

Over 200 days of GST: the road ahead



Foreword

It's been over 200 days since GST came in. Given the magnitude of changes it entailed, it may be premature to pass a verdict on its success, but there is enough to reflect as to 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 200 days of GST, but more importantly, the current opportunities and challenges that stare at businesses as well as 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.

I do hope that you will find this paper 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 Government's proactive approach *p7*



GST in the board room *p9*



2018: the road ahead *p12*



Key policy-related suggestions *p15*



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.

Termed as the ‘one nation one tax’, GST brought with it expectations of free-flowing credits, resulting in 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 GST is expected 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

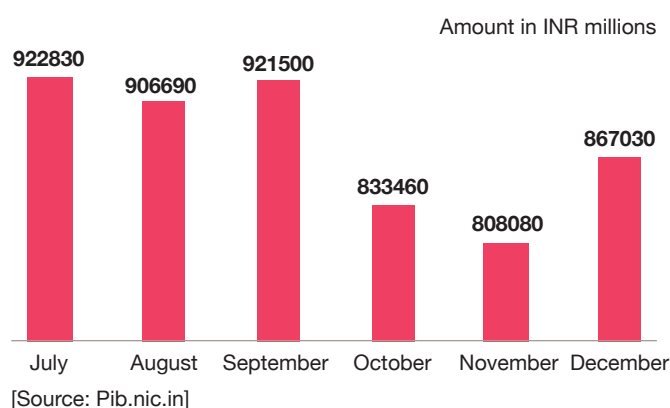
GST was termed as an ‘inclusive’ policy by the US Federal Reserve.

“An aggregate weighted GST of 16% is expected to have a positive impact of 4.2% on India’s GDP and GST of 20% a 3.1% positive effect on it”.



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

In the initial month or so, roll out of GST was smoother than expected, and despite the tax being far from perfect, it can be said to be largely successful. Industry supported it, consumers were confident that it would lead to reduction in prices and the Government was expecting buoyancy in revenue collections. However, as it progressed on its journey, there was a growing realisation of its far-reaching impact. The statistics given below show a dip in revenue collections after the first two or three months of implementation of GST. This is largely due to transitional credits. However, collections have begun to gain momentum from December 2017, which is a positive signal, and it is likely that collections will continue to exhibit an upward trend.



The industry faced various challenges, ranging from new and unique concepts, complex documentation, high rates on certain goods and services to complex or no clear treatment of many common transactions.



Initial challenges

After implementation of the GST, industry has been facing various challenges, ranging from new and unique concepts, complex documentation and high tax rates for certain goods and services to complex or no clear treatment of many common transactions.



A. Technology-related challenges

The GST law prescribes filing of at least three returns every month as well as an annual return. Apart from this, there are other returns such as input credit distributor's return, return to report tax deducted or collected at Secondary research, and so on. The compliance burden was higher than expected, especially for the service industry, which had been generally filing only two returns in a year, and that too at an interval of six months. The additional complexity includes filing of invoice-level data and the matching concept for claiming credits.



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 the 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 rate for goods and services. The Committee was of the view that this should be achieved in a phased manner, as follows:

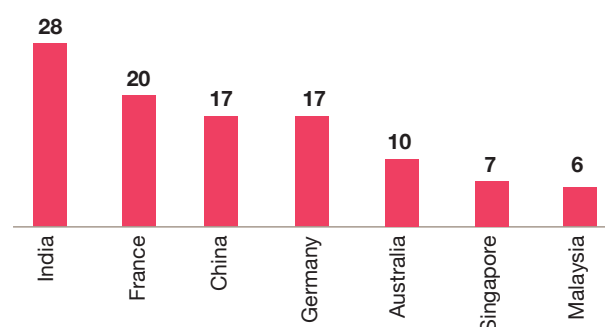
Particulars	Year 1	Year 2	Year 3
Goods – CGST and SGST			
Standard rate	10%	9%	8%
Lower rate	6%	6%	6%
Services – CGST and SGST			
Standard rate	8%	8%	8%

[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 an explicit 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 statistics below indicate

that India has the highest peak rate among the countries that have implemented the GST or VAT.

