

# Shell Firm Ecosystem in GST

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**Abstract** –Goods and Services Tax (GST) proposed for a permanent remedy to many of the systemic shortcomings emanating from an apparently flawed indirect taxation system in India. It has attempted to give the post-Independent amorphous structure of indirect tax in India a definite crystalline shape. From subsuming multiple taxes under one tax system to unifying taxing designs to cater a single market, GST envisaged a lofty idea of bringing in non-intrusive tax administration that is business friendly and efficient. However, in a technology-intensive governance re-engineering process, failure to locate certain subtle ground realities in the early days drifted the scheme quite aside, especially from its originally conceived objectives. The resultant flaws manifesting in the form of widespread evasion may lead us to severe societal impairment as well, besides the financial deprivation for establishment. The process of setting it right may take us *back to the basics* - a practitioner's view.

## 1. Introduction

Goods and Services Tax (GST) was rolled out with lot of optimism. A taxing scenario that was impaired with high degree of fragmentation, having multiple taxation regime with as many regulatory authorities, all separated in a federal and provincial setup and necessarily disconnected from each other - was destined to suffer from disorder. As a natural consequence, the entire indirect taxation regime in India was rendered uncompetitive and had all along passed the burden of cascading effect of multiple tax on to the consumer to bear. Decades of preparation into GST was aimed at bringing in a kind of panacea that would resolve the maladies afflicting Indian indirect taxation scenario.

However, after the lapse of initial 5-year stock taking period, it is widely perceived that GST is yet to stretch its roots. Not only did the umpteen changes in procedures inevitably raise eyebrows, but more threateningly the shadow of fraud and evasion had loomed large over the entire system to have even called for a relook into the processes.

In a recent unstarred question<sup>1</sup> in Parliament specific information was sought as to what actions the authorities contemplated to contain supposedly rampant evasion.

To this, Finance Ministry responded identifying certain areas those are foremost in their minds and the measures taken to rein in such trends. Of the 10 (ten) such identified evasion related threats, all of those were related to abuse of credit system in GST.

This takes us to explore the nuances of credit system that GST proposes to bind the *production* to *consumption* value chain with and to see how the same had been abused with a certain degree of impunity.

## 2. GST – new beginning and initial hiccup

One of the primary aspirations GST carried with it was to ensure a connected, unified tax system that is self-regulating, removes cascading effect at multiple points and creates non-intrusive indirect tax administration in a business-friendly environment. The process of evolution was lengthy and tortuous. Cascading effect was taken care of first, by introducing the concept of *value added tax* (VAT) where, in a business-to-business (B2B) transaction, *credit* of tax paid on purchase was given to set off from the corresponding tax liability arising on subsequent sales. However, the prevalent dual taxing system in *federal* and *sub-national* level hindered the flow of credit mechanism down the chain. Also,

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<sup>1</sup> Unstarred Question no.3634 dated August 8<sup>th</sup>, 2022, Lok Sabha, Ministry of Finance, Department of Revenue

connecting the tax chain beyond a given sub-national (taxing jurisdiction) domain did not come easy. It could only be achieved by converting the entire system from the erstwhile *origin based* to the *destination based* and following it up by a unique scheme of Integrated GST (IGST) for inter-state transactions, through which the *tax credit* could be taken forward beyond the provincial jurisdictional barrier.

Compliance procedure was kept very simple, with single supply statement of transactions in GSTR 1 at periodic interval (generally *monthly*) to be filed by the supplier. The same would then go to auto-populate the corresponding recipients' account in their respective GSTR-2. And after reconciling the incidental mismatches, all by themselves<sup>2</sup>; the complete form of an automated return in GSTR-3 would eventually evolve for a given tax period (**Figure A**). There were minor variants of other returns going by the respective trade specificity. But the mechanism of coupling the *supplier-recipient* duo, by way of taxing at each such transaction node, either by conventional forward charge, or even by way of reverse charge, remained the same. The entire scheme envisaged a market driven checks and balance, primarily conceived as the recipe for managing indirect tax without much administrative intervention.

However, there were initial glitches, primarily on the technology front and on issues like non-compliance of the *supplier* in filing timely return resulting in an otherwise *bonafide* recipient getting affected adversely, instead. And in absence of regular mediation by the tax officials in the form of quick-fix adjudication, such unreconciled mismatches continued to remain as thorn in a sleek flesh!

## 2.1 Troubleshooting

Quite expectedly, the necessary mending could not be thorough one, as the system was already on the roll. Tweaking was attempted by simply abandoning the entire scheme of GSTR- 2 & 3 altogether. In its place GSTR- 3B - again a kind of self-statement for *summary return* of the taxpayers- was introduced.

At the hindsight, this might have brought disconnect back to the system, in a crucial departure from the proposed self-regulated system. And the idea of automated *invoice-matching* scheme<sup>3</sup> in the overall scenario of *return reflecting* business, remained a non-starter.

In absence of any self-regulated system through auto-drafting in returns in place, it was noticed that the spurious operators, those literally wreaked havoc of the erstwhile VAT regime, had jumped into the fray all over again, after the initial period of watchful reticence.

A closer look may bring out another sobering outcome. While these operators were earlier confined within the boundary of sub-national tax regime, this time, riding on the reach for GST beyond provincial boundaries, it became easier still for the schemers to spread their tentacles at pan-Indian level. On the other hand, jurisdictional limitation<sup>4</sup> came as a severe constraint for the taxmen to keep up the hot pursuit.

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<sup>2</sup>Back and forth exchanges between supplier-recipient duo at a given transaction node to be auto-drafted in periodical return like GSTR-1 (supplier' statement) to GSTR-2 (auto-populated to recipients' account) → GSTR2A to GSTR-1A (auto-populated in suppliers' statement on reconciliation by recipient for any mismatch) → GSTR-1A & GSTR-2A to GSTR-3 (auto-populated once accepted by either)

<sup>3</sup> Navigation between GSTR-1 and GSTR-2A then GSTR-2A and GSTR-1A

<sup>4</sup> Despite pan-India reach for GST, taxmen's access is confined to their respective jurisdictions. Such limitation is more pronounced in provincial level tax administrations than the federal one, where taxmen fall under single command structure.

## Case study:

### Title diversion through shell firm in Cement industry

At a time when Indian infrastructural development is on the upswing, consumption of cement, iron & steel etc is expected to peak. In case of cement, the tax rate is the highest, i.e. 28% and there is considerable value addition on production. So, there will be a strong motive to hide the consumption of raw material to suppress the cement throughput.

It seems that GST, in its present format of passing the credit, offers a customized platform to precisely do the job. Clinker is a raw material for cement production. Conceptually, if the title of clinker on paper could be obfuscated and diverted away from the cement factory, the output, too, can also be considerably lessened and so is the tax @ 28%! The situation is tempting.

Investigations reveal that as clinker is voluminous and bulky, it is moved preferably in Railways. Clinker has little use other than in cement factory. Freight related data from a particular Railway division in West Bengal revealed that the huge amount of clinker was being regularly procured by entities those are remotely connected with cement manufacturing.

Curiously, these firms are into trading of clinker! A full railway rake load of clinker weighing around 4000 MT is being traded in as many as 10-15 times down the chain. There is no value addition; so output liability is being discharged by the credit! Why do they do so?

### Motive:

This is a classic case of obfuscation of title of goods. Though, physically clinker might have been taken to cement factory, whose identity is never known, but the title on paper moved to shell firms, who kept on trading on it, in cases as many as 14-15 times to lengthen the chain. The process of IGST set off has literally aided in conveying the credit down the chain across provincial boundaries.

Two critical issues are involved. Who finally takes the benefit of the credit? And where do the goods physically move to. A deep look would take one to find that it's a double-edged saw that cuts both ways, deep into the system.

The moment clinker, as raw material, goes out of the GST chain and used obviously in cement factories, whose identity will never be known, the output cement goes untaxed. As cement reckons 28% tax, such kind of evasion is highly tempting as it offers huge price benefit. Such cements are being pre-dominantly procured by construction companies, builders who, on one hand, avail huge price benefit in a competitive market.

