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## EDITORIAL

## GST ADMINISTRATION - A SUGGESTIVE SYSTEM



Convener National Economic Forum, Former Chairman BoS and Member Central Council Institute of Chartered Accountants of India

The Union Finance minister, Sh. Arun Jaitley, his team, GST council and all state Governments are to be congratulated for resolving most of the issues in the draft SGST and CGST bills, which have been sent for review by law ministry.

The contentious issue of administrative control can also be brought to a mutually acceptable consensus. The following may be considered in this regard :

1. The GSTN system including its creation, up-dating, up-gradation, maintenance and supervision should be the responsibility of Central Government. This will include entire network, computer nodes, hardware and software to be used at all levels by all stakeholders. This can also be available in different regional languages. The GSTN portal should be so developed so that all stake holders can use the software to meet all filing and reconciliation need and are not required to depend on costly hardware or software or technical support.
2. The Ground level VAT administration including in respect of CST was always with respective State governments and can continue to be the same way. All existing central Government revenue officials and their team can be transferred to State government roles to be submerged administratively and to supervise the junior levels. The State Government senior officials can also be part of same designation levels as may be equivalent.  
 Excise duty is an important levy and supervision of manufacturing sector as specialised experience will also be with entire team. This could be a system similar to the police department, where IPS officers administratively report to the State government under same supervision from the Home ministry.
3. The entire team at state level should be functionally responsible to Central as well as to State government. The administrative control can vest with the State. The Central government can have powers of transfer, promotions of all the Central Government revenue officials from one state to another and the GST council

can also define their role and responsibility at various levels.

4. The entire cost of the manpower at the Central and the State government can be shared in an equitable manner (may be in the ratio of revenue earned).
5. Administrative Guidelines:

The law should clearly define administrative and functional guidelines for officers and employees at various levels. There should be one team and not two teams as per law and rules, guidelines and administrative instructions issued thereunder, as may be amended by GST council from time to time, should ensure:

- No visit to tax payer or their premises under any circumstance, except for search duly authorised electronically not at a level below 2nd level of management
- 100% electronic interface between department and taxpayer- registration, returns, assessment, review, rectifications, refund, rebate, amendments, payments, surrender of registration and grievances handling
- No inspector or physical inspection of any kind at the premises neither of taxpayer nor to call for physical records at the department.
- A Comprehensive GST Audit Report by Chartered Accountant Tax Audit report under Section 44AB of Income Tax Act can be included as two separate portion. This will help comprehensive 360° review. Least additional cost to the taxpayer. Reconciliation of GST returns with the financial statements and comprehensive GST reporting, duly verified from the books of accounts by the auditors.
- To ensure no Audit is undertaken by GST officials under any circumstances. In complex or deserving cases special Audit by Government appointed CAs can be undertaken, fee to be paid by the Government.
- All returns are to be accepted as it is. In sample scrutiny cases (1% or less), all questionnaires are to be sent and responded electronically. Similar to Income tax law, as being implemented.

*contd . pg3 ...*

**LATEST IN FINANCE****1.0 New Government Incentives**

- Two New schemes under PM Awas Yojna to provide 4% interest waiver on loan of upto Rs. 9 lacs and of 3% on loan upto Rs. 12 lacs
- 3% interest waiver on loan upto Rs. 2 lacs for houses in rural india
- Government to pay interest for 60 days on loans taken by farmers for rabi season
- Banks to raise cash credit limit to small business to 25% from 20 % of annual turnover
- Government to stand guarantee for loans upto Rs. 2 Cr from current Rs. 1 Cr to SMEs - No collaterals needed
- 8% assured interest on bank fixed deposits of upto Rs. 7.5 lacs for 10 years for senior citizens

**2.0 New home loan product**

SBI will give home loan at a fixed rate of 8.50 per cent for two years. After the two-year period, the loan will be linked to the Marginal Cost of Funds-based Lending Rate (MCLR), with the current spread being maintained.

