Editorial

GST: One Nation-One Tax; End to Tax Evasion and Black Money

Parliament has passed the historic law for a single federal tax, the Goods and Service Tax (GST) by passing four separate bills, paving way for a single unified indirect tax in the country. The four bills passed by Parliament are the Central GST Bill, 2017; the Integrated GST Bill, 2017; the GST (Compensation to States) Bill, 2017; and the Union Territory Bill, 2017. The government aims to roll out a new and unified tax regime from July 1 that will subsume a slew of federal and state taxes, thus transforming this nation of one sixth of the global population, into a single market.

The GST Council, comprising of the Finance Ministers of all states and the Union Finance Minister, is the first such federal autonomous constitutional authority. The Council has recommended a four-tier tax-rates regime of 5, 12, 18 and 28 per cent. On top of the highest slab, a cess will be imposed on luxury and demerit goods to compensate the states for any revenue loss in the first five years of GST implementation. It has also agreed to take a decision on bringing real estate within the ambit of the new tax regime within a year of its rollout. However, liquor has not been brought under the ambit of GST.

On the impact of GST on prices, it has been claimed by the Finance Minister that once tax on tax would vanish, the cascading effect would also vanish. So, the goods will become slightly cheaper. On the issue of why the Council has decided on multiple GST rates, the finance minister said, one rate would be "highly regressive" as hawai chappal and BMW cannot be taxed at the same rate. He further clarified that food articles will not be taxed and will continue to be in the zero rate category under GST. All other commodities would be put into the nearest tax bracket by the GST council. However, the Central GST (CGST) law pegs the peak rate at 20 per cent and a similar rate has been prescribed in the State GST (SGST) law, which takes the peak rate to a possible 40 per cent which will come into force only in financial exigencies.

GST is expected to boost GDP growth by about 2 per cent and check tax evasion. The taxes to be subsumed and die after GST are as under:

SALES TAX (CENTRAL & STATE) Introduced in 1957: Levied on sale of a commodity, produced or imported and sold for the first time. If sold subsequently without being processed further, the product is exempt from sales tax

CENVAT (Introduced in 2000): Levied on the manufacture or production of movable and marketable goods in India-either as a percentage of transaction value or the MRP of the goods.

OCTROI: A local tax collected by the state government or the municipality on articles brought into a town for local use

EXCISE DUTY Indirect tax levied on goods, manufactured in India and are meant for home consumption

SERVICE TAX (Introduced in 1994): Levied on services rendered by a person/ service provider.

ENTERTAINMENT TAX: Levied on amusement activities, exhibitions, large commercial shows or large private festival celebrations.

VAT(Introduced in 2005): Indirect tax on consumption of goods, paid by its original producers upon the charge in goods or upon the transfer of the goods to its ultimate consumers.

SECURITIES TRANSACTION TAX (Introduced in 2004): Levied on every purchase or sale of securities that are listed on Indian stock exchanges including shares, derivatives or equity-oriented mutual funds unites

ENTRY TAX(Introduced in 2000): Levied on movement of goods from one state to another and is levied by the recipient state to protect their tax base.

LUXURY TAX: Levied on luxury goods or premium products and services, not considered essential.

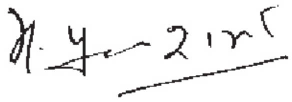
The GST Council in its meeting on March 31, after the four bills were passed in Lok Sabha, cleared the bulk of the framework rules that constitute the implementing guidelines of the goods and services tax regime. The quick decision by the GST Council within 2 days of passing of the bills, reinforces the possibility for the new tax system to be rolled out from July 1 as stipulated by the government. The council will now again meet on May 18-19 to take up the last big and major remaining task of putting individual goods and services into the four tax slabs already decided. The council has already approved five rules dealing with registration, refunds, returns, invoice-debit and credit note payments that have been amended in line with changes to the GST laws on March 31. In addition, it approved the draft of four remaining set of rules as well, out of the total nine, Thus, the draft rules for input tax credit, valuation, transition and composition scheme have been approved by the council. These drafts will be made public so that industry can give inputs and the final draft will be up for approval at the next council meeting to be held on May 18-19 in Srinagar.