Peak rate of GST/VAT across select Nations



[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 it has been coined as a 'cess' (which should apply to the tax element), in actuality it is leviable on the base value of goods. Therefore, 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 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 rate on the basis of their value, the special features of the product or service under consideration rather than on their tariff classification. This is a harmonised system of nomenclature that is generally known as the HSN (description). For instance, footwear priced at less than INR 500 attracts a GST rate of 5% and other footwear 18%. A similar logic applies to determine the applicable tax rate for hotel stays (charged on the basis of the published tariff rate), for instance, if the tariff rate is INR 7500 or more per day, GST is payable at 28%, otherwise the rate is reduced to 18% or less). Compared to the global standard, this is a unique and new approach to determine 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 itself, and this has resulted in a great deal of complexity. Additionally, in certain cases, a distinction has been made on the basis of the mode of supply of products, which is unheard of around the world. For instance, in the case of goods procured through e-Commerce, additional compliance 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 item', 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 import

of services between related parties, even without a consideration. The use of a brand name by an Indian entity, which is owned by its overseas entity, is one such example. In many cases, the Indian entity does not pay any consideration to its overseas counterpart for the use of the latter's brand name. The GST law prescribes payment of GST even on transactions that do not involve payment of any consideration. Therefore, not only is payment of tax a challenge, but determination of the value on which GST is payable is equally complex.

Value based classification	Footwear having a retail price of more than INR 500 is taxed at a different rate than those that cost less than said amount
	Articles of apparel and clothing accessories that have a sale value of more than INR 1,000 are taxed at a different rate than those that cost less than said amount
	Cotton quilts that have a sale value of more than INR 1,000 are taxed at a different rate than those that cost less than said amount
	Hotel rooms are taxed on the basis of their tariff rate
Specification based classification	Articles of apparel and clothing accessories are taxed differently depending on the material used to make them for instance, fur, leather
	The rate of tax applicable on electrically operated vehicles is different from other motor vehicles
Status of the buyer	Transportation, catering, Housekeeping, security, cleaning services etc. when provided to an educational institutions are exempt from tax
	Services by way of transport of passengers through a regional connectivity scheme airport, when provided to the Central Government is exempt from tax
	Supply of construction works contract services, when made to the railways and monorail and metro is taxed at a different rate than when such supplies are made to other recipients

[Source: secondary research]



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 applicable for 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. Large businesses are reluctant to make purchases from small unregistered vendors on account of additional compliance-related requirements.





The Government's proactive approach

A pleasant experience on the GST journey so far has been the GST Council's proactive and business-friendly approach in addressing the challenges being 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. Such extensive use of social media by the Government, especially on Twitter, was un-heard 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 in the last one-and-a-half years to address industry's concerns and pain points, and to a large extent provided solutions for their resolution. Some of the important decisions taken at GST Council meetings are listed below:



A. Rate rationalisation

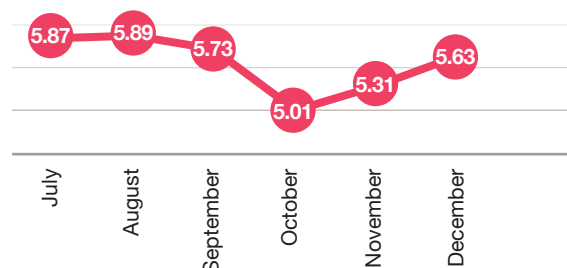
The GST rate applicable for various goods and services has been subsequently rationalised. The number of goods under the 28% tax bracket has been reduced from over 200 goods to almost 50. A special concessional tax rate has been prescribed for precious metals and supplies to exporters (merchant export transactions). Furthermore, the rate applicable for most commonly used items such as furniture, shampoos, chocolates, wrist watches, sunglasses and select electronic items has been reduced. Similar reductions have been made for specified services such as tailoring and construction of metro or mono rail projects.