Now, the title of clinker being diverted to shell firms, who would nudge in few transactions to eventually end up to the same builders and construction companies, who on one hand, procured cement at a much lower price evading the tax element (as above) and at the same time got the benefit of tax credit by way of procuring invoices from the shell firms. The same builders may even avail the concessional output tax under affordable housing scheme in the same way, by qualifying for registered purchase to the tune of 80% of total procurement, simply by purchasing invoices from the shell firms who had the sham title of clinker.

Just to give an inkling of the quantum involved - In a single Railway Shed in Bengal the quantity of clinker moved to shell firms stood around 3 lakh MT in 2021-22!

But, more importantly, the fraudsters did not have much to mutate to. The same, old tricks of *title diversion* of goods to *cloud* the beneficiary, who would either reside safely outside the GST chain or would run off with undue credit. The cartel of shell firms, on the other hand, keeps engaging the taxmen in cobweb of myriad transactions amongst them and eventually flee the scene by creating a *missing link* (**Figure B**) at a distant node in the chain, often beyond the usual reach of an early, systemic detection.

The more adventurous schemers may even rig the sham credit back in the system, in a *greenhouse effect* to the same beneficiaries (**Figure C**), who in the first place might have enjoyed the goods outside the chain yet get the benefit of registered purchases to enjoy output tax related benefits<sup>5</sup>. If it presumably lands in the hands of an exporter, a refund can be taken out for a tax that was not paid in the first place, as carousal fraud (Ainsworth 2011)! The prevailing jurisdictional disconnect amongst federal and provincial taxing authorities comes in aid for the schemers, while equally disabling the taxmen.

### 3. Evolution of Indirect tax – an Indian scenario

From a theoretical premise, consumption-based indirect tax would have its natural point of levy at the point of consumption. It would allay many of the administrative complexities and help keeping it *simple*.

But save United States of America, no other country could venture to opt for Retail Sales Tax (RST), for the simple reason that at the end of consumption value chain, if such tax was somehow missed, there would be little scope for subsequent recovery.

Similarly, levying tax at the beginning of the chain was equally perilous. As, in case the goods were contrived to be taken out of the chain right at its onset, it would also remain untaxed all through, with higher scope of fuelling unaccounted economy (Dutta and Kumar 2018).

Moving away from *single point* to *multi point* levy was, therefore, a matured response to a complex situation. However, it brought with it the scope of attendant cascading effect of *tax on tax* on the price front, for the end point consumer to bear.

Managing indirect tax was made through business entities who are authorised<sup>6</sup> to *collect* tax on behalf of the Government till the given *threshold*. In a sense, indirect tax was all about monitoring the tax collectors' level of compliance, essentially, on two fronts – charging of tax and then duly remitting the same to the exchequer.

In either case, there is enough tempting latitude to give the tax element a miss. Firstly, by not charging tax would necessarily give a transacting entity a definite competitive edge on the price front; and while collecting tax without faithfully conveying the same to exchequer would lead to *undue enrichment*. To keep an eye on either of the lapses, for a disproportionately high number of entities, all by administrative means was like herding cats!

The scheme of value added tax (VAT) was conceived to address the double trouble and breathe probity in the system! On one hand, it would neutralise the cascading effect by taxing the value-added part only of the consumption chain by way of carrying forward the concept of input tax credit<sup>7</sup>. Conveying the same tax credit will go to establish a connect between transacting entities in the consumption chain. In fine, the scheme will vie for a self-regulating process, where the *market* itself would be engaged to keep watch over fellow players in the chain.

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<sup>5</sup> Scheme in the above case study is tailor-made for builders, looking to avail the benefit of lower output tax under *affordable housing scheme*, need to make registered purchases to the tune of 80%.

<sup>6</sup> Such authorisation to levy and collect tax on behalf of taxing authority comes with elaborate process of registration under the relevant Acts.

<sup>7</sup> Input tax credit (ITC) in a transaction node is essentially credit of tax being paid on purchase and set off from the output liability on corresponding sales. It ensures tax being paid on value added part of the item in a given consumption chain.

### Mechanism to connect market through tax credit

In a perfectly competitive environment, all participants within the consortium of business entities, would always like to lessen their tax burden to garner advantage on the price front. Thus, in a normative set up, for a given transaction node, the *seller-purchaser* duo would always be driven by the same intent, but with opposing incentives (Mittal Sekhar 2017) to achieve it. While the seller would always try to *understate* his sales to lessen tax burden, the corresponding purchaser would always try and *overstate* purchase (thereby enhance tax credit) for the identical purpose (Figure D). This contrasting approach, for the similar objective, is set to ensure the incidence of taxation at every transaction node for a given value chain. It, in turn, offered a market-driven, self-regulating system that was otherwise simply unassailable to manage by other administrative means, going by the sheer size of market and volume of transactions involved.

### 3.1 Dual tax regimen in India

In Indian context, indirect taxation had another critical challenge. In a dual taxation system<sup>8</sup>, the

#### Case Study:

#### Special Additional Duties (SAD) on import – how it exploited the disconnect in taxing regimes

In the pre-GST regime, Chinese mobile used to be imported through seaports and airports. These are high value items. Customs duty, being levied and collected upfront, was more secure. However, at the provincial level, VAT on these goods was evaded by suitably diverting the title unto shell firms. Since the federal and provincial level tax administrations never used to talk to each other, the fraudsters used to take good advantage of the operational disconnect of the two taxing authorities and comfortably got away by paying customs duty and evading the State VAT.

Incidentally, at a subsequent period, federal level tax authorities, realizing the conventional practice and their natural handicap to stem the leakage, imposed Special Additional Duties (SAD) besides the regulation levies like Basic Customs duty (BCD) and Counter Veiling Duties (CVD) on such items. The idea was that such SAD would be collected upfront (to make it more secure) and would be refunded on payment of the corresponding provincial level VAT.

In case of Chinese mobile, though the SAD rate was kept at 4% keeping parity with the provincial VAT rate. But later the VAT rate was increased to 5%, while the SAD rate continued as earlier at 4%. Such was the administrative disconnect!

No wonder, the importers were happy paying SAD at a lower rate without asking for refund of the same on paying the corresponding VAT (at a higher rate). As a matter of fact, such measure, in a way, reined in the fraudsters involved in the title obfuscation of the item and thereby evading the provincial VAT. The process, therefore, secured tax in the form of SAD, but in lieu of VAT.

The quantum of SAD remained unrefunded stood as glaring testimony to the extent of VAT evasion that used to take place. At hindsight, federal tax authorities appreciated the process of evasion at the provincial level perpetrated by the fraudsters and skilfully diverted the tax proceeds (would have been otherwise evaded), to their own kitty!

consumption chain was broadly subdivided into two distinct sectors, namely, *production* and *distributive trade* part. Both were managed by different taxing authorities. While *production* part related taxation was administered at the Union level, the *distributive trade* part was looked after at the provincial. System of federal government enjoined there was no functional linkage between these

<sup>8</sup> Dual taxation – In pre-GST era, federal tax authorities used to monitor the Central Excise and Service Tax, while provincial tax authorities use to manage the State level VAT on distributive trade.

two authorities, though each had their own version of value added tax mechanism in their respective places of operation. Such a setup used to have its own unsettling impact in the system.

This apart, there used to exist a similar disconnect in administration of tax on the *distributive trade* part, at the provincial level. It did not allow the tax credit system to continue down the chain. A fragile connect was attempted by way of operation of Central Sales Tax (CST) Act – a purely administrative means having considerable human interface. Such a measure was broadly perceived by experts to have fragmented the national market into several silos of provincial markets and an avoidable deterrent to unification (Amaresh Bagchi 2014).

### 3.2 Redressal through GST

GST was given the twin task of integrating a truncated State VAT at provincial levels and also that with variants of indirect tax at the federal stage. Every attempt was taken to remove any possible administrative mediation in running the tax system. The only way it could be programmed was to use the tax credit scheme to connect through the consumption value chain.

To link beyond the provincial barrier, innovative changeover from the earlier *origin-based* to *destination-based* system was adopted. It was followed by introduction of Integrated GST (IGST) to convey the tax credit through provincial borders down the consumption chain<sup>9</sup>.

At the same time, the levy of tax at *federal* and *sub-national* level had also been substantially transformed to bring in a uniform arrangement. The tax elements at federal and sub-national levels would not follow one another in its earlier type of a *series* formation<sup>10</sup> and thereby to give scope of cascading effect. Rather, in their new incarnation Central GST (CGST) and State GST (SGST) would prevail *parallel* to each other and respective tax element will continue with their own form of tax credit within the given provincial set up, till IGST takes over at inter-state boundaries to carry the credit forward to the next provincial level.

