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**Presentation on**

**Glimpses on GST Administration In Indian States**

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# PROLOGUE

## Prologue ...

- The implementation of Goods and Services Taxes in India is a watershed event in the history of indirect tax reforms in 2017 as “One Nation One Market One Tax” i.e., a uniform GST system across all the States in India by subsuming various Central, State and Local taxes/levies/duties/cesses. Petroleum and its products, however, are currently out of the GST net and VAT continues to be levied on them with differential tax rates by each State.
- The GST system has a well-laid-down provision of formula-based settlement by the Central Board of Indirect Taxes and Customs (CBIC) sharing the aggregate net collections after set-offs among all the governments. Also, policy-making is through a democratic system of decision-making among all the States and the Centre through the GST Council, a body with a membership of all the governments in India.

# Presentation Points

## Presentation Points

- (1) Objective and Challenge of the GST administration;
- (2) Observations on GST administration issues;
- (3) Some suggestive measures; and

# 1. OBJECTIVE AND CHALLENGE OF THE GST ADMINISTRATION

# Objective And Challenge Of The GST Administration

## The Objective

- ▶ The objective of the administration of the State Tax Department is optimal revenue realisation compared to the estimated potential tax and minimising the tax gap in the new simple regime of **One Nation One Market One Tax**, i.e., a harmonious GST regime across all the States in India.

## The Challenges

- ▶ The challenge is how the collection of it to its full potential may be achieved. The complications in the system arise due to
  - ✓ (a) the taxation of the service sector,
  - ✓ (b) curbing tax leakage, and
  - ✓ (c) the mismatching of returns submitted by the registered taxpayers and associated technical glitches rendering the system prone to fraud in Input Tax Credit and refunds mainly.

**This makes the system administratively quite complex.**



## (a) GST Administration Complexities ...

- The administrative foundations of the new GST system are based on the erstwhile VAT system with the difference that the GST system includes services too, for which, the administrative machinery was not geared up.
- The complexities of GST administration become complex prescribed returns forms under GST laws to be submitted online to the GST Portal.

### Types of GST

- **CGST (Central Goods and Services Tax):** The Central Goods and Service Tax Commissionerate is responsible for its levy and collection in the State.
- **SGST (State Goods and Services Tax):** The State Tax Department levy and collect it.
- **UTGST (Union Territory Goods and Services Tax):** The Union Territory Tax Department levy and collect it.
- **IGST (Integrated Goods and Services Tax).** It is applicable when a goods/service is transferred from a place in one State/UT to another State/UT. It is collected by the Centre (Central Board of Indirect Taxes, CBIC) and is shared among the Centre and the States.



## (a) GST Administration Complexities

### Types of GST Returns

- GST return has to be submitted by every registered taxpayer under the GST law for every GSTIN that he is registered with.

### The registered taxpayers include

- regular taxpayers,
- composition taxable persons,
- e-commerce operators,
- TDS deductors,
- non-resident taxpayers,
- Input Service Distributer (ISD),
- casual taxable persons, etc.
- For Declaration to GSTN: GSTR-1, GSTR-3B, GSTR-4, GSTR-5, GSTR, GSTR-6, GSTR-7, GSTR-8, GSTR-9, GSTR-9C, and GSTR-11.
- For Viewing Only: GSTR-2A, GSTR-2B and GSTR-6A.

## Role Of GST Administrators

In this situation, the role of tax administrators is to -

- administer, manage, conduct, give direction, and supervise the execution and application of the internal revenue laws or related statutes (or equivalent laws and statutes of a State), and
- the development and formulation of tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions, and it includes assessment, collection, enforcement, litigation, publication, and statistical gathering functions under such laws, statutes, or conventions.

## (b) A Few Observations On The Issues

- As may be noted that only SGST and UTGST are administered by respective State/UT authorities.
- Whereas CGST and IGST are administered by the Central Board of Indirect Taxes (CBIC). The net IGST is shared among the Centre and the States on a defined formula.
- The ability of the tax administration to enforce the tax liability as declared by taxpayers as well as the tax liability arising from the tax administration's control activities (including reassessment of liability after tax audits).
- Certain shortcomings may be observed in their performance and thus require further consideration in order to strengthen their administrative capability.
- The following observations are presented as
  - (a) General observations and
  - (b) Audit-related by the CAG.

## 2. OBSERVATIONS ON GST ADMINISTRATION ISSUES

## General Observations ...

### (a). Understanding of New Laws

- The tax administrators have inherited the basic ingredients of VAT administration and are functioning still in that mindset.
- In the new GST system there is a need to handle critical and practical issues of inclusion of Central taxes, particularly service tax.
- So, the major issue is that of service sector taxation, the nature of which is unique compared to the tangible goods.
- The State tax administrators are not fully trained in the rules and regulations of GST *per se*.