B. Simplification of compliance-related requirements

In view of the initial glitches encountered in implementation of an online matching system on the GST portal, return filing timelines have been extended multiple times, and eventually, statements reporting procurements and monthly detailed returns have been put on hold temporarily. In view of this, the GSTR Form 3B, a summary return, which was originally introduced as an interim measure, has been extended till the end of the financial year 2017-18. The statistics below indicate a positive growth in compliance after a steep fall in October 2017, which is a positive signal.

GST 3B filing dealers (figures in millions)



[Source: secondary research]

Furthermore, the GST Council has taken a decision to increase the threshold limit under the composition scheme for individuals with an aggregate turnover of INR 15 million, as opposed to the previously stipulated threshold of INR 7.50 million. Compliance-related requirements applicable to dealers opting for the Composition Scheme are substantially less in comparison with those for dealers operating under the regular taxation scheme.

It is expected that compliance-related requirements will be further eased in times to come. The statistics indicate a significant growth in new GST registrations (including dealers opting for the Composition Scheme).

A total of 9.90 million dealers were registered under the GST net till December 2017. Of these, around 1.70 million dealers are registered under the Composition Scheme, generating revenue of approx. INR 4210 million by the quarter ending December 2017.

[Source: secondary research]



C. 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 provisions that put an additional tax and compliance 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 Secondary research provisions applicable for e-Commerce players.

Furthermore, upfront exemption from import GST has been allowed for export-oriented units and software technology parks. And amidst 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.



D. 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 has provided further clarity on the valuation aspect of such transactions.)
- Taxability of hotel services by clarification on what constitutes a published tariff
- Clarification on levy of tax and the rate at which it is levied on various contentious transactions including the cost of petroleum, hostel accommodation provided for students by trusts and rental services for self-propelled access equipment





GST in the board room

Despite some teething problems in managing compliance-related requirements, implementation of GST is seen as directionally positive. As the GST journey progresses, it is clear that this is not merely a tax reform but a reform of the entire business scenario. Due to its multifaceted impact, the GST has become a quintessential topic on the minds of every company's top management. It is seen as an important factor and critical for businesses to remain competitive in the market. The following include some of these aspects:



A. 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 the demand from the public and enhance consumers' confidence in the Government's trade-friendly policies, and ultimately give that much-needed boost to the Indian economy. These measures place a responsibility on industry to consider reducing prices and passing on the net benefits arising from implementation of the GST to end consumers in order to keep inflation under control. In this, the anti-profiteering provisions introduced by the Government (in line with those implemented in countries such as Australia and Malaysia) 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 input tax credits availed by registered persons or reduction in the tax rate have actually resulted in a commensurate reduction 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. Therefore, the thumb rule is 'profit is fine, profiteering is not'. However, despite international experience, the challenges faced in India in implementation of these regulations are manifold.

The Government is of the view that in addition to a legal requirement, passing on GST benefits to end consumers by way of price reduction, 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. Industry believes that 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 the manner in which reduced prices are to be set is causing doubt and apprehension in industry.

While the Government has in principle been encouraging a trust-based approach in implementing most tax and regulatory procedures, an overarching anti-profiteering provision under the GST law without a clear notification on corresponding explicit rules for its implementation could lead to lack of trust between the Government and businesses at this point. The situation is likely to worsen with the recent issuance of notices to a wide spectrum of industries, including Real Estate and FMCG.

Some key concern areas for industry include:

- Lack of clarity on the granularity at which anti-profiteering analysis should be conducted, i.e., at the aggregate company level, or the product family or SKU levels. To elaborate, 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 the consumers.
- In the absence of any prescribed procedures, can a company resort to the methods prescribed under the GST laws of foreign countries such as Australia and Malaysia? 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 on building or modifying 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 from which such reductions are to be made effective.