However, on account of the impediment of Article 370 of the constitution, the GST, as on date would not be applicable for Jammu and Kashmir unless the J & K assembly passes separate bills. The bills passed in the Lok Sabha have excluded J & K state explicitly from its scope. Jammu & Kashmir will have to pass special laws to implement the Goods and Services Tax (GST) as its current constitutional status does not mandate the applicability of the new indirect tax reform in the state. The service tax too, levied all over the country since 1994, is not applicable in J&K. The state levies its own taxes for services provided in the state. This is because Article 370 of the Constitution grants special autonomous status to the state and Parliament has power to make laws only on defence, external affairs and communication related matters of the state.

As a result, when the CGST and IGST Bills would become Acts, they will be applicable for the entire country except J&K. The J&K Assembly would have to pass a legislation saying the two laws were applicable to the state. This approval by the state Assembly will be in addition to the requirement of all states to approve the GST law. Once the J&K Assembly passes the laws, the Union government will have to amend the CGST and IGST laws and delete the phrases that they do not apply to the state of J & K, as per experts. The deletion of the phrases excluding J & K will make the laws applicable to the state. A separate law for levy of cess on select goods to make up for a kitty to compensate states for any loss of revenue in the first five years of GST rollout, extends, however, to whole of India, including Jammu and Kashmir.

It must be mentioned here, that Article 370 was incorporated into the constitution of India, in spite of explicit opposition of all prominent statesmen of that time in particular, and nation as a whole in general. It was added solely in pursuance of the sinister design of Lord Mountbaten , Sheikh Abdullah and Jawaharlal Nehru in gross contravention of national interests. Baba Saheb Ambedkar, the architect of our constitution had ab initio not only refused to draft this anti-national provision, but even abstained from attending the meeting on the day, when this Article was proposed and discussed. Indeed, when Jawaharlal Nehru directed Sheikh Abdullah to consult Baba Saheb, the then Law Minister, to prepare the draft of a suitable article to be included in the Constitution, Dr. Ambedkar refused to oblige and said, "You want India to defend Kashmir, cater its people, undertake its all-round development and give Kashmiris equal rights all over the country. But, you do not want the rest of India and Indians (to have) equal rights in Kashmir. I am (the) Law Minister of India, I cannot betray my country." On his refusal, Nehru got this controversial Article 370 drafted by Gopalaswami Iyengar, an IAS and a State Minister without portfolio. On December 27, 1947, Sardar Patel, on hearing the Article read by Iyengar, sharply opposed it, and even offered to resign. The matter had then once gone to Mahatma Gandhi to reproach the two colleagues (Patel and Nehru) . But later on, he was reconciled to it on the pretext that it is only a temporary provision. There was uproar in the constituent Assembly as well on this issue. The most sinister aspect of this attempt of the trio was the provision made in Article 370, that any changes could be brought in it only by the concurrence of J&K assembly. This malicious provision was altogether unwarranted.

Coming back to the core issue of the GST, it may be concluded that it is going to unify the fiscal regime of the country and reinforce the federal unity of Bharat from Kashmir to Kanyakumari. It would enhance and improve tax compliance to raise the tax-GDP ratio-much wanted for increasing needs of development. It would plug the loopholes leading to tax evasion and generation of black money, by bringing all transactions in the value chain, from procuring raw material to final sale, on a common digital platform. As on date, 140 countries have the GST system. France was the first country in 1954 to bring this system. The US is yet to adopt such a system. So, Bharat is now the largest democracy of the world, having a unified federal tax structure with a unitary federal authority, the GST council, as a constitutional authority representing the centre and all states of the nation.



(Prof. Bhagwati Prakash Sharma)

Editor in chief