

GST - AN IDEA OVERSOLD?

All the stakeholders are curious as to whether Goods and Services Tax ('GST') will get implemented by April 01, 2016 or not. Such has been the fate of GST that the question as to when it will be implemented has overshadowed the discussion around the pros and cons of the proposed regime. With the determination of the central government it can be presumed that sooner or later the said regime will come into effect. What is being grossly overlooked is whether the benefits which are being perceived out of the proposed regime will they actually be materialized. The basic idea behind the implementation of GST was that it would result in a unified indirect tax regime. However, the provisions contained in the 122nd Constitutional Amendment Bill ('Bill') point in a different direction.

For GST to unify the indirect tax regime in India it is important that uniform laws are formed in this space throughout the nation. However, what can be discerned from Article 246A of the Bill is that for intra-state transactions every state will have the power to formulate its own laws in respect of Central as well as State GST. In the backdrop of the statewise variation in the present set of VAT laws it is clear that similar disparity would persist even under the proposed GST regime. Moreover the disparity would no longer be restricted to the state levy but also extend to the central levy. On the other hand, the central government would have powers to formulate laws exclusively with respect to inter-state transactions only. It has been provided in the Bill that transactions in the course of import would be subject to the same treatment as in the case of inter-state transactions.

There is a large sense of belief that any differences/ issues that may arise at a later date under the GST regime would be resolved through the GST council. The functioning of the GST council is already based on complex mathematics. Even after that, any conclusion to which GST council reaches would only be recommendatory in nature. This means that the whole exercise of constituting such council and then in effect dealing with the issues there under would have no mandatory application. As has already been mentioned above, every state will have its own GST laws and hence acceptance of such recommendations would be at the sweet will of states. There is nothing till date in law which binds them to fall in line with the recommendations which may be provided by the GST Council. This again is a major area of concern as no alternative mechanism is available to dislodge disparity issues which may arise under the GST regime.

To add to the above woes there is the additional tax which would be applicable in case of inter-state supply of goods. This has mainly been put in place as an assurance to the manufacturing states. Since GST would be a destination based levy it has been the apprehension of manufacturing states that they would end up losing revenue under the GST regime. Hence to counter the same it has been proposed that one percent additional tax would be levied on inter-state movement of goods and the same would accrue to the origin-state. This comes on the top of other measures where even under the GST regime the states would continue to exclusively tax land, liquor and petroleum products. The exclusion of

these items would further dent the comprehensive reform as is being envisaged under the proposed GST regime.

The sheep in a herd approach to back up the Government's resolve to implement GST, needs to be completely re-thought. If GST in effect has to be the biggest indirect tax reform it is important that the model laws first be brought in the public domain with adequate timelines for all stakeholders to study beforehand and to seek appropriate feedback. Presently too much of discussion is based on surmises and conjectures and very limited piece of conclusive information is available in public domain. These measures become more important in the wake of Article 246A mentioned above, wherein all the states would have their own laws w.r.t GST. Today if the laws are adequately discussed and appropriate feedback is sought from the stakeholders then the herculean exercise of carrying out nationwide amendments for correcting any measure at a later date when GST is implemented, can be avoided.

To sum, since the idea of GST in India was first introduced in 2007 by the then Finance Minister it has already travelled a long way. There has been considerable amount of mutilation with the proposed reform so as to tailor it to meet the needs specific to the Indian context. GST as an idea has already oversold and has captivated the minds of the stakeholders. However, the benefits which are being perceived to be derived from implementing the proposed regime can see a reverse shift if adequate measures are not ensured in the given time. It is only time which will tell as to whether GST will be a debacle or a miracle!