All these questions remain unanswered till date.

Moreover, perusal of the notices issued to taxpayers does not also provide a clear insight into the anti-profiteering mechanism, but gives rise to additional complications. For instance, if a complaint is received against a particular product, entity-related details

are also required 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 its not reducing the price of a specific product. It will be interesting to see the approach and mechanics the authorities will adopt while disposing of these complaints and notices.

An interesting insight that can be drawn from the notices issued so far is the trend to exclude actual manufacturers and brand-owners from these notices. It is mainly the wholesalers and retailers that have been targeted so far. However, while there is no clarity on whether this will be the practice followed in all cases, it does bring some relief to manufacturers and brand-owners. This may be an indication of the Government's understanding that if goods are already in the trade chain at the time of a reduction of the tax rate, manufacturers or original suppliers have limited control in ensuring that wholesalers and retailers are passing on the benefit to end consumers.

It is now left to industry to move forward in this maze and determine the best possible way to ensure that benefits are passed on to customers, since it seems there will be no recommendations from the GST Council any time soon that will unambiguously address vital and open questions with regard to the anti-profiteering provisions. Needless to say, this may result in arbitrary action being taken and increased litigation, which will adversely affect mutual trust between businesses and the Government.

The recent increase in Customs Duty rates on various products such as mobile phones, smart watches and cars in Budget 2018 will also need to be factored in, since this will have a significant impact on costs.

Industry hopes for clarification from the Government on some of their queries:

- What are the cost components to be considered to arrive at reduced prices to comply with the anti-profiteering provisions?
- What are the documents 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, in order 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?



B. Complicated compliance structure

The GST envisages substantial compliance-related action, including state-wise registration, monthly returns and elaborate documentation.

While measures have been taken to help taxpayers deal with this increased burden by way of several extended return filing deadlines, there is still no clarity on the fate of these compliance-related requirements in the long run.

Even prior to the implementation of the GST, industry was racing against time to configure ERP systems to enable its compliance with the oncoming demanding GST regime. Substantial time and effort have already been expended by India Inc. on this. However, several months after implementation of the GST, businesses have to now prepare for major changes, which will once again require substantial realignment of their ERP systems to make these GST-compliant.

Holistically, for the service sector, implementation of GST-related compliance requirements have been onerous. Large taxpayers such as players in the Telecommunications, Banking and Insurance sectors that were previously allowed to maintain a centralised registration system are now required to seek registration in every state where they have a presence. The demand to continue with centralised registration under GST for these sectors has so far not been acknowledged by the Government.

As far as compliance is concerned, the following are some of the key concern areas for industry as a whole:

- By when will the Government be able to finally decide on compliance-related requirements (revised formats and periodicity)?
- Will the proposed changes result in a significant departure from the present system?
- Will industry get sufficient time to adapt to the changes?
- What will the costs incurred in carrying out such changes? Will industry be allowed to factor in these incremental costs in its anti-profiteering analyses?

“The GST has reduced the complexity of our Indirect Tax regime significantly and is a key milestone in the Government’s efforts to improve ease of doing business in India. Particularly in the automobile industry, it has helped to improve the operational efficiency of our supply chain, resulting in enhanced and streamlined operations. On the execution front, we still have a few teething troubles, particularly in the returns filing process and e-Way bills that should be addressed in the coming days”.

- PB Balaji, Group CFO, Tata Motors



C. e-Way bills

The e-Way bill system under the GST regime replaces the way bills (commonly known as entry/exit permits) that were required under the erstwhile VAT regime in many States for movement of goods.

The way-bill system under the VAT regime has now been replaced with an electronically generated one under the GST regime. The new system stipulates use of a standard centralised form to be issued for inter-state movement, as opposed to the previously applicable state-specific forms. While this is a substantial simplification, the States have still been given the liberty to mandate the requirement of these forms for intra-state movement.