It is also evident that utmost care was taken to connect the *production to consumption* value chain with the tax credit scheme. And all kinds of monumental reforms, along with significant paradigm changes were brought in, only with an eye to continue with the tax credit mechanism down the chain, circumventing the procedural obstacles.

Even the concept of reverse charge mechanism (RCM)<sup>11</sup> was introduced to fortify the chain. Lest not a single transaction node in the same could conceptually escape the levy of tax – *forward* (conventional form) or that of *reverse* one. Global experience, too, buttress the fact that such untaxed node would always remain as chink in the armour for the entire system to penetrate through. It might have taken adequate cue from the bleak European Union experience, where *reverse charge mechanism* was thought of as a measure to rein in fraud of Missing Transaction- Intra Community (MTIC) type or carousal kind of fraud (Ainsworth 2011).

Moreover, use of technology intensive governance re-engineering process was adopted to keep *compliance mechanism* simple, conducive to *ease of business*, where deep *fidelity* is breathed in to

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<sup>9</sup> By the concept of *place of supply*, the destination province was to eventually receive the tax back, even after the same was charged and flown to the state of origin, at the outset. Recipient State would then get the tax element back under its own fold, so that credit of the same could be continued with the subsequent B2B transactions.

<sup>10</sup> In pre-GST period, State VAT as sub-national tax used to be levied on Central Excise duty or Service Tax as federal tax.

<sup>11</sup> Reverse Charge Mechanism (RCM) is tax levied and paid by the recipient, contrary to the conventional form of forward charge, where supplier charges tax and recipient pays.

put scope of *easy evasion* difficult. Without diluting the ultimate objective of higher revenue mobilisation, it envisaged a *transparent* tax system where the consumer, as the final tax payer, is always shared with the specific information of tax element being paid out for consuming the goods or services. In all, GST was expected to live up to the sobriquet *Good and Simple Tax*.

#### 4. Understanding the operations of shell firm ecosystem

In the erstwhile VAT regime, any disconnect in the value chain were best exploited by the tax racketeers. They are basically a typical breed of *shell firms*, created by way of *identity theft*, by a *mastermind* (principal racketeer), who however remained incognito. Then, in course of movement down the chain, particularly where such disconnect would arise, e.g. inter-jurisdictional interface, these operators may arrange to obfuscate the *title* of goods from the original recipient and divert the same on paper unto the racket of *shell firms*.

Thus, such separation of physical goods and its *title* facilitated the process of camouflaging the actual trader (in possession of physical good) in one hand and on the other, gave the bogus entities the desired title of goods and the handle to pass fake tax credit further on to the *beneficiaries*, whose identity could easily be shrouded (**Figure E**). They take utmost care to regularise corresponding payment channels even through banks, essentially to dodge the taxman's superficial digital vigil.<sup>12</sup>

Interestingly, there is not much change in their operating protocol in a GST regime, either. Even, in some cases, conveyance of tax credit across provincial barrier (earlier such scope was not available) has facilitated the process further. Fake credit can be passed on through multiple transaction nodes and reached to the intended beneficiaries (Carrillo 2022) by various ingenious ways like creating a greenhouse effect<sup>13</sup>, missing link<sup>14</sup> etc of the tax credit system, without being detected easily.

The physical goods go out of chain and that of formal economy, while the recipient, escaping the due tax liability, may further lessen their tax burden by resorting to procurement of fake invoices from the same cartel of *shell firms*. A carousel fraud, like the one that once wrecked the transactions chain within European Union (Ainsworth 2009), could easily be replicated.

##### 4.1 Impact assessment

**Create wide range of Beneficiaries** - The tax racket, with a pool of huge number of *shell firms* and sham title under their respective belts, may act as *invoice mills* and start offering fake tax credit to a wide range of potential tax evaders. Right from manufacturers, looking to cover up for their unaccounted purchase (that would not otherwise lend the desired tax credit), to any general trader looking for lessening tax liability to remain competitive on the price front, use of fake tax credit has become rampant in the system. Even, retail level unaccounted sales – where B2C transactions are suitably converted to false B2B – to bring the fake ITC back into the chain and

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<sup>12</sup> Unlike the erstwhile VAT regime, where shell firms used to dodge the systemic detection, by contriving fake transactions to avail concessional tax rate (say inter-state transactions) to off-shoulder the tax-liability due to false title transfer, in GST scope to convey regular credit all over has veritably offered an institutional support to the process.

<sup>13</sup> Greenhouse effect – Though the credit was to theoretically terminate on consumption or utilisation but are brought back to the system by way of faking invoices, to those who may look for it.

<sup>14</sup> Missing link – Credit is created once the tax on previous node is paid, but in a chain of transactions credit may be passed and then a taxpayer, without discharging liability cancels registration to break the chain.

without letting the same to naturally terminate at consumption point. This was a kind of *greenhouse effect* of tax credit (Dutta and Kumar 2018).

**Systemic infractions** - Racketeers seek to facilitate every kind of evasion of tax. It is generally done, either by pushing business entities outside the consumption chain (grey economy) or lessening the tax burden by providing false tax credit, do sham invoicing<sup>15</sup>. They may even engineer a refund of tax, which was not paid in the first place (carousal fraud). They literally turn the tax-credit system a veritable *cheque written on the Govt* and abuse the same to eat into the entrails.

**Financial loss** – Investigations have already revealed that the kind of tax evasion perpetrated by way of pulling in fake invoices in the system can even put any big-ticket scam to shame. The apparent regular growth in GST collection is no indicator to what is being evaded underneath. On the ground, scope for evasion and the perceived limitations for the taxmen's capacity to rein in – jurisdictional and otherwise – is a cause for serious diffidence for the establishment. After all, growth in GST would pale out when compared to the corresponding growth in Gross Value Addition (GVA) (Sacchidananda Mukherjee WP 301). As a result, like in the earlier regime, taxmen continue to proverbially lament for *collecting taxes as much as they lose* it in the process.

**Societal malady** – But the biggest blow a porous indirect tax process can impart to the system, in a rather insidious way, is the socio-economic malady. The separation of title from the physical existence of goods or services had other critical ramifications. Fixity of title in a transaction chain is as important as it is to precisely locate the seller-purchaser duo. It is observed that the moment the title of goods gets separated from the goods or services itself, or more importantly the conduit of consideration, scope to fix accountability for any wrongdoing becomes the biggest casualty. Adulteration of items of mass consumption outside the regular vigil of regulatory authority, influx of *dirty money* and money laundering, with little recourse to early detection, where trail would inconsequentially lead to unverified entities.

It is being regularly observed that many financial frauds getting large-scale at a later stage, often make an unsuspecting modest beginning with small firm, but connected with indirect tax system<sup>16</sup>.

#### 4.2 Motive of shell firm ecosystem

**Hide beneficiary**– Shell firms cannot subsist on its own. They offer regular taxpayers the scope to bypass the rigors of compliance procedure (often a major irritant for serious, small businesses). In the process they tender fake invoices to create sham tax credit to lessen tax liabilities. The ecosystem charges commission in exchange, which is less than the corresponding tax element and hence is always tempting.

It is evident, therefore, that nibbling with the *shell firms* instead, without tracking down the actual *beneficiary*<sup>17</sup> would only end up in wilderness. On the other hand, it is equally important to locate the *mastermind* racketeer, generally operating from behind the curtain. Considering

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<sup>15</sup> Sham-invoicing - Under-invoicing is resorted to in those cases where tax liability is to be reduced, while over-invoicing is done to hike up tax credit and may lead to claim of refund on accrued input tax credit—in case of zero-rated export

<sup>16</sup> Firms connected with the recent money laundering cases in various States were found operational initially in indirect tax domain.

<sup>17</sup> Beneficiary or ghost client (Carrillo et al 2022) defined these entities as regular business looking for tax related benefits.



the low entry barriers for the new registrants, shell firms do proliferate rapidly like *pauranic raktobeej*. Thus, any attempt (Government SoP<sup>18</sup> on fake invoices) to weed out such shell firms without hitting the beneficiary and the mastermind would be a never-ending exercise to invest precious time of the tax administration in. Racketeers, too, would always like the authority to run after the *shell firms* than to devote resources to reach up to the *mastermind* or the *beneficiary*. Instead, the right way would be to go after mindset that prefer relying on the shell firm ecosystem more than the GST chain.