## General Observations ...

### (b). Lack of Knowledge of Tax Base and Tax Gap

- Since this tax is consumption-based, there is a need for an estimation of the consumption of goods and services in the jurisdiction of the State to help policymakers in designing how tax augmentation may be attempted. **This is a weak area.**
- There is a need for use of data analytics and Information Technology for getting empirical back-up to frame objective-based purposeful designing of policy.
- Economic intelligence is thus crucial for senior-level management but is not adequate at present.
- The departments are still struggling with the issue of tax leakages through various ways and means therefore their detection through frauds and evasion *modus operandi* is still wanting.

## General Observations ...

### **(c). Strict Use of Legal Provisions**

- Compared to the central tax agencies, the field tax officials are generally shy of using tough actions against culprits. This softness does not help in abstaining the culprits from doing wrong. Nevertheless, the concerned State Tax Acts provide ample powers and teeth by using which they can book them to face legal actions.



## Audit-Related Observations ...

### (a). Audit Mandate, Audit Universe and Response to Audit

- A very large number of audit observations were pending for compliance leading to persistent accumulation of outstanding paras. It shows lackadaisical approach of the Department in replying to audit observations.

### (b). IT Audit of GSTN

- The IT audit of GSTN to assess whether the Refund and Returns modules implemented by GSTN were in line with the provisions of the Acts and Rules governing the GST regime and the System Requirements Specifications (SRS).
- Also in the review of E-Way Bills module, which has been developed by National Informatics Centre, under the supervision of GSTN, the key validations/functionalities as existing in the rolled out modules were not found aligned to the applicable provisions even though SRS was correctly framed.

## Audit-Related Observations ...

### (c). Refund Module

- Absence of adequate controls, the risk of claiming a refund on unverified ITC and deficiencies in the integration of GST Portal with the Indian Customs EDI Systems (ICES) application for IGST refund on the export of goods resulted in the following deficiencies in the Refund module:
- Due to GSTR-2 and 3 being held in abeyance, the envisaged buyer-seller reconciliation mechanism could not be implemented resulting in unmitigated risk in the GST refund system.
- Non-re-crediting of ITC ledger of taxpayers where Deficiency Memo was issued on the second and subsequent occasion.
- The refund of ITC sanctioned was disproportionately more than the actual value of export in case of export without payment of tax (Letter of Undertaking).
- Verification of endorsement detail of invoices of supplies to SEZ with SEZ online was not made mandatory while processing the refund application.
- Due to the non-implementation of the “With-hold” request functionality at the back office, there is a possibility of further refunds to the non-compliant exporters.
- The absence of auto-exclusion functionality to deduct the ITC of Capital goods could lead to excess refunds being claimed.
- Lack of validation in the system to verify the turnover of the inverted rate of supply in Statement-1 with the corresponding entries as provided in Statement-1A could lead to the excess claim of refund.

## Audit-Related Observations ...

### (d) Returns Module

- Lack of adequate validations in the return module, and lack of auto-calculation of interest liability of taxpayers in GSTR-3B, and incorrect mapping of rules to SRS, as follows have been noticed:
  - Incorrect creation of GSTR-2A, which is an important source of information on inward supply for the tax officers, could lead to irregular availability of ITC.
  - Absence of validation on turnover, leading to no restriction being imposed on composition taxpayers, in regard to the filing of GSTR-4, even after crossing the threshold limit.
  - Absence of provisions in the system for Non-Resident Taxable Persons (NRTPs) to pay GST for services received on a Reverse Charge Mechanism (RCM) basis.

## Audit-Related Observations ...

### (e) E-Way Bill Module

- Rejection of EWBs was allowed despite the expiration of the mandated 72 hours due to browser manipulation.
- Supply to or by SEZ was recorded as intra-State supplies with tax recorded under CGST and SGST, in place of IGST.
- The inherent weakness in periodic up-dation of the Postal Index Number (PIN) Master resulted in the incorrect automatic calculation of distance based on the PIN Code.
- The quantity once entered while generating the EWB was amendable, which led to inconsistency of values in the multivehicle mode of transport.

## Audit-Related Observations ...

### (f) Compliance Audit of GST

- In case of audit of transitional credits (i.e. carry forward of Cenvat credit of legacy taxes regime to GST regime), GST registrations and refunds, Audit of GST returns is yet to be started.

#### a. Transitional credits

- Due to absence of required data to conduct data analysis and identify areas of focus and to select units/ cases for audit, Department of Revenue is data-relating to transitional credits is not possible.
- The instances of irregular claim of transitional credit on input services in transit, irregular availing of Cess of earlier regime as credit, excess carry forward of CENVET credit, irregular availment of transitional credit on exempted goods etc.

#### b. Refunds

- Instances of irregular grant of refund due to non-consideration of minimum balance in electronic credit ledger, irregular sanction of refund of input tax credit availed on capital goods etc.



## Audit-Related Observations ...

### c. Other Irregularities Noticed During GST Audit

- ▶ Non-submission of GST-3B Return not submitted their GST-3B returns for a continuous period of six or more than six months. However, the registration of these defaulters were not cancelled.

### (g) Show Cause Notices (SCNs) & Adjudication Process in CBIC

- ▶ There is significant deviations from law/rules such as incorrect computation of demand in SCNs, late issuance of SCNs, delay in adjudications etc.