**3.0 Central bank eases working capital lending norms for MSEs- to ease constraint in cash flow**

A notification on RBI's website said, "Accordingly, banks are hereby advised that they may use the facility of providing above 'additional working capital limit' (approved by their boards as above) to their MSE borrowers, to overcome the difficulties arising out of such cash flow mismatches also."

The notification states that this would be a one-time measure that will remain in force up to March 31, 2017. Thereafter, lending must be normalised in the subsequent working capital assessment cycle.

**4.0 Norms eased for makers of biologic products**

India's drug regulator has eased licencing norms for vaccine and recombinant-DNA manufacturers in a move expected to promote research and development of new drugs in the country. According to CDSCO's latest decision, State Licencing Authorities will issue 'Form 29' licences to vaccine and r-DNA makers within three working days of them submitting their application.

**Cyber Security threat**

Botnet is a network of malicious software's that can steal information, take control of device function and carry out cyber attacks like distributed denial-of-service that prevent access of websites.

**5.0 RBI amends guidelines for corporate PPIs**

The Reserve Bank of India allowed banks to issue Prepaid Payment Instruments (PPIs) to unlisted firms and public bodies. Only listed companies could avail this facility earlier. Banks can offer the PPI facility to only those organisation that have an account with them and after obtaining an undertaking that they are not availing of the facility from any other bank.

**6.0 Government targeting houses for 44 lakh people with Power, Water, LPG**

Under the Pradhan Mantri Awaas Yojana (Gramin) or PMAY, the Centre will directly transfer about Rs 1.30 lakh and Rs 1.50 lakh in accounts of the beneficiaries staying in plain areas and hilly areas respectively. This is in addition to 6.5% interest subsidy upto Rs. 6 lacs loan for 15 years to Economic Weaker Section (EWS) - income upto Rs. 3 lacs p.a. and Low Income Group (LIG) - income upto Rs. 6 lacs p.a.

**CORPORATE LAWS****1.0 Companies Act provisions for striking off company names notified**

Registrar of Companies has to give at least a month's time to the parties concerned before striking off the name from the register of companies, according to norms issued by the government. The provisions related to power of registrar to remove name of a company from register of companies have been notified.

**2.0 Service charge by hotels & restaurants not must**

Service charge on a food bill is not compulsory and a customer can pay only if satisfied with the experience.

**3.0 Firms can now enrol staff under EPF amnesty scheme**

Firms and establishments that have not registered their employees under the Employees Provident



## EDITORIAL

### GST ADMINISTRATION...

6. A Central team can be constituted by the advice of GST Council to monitor interstate movement of goods and their proper tracking in GSTN.
7. Regular MIS to all Central and State governments.
8. Full access to GSTN Network and information to Central Government, State government and GST Council for transparency.
9. SGST collection to be managed by state Government and IGST as well as CGST should be the responsibility of central treasury, including compensation and reconciliation.

Scheme (EPS) 1952, on or after April 1, 2009 and are required or entitled to become members before January 1, 2017, will be given amnesty and will have to pay a token fine of only Re 1 after filing a declaration, the Employees Provident Fund Organisation (EPFO) has said.

## ACCOUNTING / AUDIT

### 1.0 Auditor rotation: House panel suggests relief for private firms, subsidiaries of foreign companies

The standing committee felt "justifiable relief" was necessary for private companies and subsidiaries of foreign companies as only 1.6 per cent of total number of unlisted companies are required to rotate their auditors as per the criteria prescribed under the Companies Act 2013. ICAI Recommendation as per the committee will now be crucial.

### 2.0 ICAI asks government to put in place transparent auditor selection process

The Institute of Chartered Accountants of India (ICAI) has asked the government to put in place a more transparent process in selecting auditors in banks. The chartered accountants' institute had also suggested that the Banks Board Bureau should frame norms for appointing the central statutory auditors.

