GST Model Law— A Significant Way Forward

The much awaited "Model GST law" has now been made available in public domain to help us understand the nuances of the proposed GST law. Professionals at large and Industry experts have a unique opportunity to make representations, suggest changes, contribute with their expertise in evolving a new law, which will be a game changer in the history of independent India. Implementation of GST would also bring many professional opportunities for Chartered Accountants, in addition to their playing a key role during transition from existing regime to new GST regime. Read on to know more...

Implementation of GST in India would integrate a large number of taxes into one single legislation while minimising the cascading effect of taxes, making available tax credits across the chain (other than the 5 petroleum products), development of a Common National Market and making Indian products and services more competitive in the global market. A 'Dual Rate Structure' consisting of CGST [Central Goods and Services Tax] and SGST [State Goods and Services Tax] would be applicable on all transactions involving supply of goods and/or services within a State. The Inter-State transactions of Goods and/or Services would be taxed vide IGST model.

As the 122nd Constitution (Amendment GST) Bill, 2014 awaits a green signal from the Upper House or the Rajya Sabha, the release of Model GST Law on 14th June 2016 has raised hopes of GST implementation in India by 1st April 2017 though there are many seen and unseen challenges other than passing of the bill. Considering that this is a landmark legislation, likely to be passed in the

(Contributed by Indirect Taxes Committee of the ICAI. Comments can be sent to idtc@icai.in)

Monsoon Session, we need to analyse the GST Model Law and understand the provisions.

General

The Model GST Law right from the start of the definitions till the end, indicates that it is an amalgam of the old laws cumulated as required to cover all types of real situation. Many of the concepts have been well settled in the earlier indirect tax laws such as central sales tax, central excise, customs, service tax and some VAT concepts. This may avoid disputes as there would be clear precedents.

Levy, Taxability and Registration

The taxable event under GST regime would be supply of goods and/or services. Supply, it appears, is all encompassing and here it would include all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration. It also provides for cases where even though ***consideration is not present such transactions would also be liable to tax such as*** importation of service.

GST Model Law provides that a person carrying any business in India and registered under this Act would be liable to pay taxes if the **aggregate turnover** in a financial year exceeds ₹10 lakhs (earlier expectation was ₹25 Lakhs) whereas the threshold limit for the North Eastern States including Sikkim has been pegged at ₹5 lacs. There could be challenges for those centrally registered service tax assessees.

Time & Value of Supply

The liability to pay CGST/SGST would arise at the time of supply (including supplies taxable on reverse charge basis) which shall be earliest of one of the following events:

- removable goods and non-removable goods on delivery to the receiver; or
- issuance of invoice, or
- receipt of payment, or
- receipts reflecting in books of accounts of recipient/bank statement, or

in case of continuous supply of goods (to be notified based on the recommendation of the Council) where successive payments/statements of account are involved the time of supply shall be the date of expiry of the period to which successive payments/statements of accounts relate to. The relevant provisions also speak of certain classes of supplies where the time of supply has been stipulated in section 12.

Services

In case of change of rate in respect of supply of services the present Point of Taxation Rules, 2011 may be considered *mutatis mutandis*.

It may be noted here that under the proposed law the tax needs to be paid on advances received against goods which was not the case under existing Excise/VAT laws. This principle is also against the revenue recognition standards applicable to financial statements and may require a revisit.

Valuation

The value of supply of goods & services would be price actually paid/ payable for a transaction between unrelated parties with price as a sole consideration. Where the price is not influenced due to the relation, then that value would be accepted. The various methods have been prescribed for valuation, if transaction value is tainted. The options are transaction value of goods or services of like kind; computed value and residual method. If value cannot be determined as per these, then the value shall be determined using reasonable means consistent with the principles and general provisions of these Rules.

Input Tax Credit

Every registered taxable person is entitled to avail credit of tax paid on inputs, input services and capital goods provided goods and/or services have been received and tax has been deposited by the supplier with certain other conditions being satisfied. The restriction of receipt of goods and/or services is a paradigm shift from the present law.

It is important to note that time limit of one year is provided for taking the credit. Credit needs to be

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taken by the month of September following the end of financial year to which the credit pertains.

TDS: The Central or a State Government may mandate certain departments (viz, local authority, government agencies) to deduct tax (TDS) at the rate of 1% on notified goods or services, where the total value of such supply, under a contract, exceeds ₹10 lakhs. This is a concept borrowed from the VAT law where compliances were very poor across India as these entities have not been used to compliances and may not be having high accountability.

TCS: Further, every E-commerce operator engaged in facilitating the supply of any goods and/or services (aggregators like Amazon, Flipkart, etc.) shall collect tax at source (TCS) at the time of credit or at the time of payment whichever is earlier. The GST collected by e-commerce players would be paid to the government within 10 days after the end of the month in which collection was made.

GST Compliance Rating

Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act. The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in public domain.

Transitional Provisions

The transitional provisions for registration, transfer of credits, overlapping transactions, goods lying at job-workers premises, pending refund claims, litigations assessments, etc., goods in transit or pending approval, taxable person switching to composition scheme, exempted/dutiable goods returned, inputs/semi-finished goods/finished goods removed for job work & returned, long term construction/works contracts, retention payments, branch transfers and more have also been provided for. It's indeed worth noting that the ICAI's report ***"Discussion Paper on Key Transitional Issues in Proposed GST Regime"*** has been partially considered in Chapter XXV on Transitional Provisions.

The IGST Act

This Act provides for the determination of the principles for the supply of goods and/or services in the course of interstate trade or commerce.

Members in practice can look at avenues in the areas of GST implementation, systems study, optimisation of taxes, engage in study of selling and distribution patterns/chains, impact analysis, purchase/sales patterns, contract vetting, impact analysis etc... Apart from these activities a professional can also think of compliances, development of a GST Manual, accounting/transaction advisory/representation services.

A supply of goods and/or services is said to be in the course of inter-State trade or commerce where the location of supplier and the place of supply are in different States. This condition is however subject to change in certain cases such as in a situation where– a) no movement of goods/services are involved; b) when goods are assembled/installed at site or when goods are taken on board a conveyance, etc.

A supply of goods and/or services is said to be intra-State Supply where the location of supplier and the place of supply are in the same State.

Professional Opportunities

Implementation of GST would bring many professional opportunities in addition to playing a key role during transition from existing regime to new GST regime. The CAs can provide services like undertaking various audits under the law, filing of returns, helping the assessees with assessments & litigations etc. Advent of GST would bring in new venture areas of practice and consultancy for members in practice as well as in industry. Members in practice can look at avenues in the areas of GST implementation, systems study, optimisation of taxes, engage in study of selling and distribution patterns/chains, impact analysis, purchase/sales patterns, contract vetting, impact analysis, etc. Apart from these activities a professional can also think of compliances, development of a GST Manual, accounting/transaction advisory/representation services.

Conclusion

This article provides a bird's eye view or an insight into the proposed law and does not delve deep into the proposed provisions nor examine the issues.

Please provide your comments/suggestions to Indirect Taxes Committee at its website www.idtc.icai.org. ■

You can't change how people treat you or what they say about you. All you can do is change how you react to it. - Mahatma Gandhi