**Defer early detection** - Shell firm ecosystem would be keen to defer early detection. This is also the reason they take extra caution to ensure superficial level of compliance, to escape primary digital surveillance. Like, they would not indulge in unwarranted goof up in essential documentation while applying for say, registration, e-waybill or other statutory formalities; or to allow straightforward mismatch to happen in their return related declarations, at least in the initial tiers.

In the same vein, anything real time would be troubling them; or that keeps deep trail in the system, like formal payment channel (Carrillo 2022), etc leaving scope for post-facto pursuit. However, even when run in, racketeers would incline to seek judicial intervention to go off the hook. Often, in one-off case, it often becomes judicially untenable to interpret the grim ground realities from a theoretical or legal standing.<sup>19</sup>

**Enjoy market confidence** – Shell firm ecosystem thrive on the confidence they enjoy of the market. Such confidence may emanate from the prevailing complications in compliance procedures, which often cajole small, serious businesses to outsource procedural exercises. Any excessive restrictive measures would naturally drive the business to lean more on the ecosystem!

In the similar vein, by taking the fight against the ecosystem to the market, by selectively locating the *beneficiary* and *mastermind* and to tame them hard, would always go to desecrate the confidence and credibility that they command in the market.

**Operate in administrative domain** – Rather than allowing taxmen to upset the confidence they enjoy in the market; racketeers would always intrude and prefer tinkering more with the procedures in administrative arena.

For example, racketeers take advantage of the prevailing jurisdictional disconnect on administrative front like,

- Inter-State - between two provincial authorities
- Intra-State – between provincial (SGST) and federal (CGST) authorities to penetrate and operate in the system.
- Procedure – mismatches in return variants like GSTR-1 & 3B, 2A & 3B etc

Strategically observing, the outcome of the duel between taxmen and racketeers, to a fair extent, would depend on who would intrude the others' terrain more effectively.

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<sup>18</sup> Standard Operating Procedure dated 12<sup>th</sup> May 2019 to contain fake invoices issued by CBIC is relevant.

<sup>19</sup> Madras High Court reversing order of denying ITC for recipient on account of supplier's non-compliance in W.P (MD) Nos 2127 of 2021 of D Y Beathel Enterprises State Tax Officer.

### 4.3 Characteristic features of shell firms

Judging by the motive and the modus operandi, the spurt in shell firm activity can be predicted with a fair degree of certainty. In cases of intelligent surveillance, such preponderances of shell firm related transactions can be tracked down with relative ease.

**End of return period or financial year** – Studies have reflected shell firm activities, prevalently in the form of higher concentrations, at the end of any given return period or that of financial years. This is a significant departure from conventional business practise and necessarily indicate that shell firms are operative for accounting adjustments for client firms or beneficiaries than real businesses of their own.

**Transactions cluster below financial system payments threshold** – Shell firm engineered transactions are found dominant to keep tax liabilities below the financial system payments threshold. That would make them escape additional scrutiny of formal channels that they so dearly try to bypass.

**Evasion through shell firms is more prevalent among relatively large firms** – Studies in Latin American countries reflected that influence of shell firms are more dominant in case of bigger firms, having relatively higher transactions and tax liabilities. This is perhaps due to the fact that in a competitive environment, there would always be a natural tendency for firms to take the advantage of tax credit available to garner price benefit. And higher propensity to evade by such means would come with a greater number of transactions.

Interestingly, there is a sharp drop in such inclination to leverage shell firms in the top echelons of firms. That can be attributed to the internal safety mechanism for large corporations and stronger incentive to avoid wrongful behaviour or avenues more sophisticated being available than accessing fake titling or documents (Carrillo et al 2022).

## 5. Imparting fidelity in the system

Notwithstanding the early setback and resultant withdrawal of auto-drafting scheme in GSTR 2 & 3, a good part of post-rollout GST procedural changes was centred around ensuring system driven passing on of tax credit in the return process. Lessons learnt were applied in the form of classifying taxpayers and customise the respective return variant, accordingly.

Be it the new variants of Return in *Normal*, *Sahaj* and *Sugam*, differential schemes in the form ANX 1 & 2 were thought of. Classifying the taxpayers by their turnover and criticality to pass tax credit, then suitably scaling down the periodicity of return, as in Quarterly Return Monthly Payment (QRMP)<sup>20</sup> with Invoice Furnishing Facility (IFF)<sup>21</sup>, meant essentially for small taxpayers, was adopted. In baby steps, NIL filers or retailers, who do not pass credit in the system, were also taken out<sup>22</sup>. Payment of tax, however, was made to continue monthly, to pass on the tax credit on a regular basis.

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<sup>20</sup>As the name suggests, a flexible return filing facility for small taxpayers with annual turnover up to Rs. 5 cr with reduced periodicity of quarterly returns but of monthly payment scheme to pass on regular credit.

<sup>21</sup>Facility to upload invoices to the periodical return on a continual mode, more akin to improvised form of GSTR-1

<sup>22</sup> In the minutes of 39<sup>th</sup> GST Council Meeting, Nandan Nilekani, despite formulating the design of the return, advocated against such big bang changes, in close succession and proposed for incremental modification.

So, it was a continual negotiation to push through the original intent of GST (**Table A**) in the face of a resistive ground realities. Success, however, would obviously hinge on two broad parameters,

**5.1 Strengthening the GST chain** – To bring back tax-payers' confidence in the system, need to focus on the basics cannot be compromised.

**Monitor credit recipient more than creator** - The tax credit system that connects the GST chain right through a dual administrative set up, is after all creation of tax being paid in cash in the first place. Credit creators are those occupying the apex of the chain - mostly originator of value-added item. They are the ones passing on the tax credit down the chain. The scope to misuse the passed-on tax credit, therefore, lies primarily with the likely recipients. Then there is every temptation to do that. Tax administration has the onerous task of herding the recipient more to the chain. On the contrary, the system has all the measures at its disposal i.e. scrutiny, audit and assessment etc essentially aimed at the credit creators.

**Compliance issues** – Rigors of compliance in a critical indirect taxation system is often attributed to the initial reticence of taxpayers to abide by the system. Much of the compliance related bottleneck in GST was due to innate procedural difficulty of the return mechanism. To ensure the seamless flow of tax credit through the system, certain element of detailing in the declaration (return) was necessary. For a vast uninitiated sector, compliance through technological means was certainly too high to demand. Then there were technical glitches in the initial period to compound the problem. But to abandon a process, well thought of and deeply aligned to the idea of maintaining the continuity in GST was to compound the problem than to offer a solution.

There are elements who would defy a system by design. They are the devil being known. This apart, many bonafide taxpayers, essentially fence-sitter in a new set up, but irked by the criticality of processes, eventually fall prey to the former, who may offer schemes of apparent convenience. The trend, if not confronted early, would soon snowball, and may go out of hand.

**Consolidation of administrative regime** – Multiple administrative commands continue to afflict the post-rollout GST regimen. This is considered as a serious roadblock to a professed unified system. In dual GST system, at the federal level Union Government administers Central GST (CGST) and at the provincial level, State Governments have as many State GST (SGST) administrations. There is serious jurisdictional disconnect for the taxmen, in the form of access to each other's domain, which is being regularly exploited by the fraudsters, who on the other hand have pan-India operational access.

**5.2 Confronting the violators** -

Right at its early days, it has become amply evident that shell firm ecosystem and the resultant evasion committed by fabricating tax credit through fake invoices have become the biggest impediment for successful implementation of GST. On the ground, passing on of sham tax credit was always tempting, it gains momentum if the tax system fails to detect it in time and may snowball if the authority doesn't adopt the right way to contain.

**Contain evasion** - Unfortunately, a slew of measures (**Table B**), conservative and restrictive in nature, taken mostly to accost the *shell firms*, without trying to locate the *beneficiary* or the *mastermind*, did not yield the desired result. Lack of precise understanding of the motive and modus operandi of evasion was manifested in the adopted procedures had not only its inherent limitation, but considerably blunted its expected sting.