### 3. A FEW SUGGESTIVE MEASURES



## Capacity Building Training ...

The newly introduced GST regime and its administrative reforms in India are in the interest of international market integration.

In that way, the vision of **One Tax One International Market** may be realised. Hence, international agencies are taking a keen interest in the capacity building of the administration. As a result, the system has become consultancy-driven and dependent on them.

### (a) Training Need Assessment (TNA) Capacity Building Training

- ▶ Since the existing set of knowledge and skills in the department are generally not matching with the requirement of the new system, all the stakeholders, namely, taxpayers (citizens), tax collectors (registered) dealers and tax officials, should be trained regularly with the continued changes in the concerned notifications.
- ▶ Hence, the training should be based on Training Need Assessment (TNA), particularly, for the departmental functionaries on a stratified level.
- ▶ Accordingly, the training modules may be designed. It is a necessary condition to strengthen for better compliance with GST rules and also broaden the coverage of the taxpayers, particularly in the area of taxation of the service sector.

## Capacity Building Training ...

- All stakeholders should have a clear understanding of the following:
  - General awareness,
  - Various provisions of the GST acts and rules, and
  - Understanding of specific big sector.
- **General awareness** (such as amendment in acts and rules, time extension for return filing, late fee waiver, change in the rate of tax etc.) through advertisement and social media, and personal interactions through organised conferences and workshops.
- **Various provisions of the GST acts and rules** such as registration, return, audit, investigation, enforcement and refund; notification and circulars to be issued with the State's perspective; study of all notification/circulars/guidelines/technical guidelines issued by GST Council or Central Govt from time to time and inform the Department about their impact on the State; and circulars/guidelines/clarification to be issued to taxpayers and officers. In this regard, an assessment study on amendments in the Act or rules/process change management and its impact on the State will also be undertaken.

## Capacity Building Training ...

For understanding the issues of big specific sectors, interaction should be arranged for Government entities such as railways, national highway authority, hydro-electric projects, public works departments, cooperative societies, Public Sector Undertakings and other large private entities such as builders, health care, leasing and renting etc Standard Operating Procedure (SOP) for enhancing compliance to guide the complete taxation process from registration to filing of return and tax compliance.

### Understanding of Taxation of Eligible Service Sector:

- Since the service sector is a weak link. So, there is a need for exhaustive profiles of all the taxable services. It needs a detailed service-wise profile covering the following:
  - (1) Business processes of taxable service;
  - (2) Introduction of the levy;
  - (3) Legislative provisions;
  - (4) Risk areas identified under previous/present tax regime during investigation & sample cases booked by investigative agencies and their modus operandi;
  - (5) Information from third-party regulatory organizations; and
  - (6) Policy measures for curbing non-compliance, whichever is applicable.

## Economic Intelligence

- In addition to available central data sets, it is also required to develop State-wise data on its details to enable a continuous analysis to help in policy and decision-making.
- The Department need a periodical analytical review on either a monthly, quarterly, half-yearly or annual basis, to assess the achievement and identify the shortcomings to further improvement in weak areas. The indicators of performance may be the following: GST to GSDP ratio; Comparative study of per capita GST; Monthly GST collection performance; Performance of key commodity sectors; Top taxpayers in the State; GST return filing performance; Enforcement activities; etc as may be decided by the Commissioner.
- Special studies on State-specific key sectors/goods/services in the context of GST like Religious tourism; Wellness tourism; Natural resources; Any other economic activity attracting GST.
- Understanding on consumption pattern of, particularly, individual evasion-prone commodities in the State is critical to arrest tax leakage and also for estimation of the aggregate tax potential; Commodity Flow Study; Risk Management; Fraud Detection; Tax Evasion; De-registered firms; etc as required by the Commissioner.

## Knowledge Sharing

- ▶ Inter-State coordination is desirable for cooperation, and exchange of experience of mutual interest. So, some agencies on a regional basis should be set up. They may meet regularly to exchange issues, solutions and ideas, or as and when required.
- ▶ International practices of GST/VAT administration awareness are necessary for tax officials for their capacity building. It may be like the “Advanced Training Course in Sales Tax Administration in India” which NIPFP used to organize for Senior and Middle-level Sales Tax Officers twice annually .



## Audit Related Measures

- The CAG has a recommendation for end-to-end computerisation of the Show Cause Notice and adjudication process, with the following components:
  - The process of issuance of SCN may be computerized with in-built controls to ensure correct computation of demand, timely issuance of SCN, valid invocation of an extended period and correctness of the SCN issued.
  - Computerization of the adjudication process with inbuilt controls to ensure effective monitoring, conducting of personal hearings and timely issuance of adjudication orders.
  - Maintenance of Call Book may be computerized with an in-built mechanism to ensure issuance of periodical SCNs, timely retrieval of SCNs from Call Book, intimation to the assessed regarding the transfer of cases to Call Book, prior approval of competent authority before the transfer of SCNs to Call Book and controls regarding the transfer of valid cases to Call Book.

## 4. EPILOGUE



## INTERACTION PLEASE



**Thanks for Everything**