemptions for CGST and SGST should be drawn up.

Taxation of inter-State supplies of goods and services

The MoF has suggested that the Integrated GST (IGST) on inter-State supplies of goods and services should be levied by the Centre. The IGST would be paid to the Centre's account and a mechanism would be put in place for the transfer of funds to the States.

Taxation of alcohol & petroleum products

Alcoholic beverages should be brought under the purview of GST in order to remove the cascading effect on GST paid on inputs such as raw material and packaging material. Sales tax / VAT and State excise duty can be charged over and above GST. A similar dispensation should apply to opium, Indian hemp and other narcotic drugs and narcotics but medicines or toilet preparations containing these substances should attract only GST.

The MoF is of the view that keeping crude petroleum and natural gas out of the GST net would imply that the credit on capital goods and input services going into exploration and extraction would not be available resulting in cascading. Diesel, ATF and motor spirit are derived from a common input, viz., crude petroleum along with other refined products such as naphtha, lubricating oil base stock, etc. Leaving diesel, ATF and motor spirit out of the purview of GST would make it extremely difficult for refineries to apportion the credit on capital goods, input services and inputs. These products are principal inputs for many services such as aviation, road transport, railways, cab operators etc. As such, these may be levied to GST and in select cases



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credit of GST paid on these items may be disallowed in order to minimize the possibility of misuse.

Bringing petroleum products within the GST framework is a very welcome view from a fiscal reforms standpoint.

GST on Imports

Levy of GST on imports may be handled by Centre through a Central legislation either as a customs duty (as is being done now) or along the lines of IGST. SGST collected by Centre may be passed on to concerned State following the destination principle. Taxation of import of services may be on the basis of reverse charge model, as is being done at present.

Threshold & Composition schemes

The threshold for goods and services should be common between the Centre & States on the one hand and between goods and services on the other. The annual turnover threshold could be Rs.10 lakh or more. The threshold exemption should not apply to dealers and service providers who undertake inter-State supplies.

The problem of dual control is better addressed through a compounding scheme as well as administrative simplification for small dealers through measures such as:

- registration by single agency for both SGST and CGST without manual interface
- no physical verification of premises and no pre-deposit of security
- simplified return format
- longer frequency for return filing
- electronic return filing through certified service centres / CAs etc.
- audit in 1-2% cases based on risk parameters
- lenient penal provisions

The Centre may also have a Composition Scheme up to a gross turnover limit of Rs. 50

lakh, if the threshold for registration is kept at Rs.10 lakh. The floor rate of 0.5% will be for SGST alone, in case Centre also brings a Composition Scheme for small assesses. The Centre may consider leaving the administration of the Compounding Scheme, both for the CGST and the SGST, to the States.

Compliance procedures

There should be a uniform registration system throughout the country which will enable easy linkage with the Income Tax database through use of PAN numbers.

Returns pertaining to inter-State transactions will require filing to related Central IGST authority.

Constitutional amendments, legislations and rules for administration of CGST and SGST

The Joint Working Group (JWG) has held several meetings by now. MoF is closely working with Ministry of Law, Government of India, for finalisation of draft Constitutional amendment. The issue of empowering States to levy GST on imports has been deliberated by the JWG and the view which has emerged out of discussion is that the Centre shall collect GST on imports and pass on the SGST component of it to the concerned States based on the destination principle.

Way forward

The comments of the MoF will be the basis for a discussion and a dialogue in the forthcoming meeting between the MoF and EC which is scheduled later this week. It is anticipated that there could be middle ground which will be sought by the Centre and the States on several of these points.

The suggestion of the MoF that the EC must prepare a plan with clear timelines for implementation of GST is very welcome as it will end the uncertainty surrounding the implementation of the GST.

It is hoped that at the meeting later this week between the EC and the FM, a consensus would emerge on the issues highlighted above.



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