**Deal with the menace of shell firms and fake invoices** – Want of proper analysis to get to the bottom of the intent for issuing fake invoices had led to measures (**Table C**) that failed to control the veritable menace and instead drifted the anti-evasion agenda aside.

**Misdirected investigation process** – Often inability to appreciate the motive of shell firm ecosystem drives the investigation process (**Table D**) to a state having substantial physical interface, which is contrary to the basic premise of indirect tax monitoring. Consequently, the adopted measures fail to deliver the desired result.

**Wayward approach may spoil the business environment** - Misguided investigation and resultant failure to contain evasion had led the tax architects take certain reactionary balancing measures (**Table E**) in a bid to safeguard the system from compounding damages. In many occasions those did not serve the intended purpose. Rather, had inevitably led to dampen the overall business atmosphere.

For example, screening for racketeers with *Aadhaar* authentication is apparently misplaced, as in a case of identity theft, physical existence of a person connected with shell firm is never denied. More sagacious would have been to locate and act on the businesses connected to such shell firms.

Managing a vast, complicated indirect tax regime as that in India and to balance with the overriding basic tenets of ease of doing business, tax administration cannot afford to colour their views in vain pursuit against evasion and in the process vitiate the general atmosphere for trade and commerce. There are umpteen difficulties faced by genuine, mid-sized businesses to negotiate a strait-jacket compliance regimen as a fallout of GST related restrictions (**Table F**).

## 6. The road ahead

When GST holds out such a promising objective for Indian economy, we may not afford to look back. The apparent gap in *lab to land transfer of technique*, however, takes us back to the drawing board. And when something is amiss, it's wise to stick to the basics. The cardinal tenet on which GST was made to evolve over the years was to accomplish a self-regulated, market driven indirect tax regime, where the entire consumption value chain would be connected, right from *production* to *consumption* by seamless passing on of tax credit.

## 6.1 Change in perspective

However, constrained by the initial complications and in the face of dauntless evasion taking place all around, the system took to restrictive mode and in course of time there had been substantial drifting on the way. Analysis brings out the bottom line for success of GST would be to literally herd business entities (tax collector *alias* taxpayer) to remain in the consumption value chain and then allow the chain to navigate on its own.



While accosting a typical breed of system manipulators GST, with an eye to drive the schemers away from the chain, had resorted to interim restrictive measures and obtusely made them applicable to all. In the process, such measures only turned manifestly counter-productive and had gone on to inconvenience business

across board, without affecting its intended target of the fraudsters, much.

The desired course correction may include the dual approach of taking a predominantly facilitative role for compliant business in one hand and on the other adopt conceptually correct measures to contain the defilers.

## 6.2 Fortify compliant ecosystem

### Simplify compliance procedure

There is no denying that notwithstanding the complication intrinsic in any compliance regime of indirect tax, certain procedural simplification, in terms of furnishing lesser details (wherever appropriate) or lowering the frequency of returns, can always be thought of.

If use of technology is destiny, the idea of e-invoicing<sup>23</sup> is the way forward. Not only will it spare business from filing multiplicity of avoidable declarations, namely GSTR-1, 3B, e-waybill, etc; that manifestly intend to seek same information repetitively having scope for data entry errors and often become major irritant for serious business. But to what extent it is going to affect shell firm activity is not clear, except for the fact capturing certain details like HSN/SAC<sup>24</sup> in e-invoice would always push spurious operators out of their comfort zone.

<sup>23</sup> Presently, businesses having annual turnover above Rs. 10 cr would have to mandatorily use it. Plans are afoot to bring the turnover ceiling down to Rs. 1 cr. It will then reach the household kirana stores.

<sup>24</sup> HSN is Harmonised System of Nomenclature introduced by World Customs Organisation – an exercise to uniformly codify goods for their systematic classification across the world. This is to ensure uniquely identifying goods in the value chain.

SAC is Services Accounting Code issued by CBIC to similarly identify services in the value chain.

## Stratification of tax payer

Without putting all tax payers under the same bracket, it would be wise to stratify them in terms of their ability to comply with the new system. Right from making e-invoicing *compulsory* for those who are above a certain turnover level and hence of better ability to comply or in case of critical transaction (e.g. inter-state etc), to *incentivising* others who may voluntarily opt for and finally to *facilitate* and even *hand hold* those who are logistically less equipped, so that all strata may gravitate towards the chain, as per their respective abilities, than to reside outside.

## Turnover wise taxpayer count and tax contribution

Turnover slab (in Rs crore)	Tax payer count (%)	Tax contribution (%)
NIL	23.90	0.05
0-1.5	58.90	7.14
1.5- 50	16.45	22.56
50-500	0.70	22.15
500 and above	0.08	48.09

\*[3 Year Report Updated \(gst.gov.in\)](https://www.gst.gov.in)

## Customise compliance

One of the singular impediments to the integrity of value chain is recipients' bonafide claim of tax credit getting adversely affected due to non-compliance of the corresponding supplier. The idea of GSTR-1A (since laid aside) or, for that matter, segregating claim of credit as either *reconciled*(matched) or *provisional* (unmatched) may be conceived. Credit eventually will be available subject to reconciliation over portal-based communication between supplier-recipient duo or be made contingent on elaborate adjudication process. Now, in case of false claim, determined out of adjudication process, the claimant be profiled accordingly towards its entitlement to a strict compliance regime at subsequent period.

## Activate GST Subidha Provider (GSP)

To familiarise and even to hold hand for the new formulation of GST that comes with substantial technology overdrive, particularly for the small scale, uninitiated sector, wider use of GST Subidha Provider (GSP) must be conceived. Instead of conferring a distant third-party status, bringing the entire process under departmental supervision may augur well for either. The essential purpose in such new paradigm would be to cajole and help gravitate the tax payers towards the chain than to allow them to reside outside. And then oblige the self-regulating process to maintain integrity in the system. When market is given the role of customary checks and balance, the traditional cliché of *policing* for the tax men will give way to its new incarnation of a *facilitator*.

Afterall, system manipulators are bred easy more in restrictive regime than in facilitative one.

## Change in perspective of anti-evasion goal

While every attempt is to be taken to facilitate being in the value chain, vigilant anti-evasion needs to come down heavily on the detractors. In managing evasion, it is always prudent to hang on to two critical hypotheses:

- Racketeers do not subsist on its own, they survive passing tax related benefits (fake tax credit) to the beneficiary,
- They endure till they enjoy confidence of the market

Anti-evasion effort from the taxmen would always be on the mastermind and beneficiary than those numerous non-entities masquerading as shell firms.

### 6.3 Locate beneficiary

Instead of pursuing the tiring exercise of weeding out shell firms, attempt to locate the *beneficiary* would always be rewarding and hitting them hard would necessarily make them lose faith in the racketeers they depended for tax benefits. Use of business analytic tool with various tax related indicators for taxpayers' profiling would be useful in such exercise.

One of the important revelations from the ground study is that racketeers are comfortable and prefer to fiddle in the regulators' administrative domain. In fact, they breed in the system and eat into the entrails from within. Any interim restrictive measure that complicates the compliance procedure further allows them to stretch roots in the system. It is always sensible to take the racketeers out of their comfort zone. They also survive on their perceived market confidence. Attempt should be taken to spoil that credence in the system.

In course of profiling taxpayers by their track-record, once located, naming and shaming by suitably flagging an identified beneficiary of shell firm ecosystem is likely to send the desired caveat and is likely to dissuade.

### 6.4 Locate mastermind to pro-actively weed out shell firm

It is the mastermind who operate through shell firms, remaining incognito. The real challenge for the anti-evasion formation would be to give hot pursuit and reach up to the mastermind and neutralise. It would call for intelligent surveillance of the highest order with technology tools to track the mastermind down. Money trailing, call records tracking, cyber forensic investigations are the key

apparatus to do the job. Its important to note that the mastermind would be careful not to leave footprint at least in the GST chain. But he might not be so with other authorities those may come his way. Therefore, 360° intelligence from possible area of governance may give a lead to track him.