### 3.0 Adding accruals: Indian Railways accounting changes track

The Indian Railways will soon switch from cash to accrual-based accounting. The national transporter has engaged ICAI, the apex body of chartered accountants, to handhold, guide and

10. Compliances, Procedures and reforms to be kept very low initially for ease of doing business and to meet standard of high integrity. Based on experience, new/revised mechanism can be brought in place to curb any misuse.

The entire State government GST machinery can be supervised for vigilance, revenue leakage, corruption and harassment by Central Government appointed CBI, Department of Revenue Intelligence, Economic Offence wing of State police and Vigilance Team of State government. The GST council and its secretariat at New Delhi to work in close coordination with Department of Revenue- Central Board of Indirect Taxes, Government of India regularly.

prepare a Management Information System (MIS) for the same.

The reforms will focus on right costing and right pricing and would enable provision of improved services, stronger financial health and a healthy operating ratio. The move will help in determination of true cost of services and online availability of costing data, which will lead to enhanced transparency.

## INDIRECT TAXATION

### 1.0 Service-tax can't be levied on receipt of share in common expenses

The Supreme Court of India held that Where two assessee, namely, 'GSFC' and 'GACL' received acid through common pipeline from Reliance Industries and said acid came first to premises of 'GSFC', where handling facilities were installed, and from there it was shared between 'GSFC' and 'GACL' in ratio of 60:40 respectively and further by an agreement handling facilities expenditure was shared equally by both parties, payment of handling expenditure which was made by 'GACL' to 'GSFC' was share of 'GACL' and it could not be treated as common service provided by 'GSFC' to 'GACL' in order to levy service tax upon 'GSFC'.

*Gujarat State Fertilizers & Chemicals Ltd. v. CCE [2016] 76 taxmann.com 357*

### 2.0 UP entry tax on E-commerce stayed

In a reprieve for e-trailers, the Allahabad High Court has stayed the levy of entry tax on goods purchased on e-commerce portals for personal use or consumption of individuals.



## GST Bill- on the move

### Important Changes

It is welcome that the revised Bill makes it clear that the supply of goods without consideration would not be liable for GST, except in specified transactions. The new draft includes scope for 'Composite' and 'Mixed' supply. It is notable that the revised definition of 'Goods' now specifically excludes securities.

More importantly, the anti-profiteering mechanism in the new draft has hugely added to the paperwork and reporting requirements and also widen the very scope for disputes, charges and harassment. Instead of mandating and insisting that producers, pass on reduced tax rates to consumers, it would usually make better sense to rely on the market mechanism and fair competition. Reportedly, no other jurisdiction has such a draconian anti-profiteering provision in the GST law.

S&P Global Ratings said demonetisation and a likely GST rollout from September 2017 are likely to cast a "higher disruptive impact" on informal, rural, and cash-based segments of the economy.

### Agreed upon by GST Council

#### Draft model GST bill

- (1) Except division of administrative turf between centre and states.

#### Compensation bill

- (1) Base year will be 2015-16
- (2) Compensation to be paid every two months for first five years

### For Next Meeting

#### Division of administrative turf between centre and states

- (1) States want sole control over assesses up to Rs. 1.5 Cr annual turnover; sharing turf with centre above that

#### Integrated GST bill

- (1) Issue of whether states can control assesses with Inter-State supply
- (2) Constitution amendment bill empowers centre to collect IGST and distribute shares among states
- (3) States and Centres to mull on who will get taxes for sale of goods within 12 Nautical miles of the sea coast's
- (4) Committee of officers working on segment wise GST rates

### What Next

- (1) Central and State GST laws to be legally vetted
- (2) Draft law will be sent to States for final views
- (3) Legally vetted law to be put up before council for final endorsement
- (4) Parliament and State Assemblies to approve the law
- (5) IGST and administration issues to be taken up

### GSTN on track to get taxpayers on board

Despite uncertainty over the GST roll-out, the information technology backbone GST Network (GSTN) has initiated the process to migrate over eight million taxpayers on its system.