At this stage, many professional and software companies are offering tailor made e-Way bill compliance solutions that are not only user-friendly and fast, but also help businesses significantly in managing their reports and the complex procedure with ease.

However, one of the main objectives of the GST was to enable trouble-free movement, and removal of barriers such as check posts and Entry Tax to bring in efficiency in businesses' supply chains. Keeping this in view, it is being debated whether implementation of e-Way bills defies this purpose. Furthermore, industry is facing practical issues with provisions in this regard, e.g., regarding the validity period and generation of e-Way bills in 'bill-to' and 'ship-to' cases.

Some issues worth mulling over are detailed below:

- Can the option of generating e-Way bills through integration of ERP be explored?
- Would it be easier if the responsibility to obtain e-Way bills is only assigned to only one party, i.e., either the buyer, the seller or the transporter in all cases instead of the option being left open and creating confusion?
- Should a single e-Way bill be allowed to be generated in the event of multiple invoices being transported in a single vehicle?

"The Government needs to be appreciated that the GST, a complex reform, was implemented in 11 months from passage of its Constitution Amendment Bill. There was hardly any business disruption in the first month and the Government has been receptive to industry issues. The performance of the GSTN was the biggest challenge and we expect that this will be streamlined at the earliest. The GSTN, the e-Way bill and anti-profiteering are the areas the Government needs to simplify".

*- Prashant Bhatnagar
Associate Director, Procter & Gamble India*

"The GST Council has been receptive to challenges faced in the Transportation and Logistics sector in terms of unregistered dealers, by simplifying compliance-related requirements, exempting export freight for a specified period. etc. Transition to the GST had its fair share of disruption for this sector, the recent one being the introduction and withdrawal of the national e-Way Bill".

*- Vaun Dhawan
Head of Taxes, India, Deutsche Post DHL Group*

- Should the requirement to issue multiple e-Way bills for a single movement pursuant to multiple supply-related transactions (e.g., under the bill-to-ship-to arrangements) be removed?
- Is there expected to be standardisation in e-Way bill-related requirements to align Central practices with those followed by the states?

The Government has justified its decision to implement e-Way bills, citing the need to monitor movement of goods, to tackle evasion and plug revenue leakage.

The last-minute challenges faced by industry in generating e-Way bills on the first day, 1 February 2018, has led to the Government deferring implementation of the system for the time being. However, several states have mandated issuance of e-Way bills for movement of goods. This has led to divergent practices across states and between the Centre and the states.

It has now been announced that the e-Way Bill for inter-state transactions will be implemented from 1 April 2018 and for intra-state transactions thereafter. This will give industry adequate time to prepare for the transition.



D. Efficiency of taxes

Another issue that is an outcome of the GST is the need for industry players to conduct internal re-alignment in order to achieve tax efficiency.

The GST requires calibration of supply chains because of working capital blockages that may occur under several circumstances, e.g., the provision for levying tax on stock transfers, which were previously not liable to tax. While tax so paid is available as a credit to the recipient in the destination state, the GST creates a working capital blockage. In order to avoid this, alignment of supply chain efficiencies is imperative.

Similarly, to achieve tax efficiency, companies are revalidating their marketing and promotional schemes as well as supply of free of cost goods and services.



The year 2017 was eventful and the GST journey has been a sort of a roller coaster ride. As the largest tax reform the country has witnessed since Independence, it became a hot topic of discussion everywhere.

Despite the initial teething issues, the move towards the GST regime will undoubtedly be a catalyst in achieving the Government's stated agenda of bringing in ease of doing business in India.

The Government's recent proposal to simplify GST-related compliance and reporting requirements and rationalise the tax rate structures of a wide range of products and services corroborate the pro-business mindset of the Indian polity at this juncture.

In realising this over-arching goal, the collective efforts of the Central and state governments in learning from the international GST experience and putting these into practice are worth applauding.