### 6.5 Unified administrative command

One of the singular bottlenecks that the racketeers seemed to have thrived significantly on was the prevailing severe jurisdictional disconnect for the tax men. Earlier in the VAT regime, it was between the two provincial authorities. But, presently, over and above such disengagement, even the federal and provincial authorities, who are given to administer the same tax in each

province, do not administratively talk to each other. On the ground, it is quite evident that the tax evaders, with their present-day pan-India presence, take good advantage of such jurisdictional limitations of the tax officers and get away with relative ease. The observance of same procedure but differently by federal and provincial authorities often create avoidable misconception in the eyes of judiciary and dents into the credibility in governance. The respective separate *command* and *reporting*

structure is also a serious deterrent to the establishment of the professed objective of *one nation, one market, one tax* and very prudently add to that *one tax administration* under the aegis of GST.

The administration of common act of GST, both at federal and sub-national level, offers a unique opportunity to transform the existing Revenue Service as All India Service, with other procedural modalities at provincial levels to follow. Administrative reforms to accord a *unified command structure* under a common revenue service would always be worth conceiving to resolve the long-standing issue.

## 7. Conclusion

Big ticket reform like GST, in a country as populous as that of India and in a dual tax set-up with intrinsic systemic disconnect was bound to throw up few issues on the ground those might escape sight at the conceptual stage.

At the same time, while pursuing to realise the essential integrative approach of *one market, one nation, one tax*, one must not lose sight of the professed facilitative regime of GST that was supposed to be its DNA. But to maintain such idea at the backdrop and to counter the menace of manipulators those are inclined to exploit any downside of the system, would call for a difficult balancing act to make.

Aligning the means and ends on the same trajectory is important. And better it is to always locate what ails and then segregate to treat the maladies separately, than to go for panacea that attempts to paint all with the same brush.

With litany of fundamental reforms, being either on the wings or on rollout, India is poised to break decisive new grounds and settling with GST early is critical in that course.

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*Views are strictly personal*

## References

1. Ainsworth, Richard T (2011) "VAT Fraud and Technological Solutions", Tax Analysts
2. Bagchi, Amaresh 2006, "Towards GST: Choices and Trade-offs", Economic and political Weekly Vol. 41, Issue No. 14, 08 Apr, 2006
3. Banerjee, Abhijit and others (2016), E-governance, Accountability and Leakage in Public Programs, Working Paper 22803, National Bureau of Economic Research, Cambridge, Massachusetts.
4. Carrillo, Paul and others (2022), "Ghosting the Tax Authority: Fake firms and Tax Fraud", Working paper 30242, National Bureau of Economic Research, Cambridge, Massachusetts.
5. CBIC (<https://cbic-gst.gov.in/>)
6. Deloitte, "Three years of GST: Journey so far and the way forward", 2020
7. Directorate of Commercial Taxes (<http://www.wbcomtax.nic.in/>)
8. Gemmell, Norman (2016), "An Allingham-Sandmo Tax Compliance Model with Imperfect Enforcement", Working paper in Public finance no. 06/2016 of Victoria Business School, New Zealand
9. Govinda Rao, M (2011) "Goods and Services Tax: A Gorilla, Chimpanzee or a Genus Like Primates? EPW February 12, 2011 Vol XLVI No 7



10. Govinda Rao, M (2019) "Goods and Services Tax in India: Progress, Performance & Prospects, Columbia, Deepak and Neera Raj Center on Indian Economic Policies
11. Minutes of the 39<sup>th</sup> GST Council Meeting held on 14<sup>th</sup> March 2020
12. Mittal, Shekhar and Aprajit Mahajan, "VAT in Emerging Economies: Does Third Party Verification Matter?" Available at SSRN 3029963, 2017.
13. Mukherjee Sacchidananda and Kavita Rao R, 2019, "Evolution of Goods and Services Tax in India", Cambridge University Press, Decades of Indirect Tax Reforms in India : A Journey towards Goods and Services Tax (GST)
14. Mukherjee Sacchidananda and Kavita Rao R, 2019, "Fiscal Implications of Introduction of Goods and Services Tax in India", National Institute of Public Finance and Policy (NIPFP).
15. Mukherjee Sacchidananda March, 2020, "Performance Assessment of Indian GST: State-level Analysis of Compliance Gap and Revenue Growth", NIPFP Working Paper No. 301
16. Mukherjee, Sacchidananda March, 2020, "India: the Challenges of Implementing Vat in a Federal State", in 'Virtues and Fallacies of VAT – An Evaluation after 50 years' Edited by Robert F. van Brederode.
17. Nayyar, Anand and Singh Inderpal, "A Comprehensive Analysis of Goods and Services Tax (GST) in India", Indian Journal of Finance, February 2018
18. OECD, 2006, "Report on Identity Fraud: Tax Evasion and Money laundering Vulnerabilities.
19. OECD, 2017, "Technology Tools to Tackle Tax Evasion and Tax Fraud.
20. Ramana Murthy S V 2019, "Measuring Informal Economy in India : Indian Experience"
21. Report of the CAG 2018, Report No. 11 of 2019 on Indirect Taxes – Goods and Services Tax, Union Government, Department of Revenue
22. Richard M. Bird, January 2012, University of Toronto, "The GST/HST: Creating an Integrated Sales Tax in a Federal Country".
23. Slemrod, Joel (2018), "Tax Compliance and Enforcement", Working Paper 24799, National Bureau of Economic Research, Cambridge, Massachusetts.
24. Standard Operating Protocol for utilising fake invoice issuers dataset by SGST authorities... Office memorandum - F. No. GST/INV/Fake Invoices/18-19 - GST Investigation Wing, CBIC
25. Unstarred Question no. 3634 dated August 8<sup>th</sup> 2022, Lok Sabha, Responded by Sri Pankaj Chaudhury, MoS, Ministry of Finance, Department of Revenue.
26. V. Bhaskar, GST Revenue Conceals More than It Reveals. Business Standard, March 6, 2019. [https://www.business-standard.com/article/opinion/gst-revenue-conceals-more-than-it-reveals-119030600040\\_1.html](https://www.business-standard.com/article/opinion/gst-revenue-conceals-more-than-it-reveals-119030600040_1.html)

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## TABLES

**Table - A**

**Goods and Service Tax (GST) – towards fulfilling objectives**

<b>Objective</b>	<b>Suggested measures</b>	<b>Strength</b>	<b>Limitations</b>
Integrated indirect tax	Connect through tax credit system	Federal and provincial tax to run parallelly in the form of CGST and SGST. In a destination-based system IGST to transcend tax credit beyond provincial barrier	In administrative domain jurisdictional disconnect still is a serious handicap. Need for unified command.
No Cascading effect	Tax credit system to ensure tax on value added portion only	Opposing incentives for the seller-purchaser duo to ensure compliance	Jurisdictional disconnect at administrative level is a threat
Self regulating	Seller and purchaser to cross-check one another	Market-driven checks to sustain the chain	Cartelisation may vitiate the process
Non-intrusive	Limited scope of intervention for the tax official on day-to-day affair	Parallel and independent credit mechanism at federal and sub-national level in CGST and SGST	Introduction of GSTR-3B has brought in disconnect and scope of third-party adjudication by tax authority
Federal-sub-national system integration	Integrated GST (IGST) conveys credit of tax beyond sub-national boundaries.		Critical Jurisdictional disconnect prevail at administrative level between federal and provincial authorities.