It will be compulsory for dealers, with a turnover of more than Rs 20 lakh, to register with GSTN, and those with over Rs 10 lakh in northeastern and hilly states

### Council may reduce tax slabs in future

The Goods and Services Tax (GST) Council may, in future, decide to reduce the tax slabs under the GST regime after analysing the revenue garnered and the compensation payouts to states with industry demanding lowering of proposed GST rates of five per cent, 12 per cent, 18 per cent and 28 per cent after demonetisation.





## FDI - REVISED NORMS

### 1. Agriculture & Animal Husbandry (100%) - Automatic Route

- a) Floriculture, Horticulture and Cultivation of Vegetables & Mushrooms under controlled conditions;
- b) Development and production of seeds and planting material;
- c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, Apiculture; and
- d) Services related to agro and allied sectors.

Note: Other than the above, **foreign investment is not allowed in any other agricultural sector/activity**

### 2. Manufacturing (100%) - Automatic Route

A manufacturer is permitted to sell its products manufactured in India through wholesale and/or retail, including through e-commerce without Government approval. Notwithstanding the foreign investment policy provisions on trading sector, 100% foreign investment under Government approval route is allowed for trading, including through e-commerce, in respect of food products manufactured and/or produced in India.

### 3. Defence (100%) - Automatic route upto 49%, Government route beyond 49%

Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951; and Manufacturing of small arms and ammunition under the Arms Act, 1959

### 4. Broadcasting Carriage Services (100%) - Automatic Route

### 5. Cable Network (100%) - Automatic

Infusion of fresh foreign investment, beyond 49% in a company not seeking license/permission from sectoral Ministry, resulting in change in the ownership pattern or transfer of stake by existing investor to new foreign investor, will require Government approval

### 6. Airports (100%) - Automatic

- (a) Greenfield projects
- (b) Existing projects

### 7. Single Brand Retail trading (SBRT) (100%)

Automatic route upto 49%, Government route beyond 49%

#### Conditions

- a. Products to be sold should be of a 'Single Brand' only.
- b. Products should be sold under the same brand internationally
- c. 'Single Brand' product retail trading would cover only products which are branded during manufacturing.
- d. In respect of proposals involving foreign investment beyond 51%, sourcing of 30% of the value of goods purchased, will be done from India, preferably from MSMEs, village and cottage industries, artisans and craftsmen, in all sectors.
- e. A single brand retail trading entity operating through brick and mortar stores, is permitted to undertake retail trading through e-commerce.

### 8. Pharmaceuticals

Greenfield (100%) - Automatic

Brownfield (100%) - Automatic upto 74%, Government route beyond 74%

#### Conditions

- a. The production level of National List of Essential Medicines (NLEM) drugs and/or consumables and their supply to the domestic market at the time of induction of foreign investment, being maintained over the next five years at an absolute quantitative level.
- b. Research and Development (R&D) expenses being maintained in value terms for 5 years at an absolute quantitative level at the time of induction of foreign investment.

Note :Foreign investment up to 100% under the automatic route is permitted for manufacturing of medical devices



## TEXTILE / GARMENTS SPECIAL INCENTIVES

### 1.0 Cabinet approves sops to boost 'made-ups' sector

- Technology Upgradation Fund Scheme (TUFS) subsidy of additional 10 per cent similar to what is provided to garments based on the additional production and employment.
- Providing additional 3.67 per cent share of employer's contribution in addition to 8.33 per cent already covered under the scheme for all new employees enrolling in EPFO for the first three years of their employment as a special incentive.
- Enhanced duty drawback on exports.
- Permissible overtime has been increased to 100 hours per quarter
- EPF has been made optional for employees earning less than 15,000 a month.

### 2.0 Labelling norms for loose garments relaxed

Garments manufacturers do not need to follow the labelling and packaging norms applicable for packaged commodities such as consumables.