As a step forward, the Government should now focus on simplification of processes and remove ambiguity about widely debated tax issues to ensure a painless experience for India Inc. At the same time, it is incumbent on businesses to quickly adapt to these changes and support the Government in making the GST a success story in India.

The following are some of the areas on which the Government should focus to bring further ease of doing business to India Inc.

"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 and pure electric vehicles. 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*

"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 & Whole time Director, DLF Ltd*



A. Expansion of tax base

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

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

The states are also concerned about protecting their revenue from levies including Stamp Duty, registration charges and Property Tax levied on real estate, and are justifying exclusion of Real Estate from the GST net.

With the input for these goods and sectors being subject to the GST and the output outside its coverage, the tax structure applicable to these goods and sectors (and compliance-related requirements) has become both cost-inefficient and complicated.

The year 2018 may see the expansion of the tax base in India with Real Estate and petroleum products being brought under the ambit of the GST. There are already representations for inclusion of industrial fuel such as natural gas and ATF under the GST. The real bottleneck in covering petroleum products under the GST is in building a consensus among the states. This is a daunting task. However, in the absence of constitutional limitations, the inclusion of this sector under the aegis of the tax is only a matter of time—till the states are assured that they can maintain their tax revenue collections intact. The inclusion of Real Estate under the GST may however be more difficult and require a constitutional amendment.

To effectively deliver the promise of a 'one-nation-one-tax' economy, it is likely that inclusion of these items will be on the Government's agenda.



B. Pruning of tax rates

Currently, there are essentially four tax brackets – 5%, 12%, 18% and 28%. The standard rate for the majority of goods and services is 18%, and 28% for 'luxury' or 'sin' goods and services.

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 items under the 28% bracket, the Government should also consider reducing the rate from 28% to around 20%-22%. Another simplification that can be considered is clubbing the 12% and 18% bracket at a more reasonable rate ranging between 14% and 16%.



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

A vital part of the GST model is linking of buyer and seller invoices to determine tax liability and facilitate flow of input tax credit seamlessly through the value chain. Accordingly, the GST law originally provided for monthly filing of outward supply statements with invoices for B2B supplies. The disclosures in this statement were subsequently to be validated by the buyers when they file their inward supply statements. And finally, the tax liability statement (i.e., the GST returns) was 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. In view of this experience, the return-filing process on the GSTN is likely to go through a revamp soon.

Furthermore, removal of onerous documentation procedures such as a letter of undertaking in the case of GST-free exports would give some respite to the already struggling exporting community. Moreover, returns should be simplified as far as their matching the concept for claiming credits is concerned. The table below provides current return-related requirements vis-à-vis one of the proposed options that is currently being explored to simplify the process:



S.No.	Present	Proposed
1	Seller to upload invoice level details in GSTR-1 on a month to month basis	Facility for real time uploading of invoices— which should be de-linked with GSTR-1
2	Buyer to download invoice details in GSTR-2A	Buyer to have the option to either view or download invoices uploaded by supplier
3	After downloading GSTR-2A, buyer being liable to reconcile these to claim credit, and reconciled return to be filed in form GSTR-2	Eligibility for credit to be linked with invoices being uploaded by suppliers
4	Both buyer and seller to file GSTR-3/3B to claim credit and assess tax liability	Both buyer and seller to file GSTR--3B after claiming credits
5	Mismatch in report to buyer and seller— buyer to reverse input tax credit with interest in the event of a mismatch beyond a prescribed period	No reconciliation as per GSTN—taxpayers to conduct reconciliation offline



D. Tax administration

Digitalisation of the Indian economy has been a priority on the Government's agenda and plays a vital role in all of its endeavours, including in its implementation of the GST. The law provides for online filing of registration applications, returns, refunds and all other compliance-related requirements. Therefore, it is imperative that the GST is supported by a sound digital backbone. This is where the GSTN comes in. As widely propagated, the GSTN is a world-class system that is capable of maintaining a large variety of data, including invoice-related details of all taxpayers.