**Table B****Measures taken to curb evasion – an impact analysis**

<b>Problem definition</b>	<b>Measures taken</b>	<b>Strength</b>	<b>Limitations</b>
Rein in Shell firms	Screening registrants through Aadhar authentication	Intended aim to establish existence	Aadhar authentication serves little purpose – as shell firms always have entities
Enforce Return to reflect business	Coercing taxpayers to file returns	Captures footprint of business – collects data on transactions to build further analytics	Cartelisation and accounting adjustments may defeat the intended purpose
Restrict transactions without movement of goods	E-waybill/RFID	May limit transactions without movement of corresponding goods	Additional compliance measure/RFID may ensure movement of vehicle, not goods
Putting entry barrier for new registrants	Kept low to promote ease of doing business	Aadhar like third party authentication to back	Shell firms may proliferate as existence of entities are not denied
Control Transactions subsequently denied	E-invoicing	Real time exercise – ease of compliance – spares multiple entry	May not restrict adjustment accounting

**Table C****Dealing with fake invoice – an impact analysis**

<b>Problem definition</b>	<b>Intended use</b>	<b>Measures taken</b>	<b>Limitations</b>
Invoice without supply of goods or services	Pass on sham credit, converting credit to cash, invoice mills, evade due payment of tax	<ul style="list-style-type: none"> <li>• Chase and weed out shell firms</li> <li>• Strict vigil to detect its germination</li> <li>• Engage in litigation</li> </ul>	Unrewarding engagement - <ul style="list-style-type: none"> <li>• Ability of shell firms to proliferate at a faster pace</li> <li>• Proactive chasing shell firms a waste of resource</li> <li>• Measures like Aadhar authentication misplaced</li> <li>• Restriction regime impacts regular business, dampens trade/commerce ambience</li> <li>• Judicial reprieve in the one-off case – imparts confidence to racketeers and diffidence on taxmen</li> </ul>
Title diversion - Invoice to one, goods to another	Take goods/services out of GST chain, remain untaxed, enjoy price benefit in competitive market		
Circular trading through shell firms	Inflate turnover, pass benefit		

**Table D****Investigation into shell firms – an impact analysis**

<b>Issue</b>	<b>Implication</b>	<b>Measures taken</b>	<b>Shortcomings</b>
Schemed by fly-by-night operators to multiply transactions to large sum within short time	To commit damage and flee the system early	Cancellation of registration to weed them out	May proliferate more
Shell firms act as surrogate for companies but difficulty to establish complicity	To survive the strict vigil of tax men	Attempt to track payments and movement of goods/services to establish connection	May not stand judicial scrutiny in one off case
Investigation of shell firms	Attempt of determine physical existence of business	Address proof, electricity usage, area of storage, fake vehicle etc	Substantial physical interface is required, not amenable for large number of cases
Spread out among different jurisdictional authorities - State/Centre and provinces	To take advantage of the existing jurisdictional disconnect amongst taxing authorities	Nodal officers created to establish anti-evasion related communication	Serves little purpose without system-driven connect, considering enormous transactions
Complicity of transporters/intermediaries	To probe the third-party involvement in evasion	Transporters/intermediaries connected with movement of goods/services	Measures like checking through RFID may fix movement of vehicle but not the goods contained
Carousal fraud – encashment of ITC on fake export	Taking refund of tax not being paid	Strict verification of export related chain	May affect bonafide players, dampen the business ambience

**Table E**

**Restrictions to curb shell firm – an impact analysis**

Category	Issues	Changes	Implications
Registration	Unrestricted registration - spawned shell firms and sham invoices	Aadhaar authentication else physical verification before new registration	May help keeping trail for <i>post facto</i> verification, may not inhibit creation of shell firms, as physical existence of entities connected with shell firms were never denied
	Suspension and Cancellation of doubtful firms	Mismatch in liabilities and credits as per statement and returns in GSTR-1& 3B, or 2 & 3B may lead to suspension, without hearing on the ground of 'reasons to believe', followed by cancellation	Can badly hit bonafide business, creates substantial human interface
Claim of ITC	Recipient is deprived of its legitimate claim of tax credit in case its supplier does not file GSTR-1 -Rule 36(4)	Recipient may claim 20% of tax credit more than its 2B, it has been brought down further to 10% and then 5%	Abstraction, might not be legally tenable
	GSTR-2A being dynamic in nature – any subsequent changes in GSTR-1 would affect 2A figure retrospectively and credit would be denied for the ongoing tax period	GSTR-2B introduced- essentially tax period wise static statement, auto-drafted from GSTR-1. Bifurcation of eligible and non-eligible ITC as per provisions of law	May ease availing of ITC tax period wise
	Systemic connect with GSTR-1/2A/2B and 3B	GSTR-2B being static, in case claim of ITC in GSTR-3B is beyond 10% of GSTR-2B will raise alert to the jurisdictional officer	Attempts to connect GSTR-1 & GSTR-3B in a roundabout way
Discharge of output tax liability and supply statement	Racketeers make myriad transactions to create web of chain, use ITC to offset fake liability without paying anything in cash- Rule 86 (B)	Output liability can be discharged up to 99% of the available credit, with certain exceptions of established genuine business	Attempts to minimise loss by way of ITC related evasion, Cash offset keeps trail in the system.
	Unrestricted passing on of credit (GSTR 1) without discharging	Restricts further filing of GSTR – 1 if GSTR – 3B is not filed for two	Attempts to control further damage. May appear draconian

	output liability (GSTR- 3B)	consecutive tax periods, may even suspend registration	for possible bonafide lapses on the part of genuine taxpayers
<b>Refund on Export</b>	Hiking up tax credit or overstating export value in cases of sham invoicing to claim fake refund	Refund is restricted to export value of items with a cap of 1.5 times of its corresponding worth in domestic market	Essentially damage control measure, but potent to bring in diffidence among exporters.

**Table F**

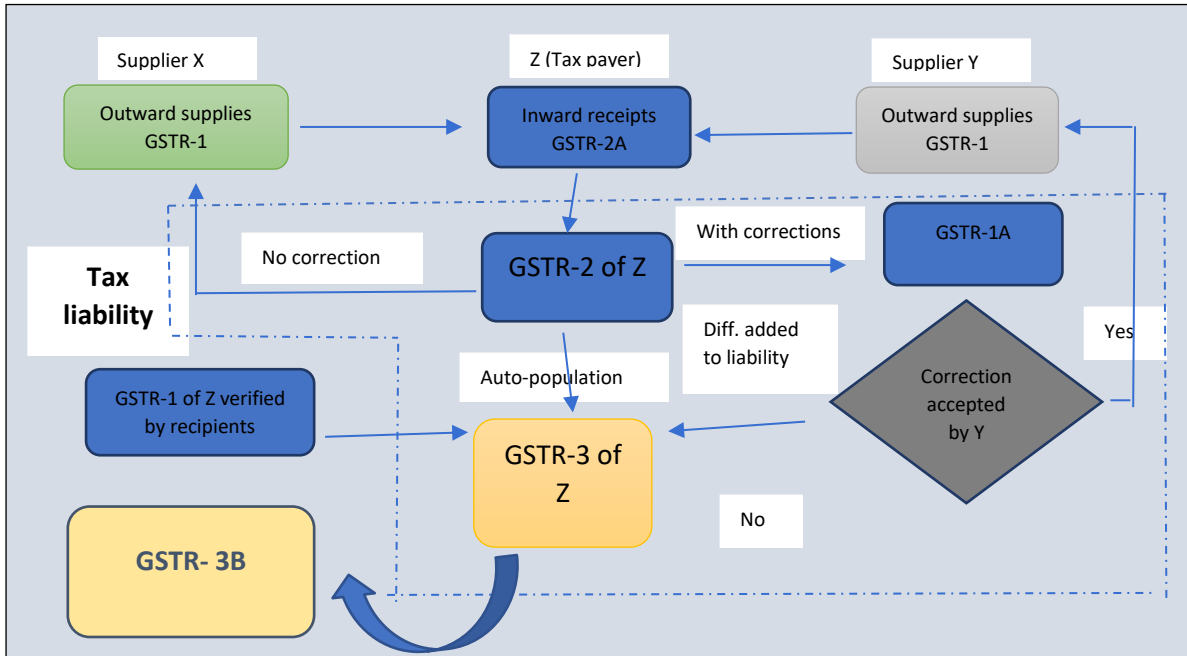
**Scope for withdrawal of restrictions in processes to support bonafide business**

Category	Issues	Changes proposed	Implications
<b>Invoice or supply information</b>	Scope to amend GSTR-1 more than once	B2B- Mostly in single invoice with multiple items B2C- clubbed invoice	Impart correctness in return filing process and that of tax credit towards better reconciliation
	Reporting missed out figures of previous year	Disclosure, bifurcating the tax period	
<b>Portal</b>	Portal based communication between supplier-recipient duo	Conduit for reconciliation to spare tax officers from avoidable adjudication	Impart market driven checks and balance towards self-regulated system
<b>Tax credit and its utilisation</b>	Flexible claim period to utilise accrued credit	Whenever suppliers' return date is extended, corresponding claim period be similarly extended	Operational flexibility to make bonafide claim
	Payment of full rate of IGST instead of concessional rate as in erstwhile CST Act	Cross-utilisation of ITC from different heads my help	May lessen inherent cash flow crisis for the small business, esp Start-ups etc
	Restrictions in inter-head utilisation of ITC		