### 3.0 Duty drawback benefit extended for home textile

In a boost to the home textile segment, the government has extended a five per cent duty drawback benefit to the made-ups (including towels, bedsheets, curtains, decorative cotton products, etc) sector.

The package includes similar measures given to apparel. Such as additional 10 per cent subsidy under the Technology Upgradation Fund Scheme, additional contribution under the Pradhan Mantri Rozgar Protsahan Yojana and Rebate of State Levies.

## DIRECT TAXATION

### 1.0 India, Singapore rework tax treaty to curb evasion

The amendment, which is in line with the revised pacts with Mauritius and Cyprus, would allow India to levy capital gains tax on investments coming from Singapore from April 1, 2017.

#### 'Grandfather' clause

It provides for source based taxation of capital

gains arising on transfer of shares in a company. All investments before this will be grandfathered for a period of two years that is till March 31, 2019. During the two-year transition period between 2017 to 2019, capital gains tax will be imposed at 50 per cent of the prevailing domestic rate on shares, subject to the Limitation of Benefits (LOB) article.

#### Withholding tax on interest payment

Withholding tax applicable on interest payments made (on the fixed income business side) to Mauritius entities stand at a beneficial rate of 7.5 per cent, much lower than the existing 15 per cent level for Singapore and Cyprus.

### 2.0 New deposit declaration scheme

Pradhan Mantri Garib Kalyan Yojana (PMGKY), 2016, has started on December 17 and will remain open until March 31 next year. Those who declare cash deposits under this will be levied a charge of 50%, which breaks down into 30% tax, 33% surcharge and 10% penalty. In addition to this, 25% of the amount declared will go into the non interest-bearing Pradhan Mantri Garib Kalyan Deposit Scheme, 2016, for four years.

### 3.0 CBDT extends deadline for tax settlement scheme till Jan 31

The offer to settle the disputes was to end on December 31, but it has now been extended till January 31, said the Central Board of Direct Taxes (CBDT). The Direct Tax Dispute Resolution Scheme seeks not just to settle disputes in retrospective taxes, but end nearly 2.6 lakh pending cases where Rs. 5.16 lakh crore are locked in.

The scheme provides for waiving interest and penalties if the principal amount involved in retrospective tax cases is paid. For disputes other than the retrospective tax cases, taxpayers, whose appeal is pending as on February 29, 2016 before the CIT (Appeals), can settle cases by paying the disputed tax and interest up to the date of assessment. For a disputed tax amount of up to Rs 10 lakh, the penalty will be forgone. In cases where the disputed tax amount is above Rs 10 lakh, a penalty of 25 per cent will be levied. For penalty appeals, the scheme allows the assessee to pay only 25 per cent of the penalty.



The Scheme also covers cases whose even penalty appeal is pending before CIT on 29th February 2016. Even main case can get settled pending at ITAT or High Court/Supreme Court in such cases by paying tax and interest upto date of all pending cases to withdraw assessment order.

#### 4.0 Assessee has option to choose initial AY for claiming deduction under sec. 80-IA; SLP dismissed

The Supreme Court of India held that Where Tribunal held that assessee was entitled to deduction under section 80-IA without setting off losses/unabsorbed depreciation pertaining to windmill, which were set off in earlier year, initial assessment year in section 80-IA(5) would only mean year of claim of deduction under section 80-IA, and assessee had option to choose first/initial assessment year of claim for deduction under section 80-IA and High Court upheld order of Tribunal, SLP was to be dismissed.

*Commissioner of Income-tax v. Best Corporation Ltd. [2016] 76 taxmann.com 295*

#### 5.0 Broadband charges couldn't be deemed as technical services; not liable to sec. 194J

THE ITAT Mumbai Bench held that where assessee made payment towards internet charges to concerns providing broadband facilities, internet services provided by broadband service provider could not be construed as technical service so as to require assessee to deduct tax at source under section 194J.