In coming years, it will be interesting to see how the Government uses such granular data to its benefit to minimise tax evasion.

For an efficacious tax administration, the option of consolidating the Direct and Indirect Tax Boards could also be explored.



E. Legislative changes

Like any momentous reform, the GST also suffers due to ambiguities and loopholes that came to light only after its implementation. Some of its provisions seem to contradict the objectives with which these were brought into play.

For instance, goods imported into a Customs bonded warehouse and subsequently sold to a customer in the Domestic Tariff Area (DTA) attracts dual levy of tax. This appears to be unintentional, but it is imperative that necessary changes in law are made soon to address this issue.

Similarly, the provision relating to taxing of transactions (service to self) between branches of the same entity in India and overseas are likely to see amendments in the near future.



F. GST public forum

The Government may also consider constituting a 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 businesses and the GST authorities meet to discuss how implementation of the legislation can be improved in practice.

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

“It is expected that the GST Council will bring taxation of transport and logistics at par with global practices, i.e., zero rate export freight on an ongoing basis along with incidental services, clarity on place of supply provisions, stabilise GSTN and simplify GST compliance, allowing this sector to use a single number for e-Way bills on an all India basis”.

- Vaun Dhawan, Head of Taxes, India, Deutsche Post DHL Group



Key policy-related suggestions

GST law is evolving day by day, but in view of its far-reaching impact, the Government needs to take a structured approach to target problem areas and take some policy-related decisions to solve the issues detailed below.



A. Alignment with global principles

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

Furthermore, even from the standpoint of documentation, Indian law has requirements that are different from what is followed globally, for instance, the need to obtain a letter of undertaking for execution of exports.

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



B. Flexibility in the GSTN

The GSTN is indispensable in India's GST journey, but there is very little flexibility offered to users. For instance, there is no option to set off excess tax paid by an entity holding the same PAN under one registration vis-à-vis another registration in a different state. The network does not allow filing of returns for a subsequent period till the previous period returns are filed and the penalty, if any, is paid. Recently, some companies have gone to Court to seek relief in such cases. Resolution of these and implementation of changes on a simple and easy-to-use online portal is therefore imperative for the success of the GST in India.



C. Minimisation of tax-related disputes

One-time dispute resolution schemes were introduced under the erstwhile regime, but industry has been rigid about adopting such measures for various reasons. In this scenario, the Government should seriously look at business-friendly measures to put to rest long pending litigations.

In addition, it needs to focus on strengthening the Advance Ruling process to ensure minimal litigation under this new and improved tax regime, and ensure that the state authorities do not take differing views on the same issues.

Moreover, while the Government has been fairly quick in issuing FAQs and responding through Twitter, there is no legal sanctity afforded to such means of communication. For the sake of certainty on the tax position, it is therefore important for it to effect requisite legislative changes wherever required and issue requisite clarifications officially to put various contentious issues at rest.

In Union Budget 2018, the pre-consultative process was introduced under Customs law. Similar provisions should also be implemented under the GST.

Additionally, there is a need for a mandate to ensure that disputes under the GST are closed in a time-bound manner.



D. Focus on administration

Another important policy-related aspect that the Government should focus on is structuring of the tax administration. The process of issuance of notifications needs to be streamlined and that these are released in time, giving industry adequate time to implement the changes.

Furthermore, measures need to be taken to ensure consistency in the approach followed by tax officers across jurisdictions. For example, it is now become clear that the parameters used to evaluate eligibility of Tran-1 credit vary across jurisdictions.

In summary

Implementation of the GST is truly a remarkable achievement for India and all the stakeholders, and the Government, Industry and Consumers deserve to be applauded for this.

It's now time to consolidate and let the regime stabilise, while continuing to explore structural changes to bring it closer to what we had all visualised.

We hope the wealth of experience garnered by the Government and industry over more than 200 days will make GST 2.0 a much improved version of GST 1.0.

[illegible]

Notes

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

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/February2018-11963