## FLOWCHARTS

**Figure A:**

**GSTR Returns – process flow for self-regulated system**



**Figure B**

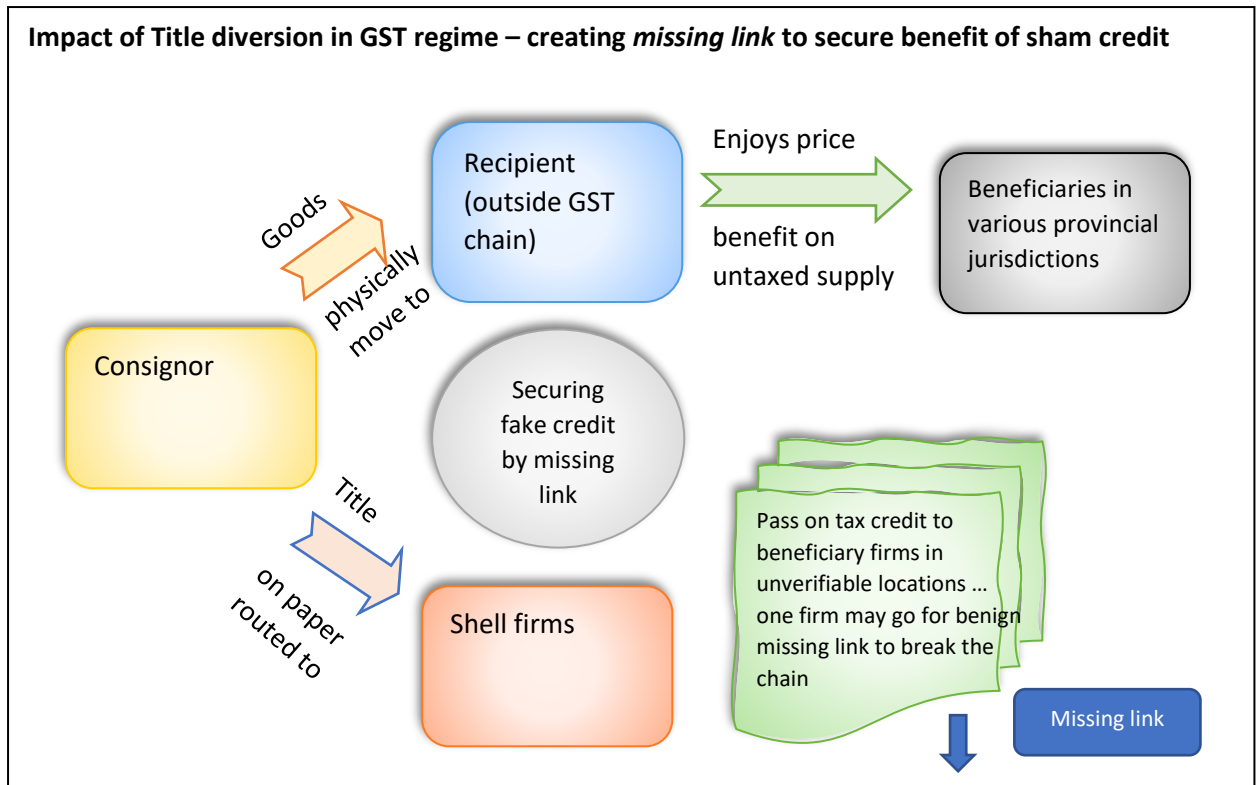


Figure C

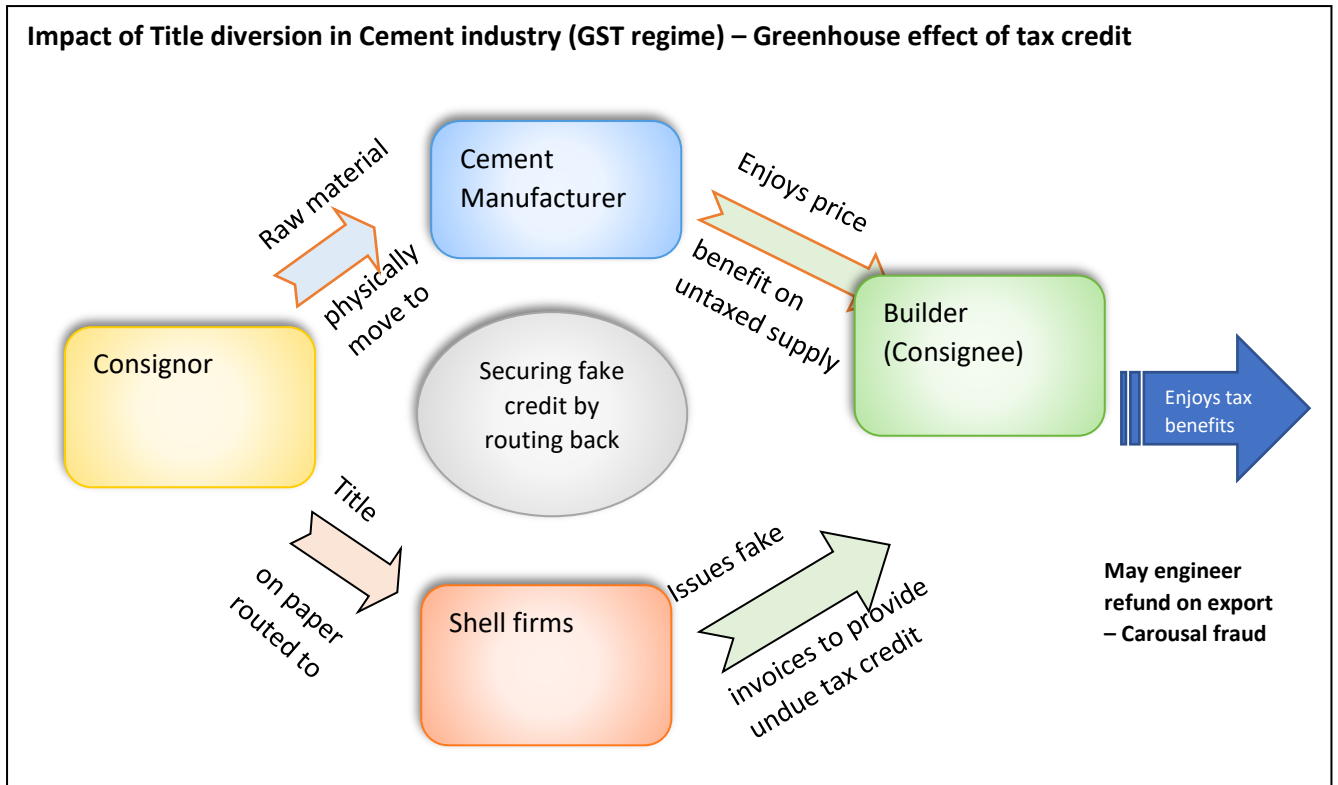


Figure D:

**Indirect tax – Market driven checks and balance**

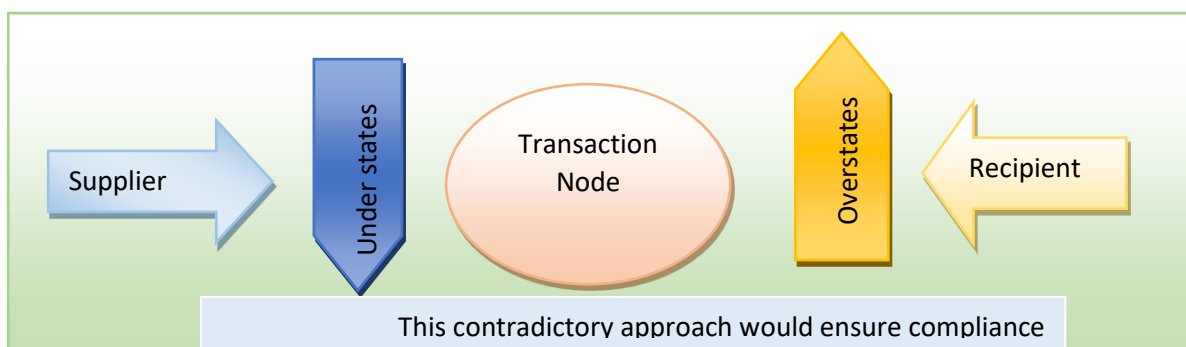




Figure E

Flowchart: Tax racketeering through shell firms