*Income-tax Officer, TDS-1 (2), Mumbai v. Chinubhai Kalidas & Bros. [2016] 76 taxmann.com 289*

#### 6.0 Assessee won't be deemed as carrying on speculative business when its Principal business is shares trading

THE ITAT Kolkata Bench held that where principal business of assessee was trading in shares, in view of amendment brought by Finance Act 2014 with retrospective effect from 1-4-1988, Explanation to section 73 was not applicable to its case and, thus, it was eligible to claim set off of loss incurred in share transactions against short-term capital gain.

*Jalan Cement Works Ltd. v. CIT, Kolkata-1. [2016] 76 taxmann.com 230*

#### 7.0 CBDT notifies PF investment pattern

The new investment pattern mandates investments between 45% and 50% in government securities, 35% and 45% in debt instruments and 5% and 15% investment in equities. Provident funds also have to invest up to 5% of their corpus in short-term debt instruments.

### CAPITAL MARKET

#### 1.0 Registered FPIs can run IFSC ops without prior approval

Markets regulator SEBI said registered FPIs planning to set up operations in International Financial Services Centres (IFSCs) will be allowed to do so without any additional documentation.

Foreign Portfolio Investors (FPIs), who presently operate in Indian securities market and propose to operate in IFSC also, will be required to ensure clear segregation of funds and securities.

#### 2.0 Interest rate futures launched

The National Stock Exchange (NSE) will introduce new interest rate futures (IRF) contracts from December 30 on six-year government bonds maturing in 2022.

### FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	0.99	0.95	0.88	0.87
SENSEX	27214.14	26515.24	26912.39	28082.34
NIFTY	8395.70	8170.80	8321.25	8708.80
CRR (%)	4	4	4	4
REPO (%)	6.25	6.25	6.25	6.25
REVERSE REPO (%)	5.75	5.75	5.75	5.75
Gold (per 10 gm)	28317	27477	29733	29809
Silver (per kg)	40774	41119	43770	42231
Crude (USD/bbl)	52.24	47.69	45.96	49.83
₹ vs USD	68.24	67.58	67.03	66.58
₹ vs Euro	72.41	71.76	73.12	74.40
₹ vs 100 Yen	59.32	59.06	62.94	64.56
₹ vs RMB	9.90	9.75	9.86	9.94
₹ vs Pound	83.01	85.13	84.18	82.48
MCX Aluminium (per kg)	121.40	117.75	118.25	111.80
MCX Copper (per kg)	400.1	392.50	377.90	321.55

\*As on January 11, 2017

(Sources: MoneyControl, NSE, BSE, RBI, MCX)

### 3.0 No need to submit form physically for NPS account if opened via Aadhaar

Simplifying the process, pension fund regulator PFRDA has dispensed with the requirement of submission of physical application form for NPS account opening if done through Aadhaar verification and e-Signature.

### 4.0 Sebi puts out disclosure norms for REITs

- (1) Putting in place the disclosure norms for real estate investment trusts (REITs), Sebi on Monday said the offer document will contain financial information, related-party transactions and past performances.
- (2) SEBI last month notified revised and easier regulations for raising capital through this instrument. SEBI had notified the REIT regulations in 2014

## INSURANCE

### 1.0 Foreign reinsurers get Irdai nod to open branches in India

Insurance Regulatory and Development Authority of India (IRDAI) has granted certificates of registration to foreign re-insurers for opening their branches in India. Officials in the industry estimate that, foreign reinsurers might bring in capital of Rs. 2,000 -Rs. 3,000 crore in India.

Global player such as Munich Re, Swiss Re, SCOR Re, Hannover Re and RGA Life Reinsurance Company of Canada have received certificates of registration from the insurance regulator. As of now, the state-owned GIC Re is the only reinsurer which is fully operational within the country.

## Goods & Services Tax Prepare yourself in advance



# GST

New GST constitutional amendment passed by parliament.

GST Law & Rules to come in force from 1st April 2017

New GST Model law & Returns in public domain

GST will impact

- Agreements
- Manufacturing
- Real Estate Development
- Trading
- Services

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