

GST implementation – ambiguity continues



Ashok Dhingra
Partner



Sonia Gupta
Senior consultant

J. Sagar Associates
India

In terms of constitutional provisions concerning allocation of taxes amongst States and Federal Government, tax on sale of goods in India is collected by the States. Accordingly, the State Governments are empowered to collect Value Added Tax ('VAT') on intra-State sale of goods under the respective State VAT legislations through their own administrative machinery. Further in case of inter-State sale under a Federal legislation the originating State collects Central Sales Tax ('CST') on sale of goods.

On account of complexities and multiplicity of taxes, tax reform is primary mission of the Federal Government and also one of the bones of contention between Federal and the State Governments. As part of tax reforms, VAT was introduced in India in the year 2003 to replace the prevalent sales tax regime. Starting with the State of Haryana in the year 2003, which moved to VAT regime on stand alone basis, by the end of 2008, all other States hopped on to the VAT bandwagon.

As a culmination of economic reforms rolled out by the then Finance Minister and present Prime Minister Dr. Manmohan Singh, GST is proposed to be introduced in the country. First study on Goods and Services Tax ('GST') was done by Parthsarathi Shome committee in the year 2007 and thereafter the Empowered Committee of State Finance Ministers ('the Empowered Committee') has been asked to carry forward initiative on transition to GST. The Empowered Committee has done exceptionally good work in bringing the Country under VAT regime in the past. Now the Empowered Committee has been tasked to ensure implementation of GST.

There have been many discussions in the past and originally GST was proposed to be introduced with effect from April 1, 2010. However on account of difference of opinion amongst the States, political compulsions and insistence of many States on commitment of the Federal Government to compensate for revenue loss, if any, GST could not be implemented even after extending the deadline to April 1, 2011.

While the Empowered Committee had tried its best to resolve differences and bring all the States on board still there are number of issues which needs to be resolved to convince all the States to join this dynamic tax reform. Some of these are; Constitutional amendment, formula for compensation and exact quantum of compensation for revenue loss to the States, constitution of the governing body of GST and powers thereof, and uniformity of schedules describing the goods and rate of tax thereof.

It was expected that the Union Finance Minister at the time of presentation of the Finance Bill, 2011 ('the Bill') will bring clarity on the date along with roadmap to implementation of GST. However, the Finance Minister while presenting the Bill in the Parliament said:

“Unlike DTC, decisions on the GST have to be taken in concert with the States with whom our dialogue has made considerable progress in the last four years. Areas of divergence have been narrowed. As a step towards the roll-out of GST, I propose to introduce the Constitutional Amendment Bill in this session of Parliament. Work is also underway on drafting of the model legislation for the Central and State GST”

Though the Finance Minister has showed readiness for introduction of this tax reform by referring to progress done in the field of IT infrastructure, which is backbone for introduction of GST yet he has not announced date for introduction thereof. However as a step in this direction, the Finance Minister has withdrawn exemption from excise duty on 130 consumer goods, though chargeable to VAT. Further to align service tax regime with GST for smooth transition, the Bill also proposes to bring few more services in tax net to broaden service tax base.

However mere introduction of Constitution Amendment Bill in the current session of the Parliament and open ended statement that areas of divergence with States have been narrowed is neither going to help industry nor public in general. This haziness will lead to putting on hold business decisions by corporates as well as create an environment of uncertainty.

Certainty of taxes and settled policy of the Government is one of the pillars to growth of economy. This will also help in reducing cost of transaction. Any ambiguity in taxes and frequent changes in law will erode faith of industry and public in the Government and is not good for the economic growth of Country.

Hence it is high time that the Federal Government should take firm steps and announce date for implementation of GST whether all the States are ready to join or not. Introduction of VAT can be taken as a precedent when the State of Haryana went ahead with introduction of VAT in the year 2003 and even the Federal Government and other States followed upto a period of five years. History has proved that many countries have benefitted from moving to GST regime. Hence let us not hold growth of Country for politics and take big steps towards transition to GST at the earliest even if it is not a National roll out. Let other States follow suite like VAT.