

# UCCC&SPBCBA&SDHGCBCA&IT,

## SYBCOM SEM-III

### Unit 4- Tax Structure of India: (Indirect Tax) Goods and Service Tax

#### Contents:

- Introduction and concept of Dual GST.
- Advantages of GST
- Definitions (Selected): Goods, Services, CGST, IGST, Person, Works Contract, Places of Business, Aggregate turnover, Business, Place of Supply, Composite Supply, Mixed Supply
- Composition levy and collection

#### GST in India

GST is known as the Goods and Services Tax. It is an indirect tax which has replaced many indirect taxes in India such as the excise duty, VAT, services tax, etc. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017 and came into effect on 1st July 2017.

In other words, Goods and Service Tax (GST) is levied on the supply of goods and services. Goods and Services Tax Law in India is a **comprehensive, multi-stage, destination-based tax** that is levied on every **value addition**. GST is a single domestic indirect tax law for the entire country.

#### The Journey of GST in India

The GST journey began in the year 2000 when a committee was set up to draft law. It took 17 years from then for the Law to evolve. In 2017, the GST Bill was passed in the Lok Sabha and Rajya Sabha. On 1st July 2017, the GST Law came into force.

#### Meaning of dual GST model in India

The dual GST model refers to a concept where both the Central and states simultaneously levy taxes on the supply of goods and services while the administration is run separately. It is dissimilar to the Single National GST model, where the taxes are levied only by the Centre involving sharing such revenue with the provinces/states. It is adopted in countries such as Australia. It is also different

from the Single State GST model, where states have exclusive rights to levy and collect taxes, such as in the USA.

The dual GST model or the dual GST structure means levying tax with two different taxation components. In India, both the Central Goods and Service Tax (or CGST) and the State Goods and Service Tax (or SGST) are the components levied on a single transaction within a state due to its federal nature.

In other words, under the dual GST structure, both the central and state governments can charge and collect taxes through the appropriate legislation.

Also, both the governments are assigned with separate responsibilities and administration, as given under the division of powers statute of the Indian Constitution. A dual GST structure is formulated to align with the Indian Constitutional requirements of fiscal federalism.

### **Benefits of dual GST model**

The following are the advantages of adopting a dual GST model

- The total number of taxes levied by the Centre and state governments reduces.
- The effective tax rate for different goods gets reduced.
- This model helps in eliminating the cascading effect of taxes.
- The model proves to reduce the taxpayer's transaction costs by way of simplified tax compliance.
- Increase in the tax collections due to broadening the tax base and compliance improvement.

### **Advantages of GST:**

GST has mainly removed the cascading effect on the sale of goods and services. Removal of the cascading effect has impacted the cost of goods. Since the GST regime eliminates the tax on tax, the cost of goods decreases.

Also, GST is mainly technologically driven. All the activities like registration, return filing, application for refund and response to notice needs to be done online on the GST portal, which accelerates the processes.

- 1. GST Eliminates the Cascading Effect of Tax**
- 2. Higher Threshold for Registration**
- 3. Composition Scheme for Small Businesses**
- 4. Simple and Easy Online Procedure**
- 5. The Number of Compliances is Lesser**
- 6. Special Treatment for e-Commerce Operators**
- 7. Unorganised Sector is Regulated under GST**

### **What are the components of GST?**

**There are three taxes applicable under this system: CGST, SGST & IGST.**

- **CGST:** It is the tax collected by the Central Government on an intra-state sale (e.g., a transaction happening within Gujarat)
- **SGST:** It is the tax collected by the state government on an intra-state sale (e.g., a transaction happening within Gujarat)
- **IGST:** It is a tax collected by the Central Government for an inter-state sale (e.g., Gujarat to Maharashtra)

### **Definitions (Selected):**

**1. Supply:** As per sec.7 of CGST Act the expression 'Supply' is an inclusive definition. It includes:

- All forms of Supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- Import of services for a consideration whether or not in the course or furtherance of business; and
- The activities specified in Schedule I, made or agreed to be made without a consideration.

From the above definition it is clear that as long as the goods or services are disposed off or agreed to be disposed off, they would be taxable under this section.

**2.Business** :The definition of ‘Business’ as given under sec.2(17) includes- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit; (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a); (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction; (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business; (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members; (f) admission, for a consideration, of persons to any premises; (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation; (h) activities of a race club including by way of totalizator or a license to book maker or activities of a licensed book maker in such club; and (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities. The above definition of ‘business’, is a comprehensive definition purporting to cover all activities involving all transactions undertaken by any person including those undertaken by the Central Government, State Government or any local authority.

**3 Goods:** The definition of ‘goods’ under sec.2(52) refers to every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

**4 Services:** Under sec.2(102) ‘Services’ means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. It may be seen both the definition of goods and services excludes money and security.

**5 Works Contract:** Sec.2(119) of CGST Act defines works contract as follows: ‘works contract’ means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable

property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

**6 Mixed supply** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration- A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

**7. Person** includes-

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);
- (h) anybody corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);
- (m) trust; and

(n) every artificial juridical person, not falling within any of the above;

## **8 Place of business**

includes-

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

**9. Composite Supply**– means a supply made by a taxable person to a recipient comprising two or more supplies of goods or services, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal activity. [Section 2(30)] • E.g. Goods packed and transported with insurance.

- **10. Aggregate Turnover:** As per section 2(6) of CGST Act, 2017 ‘aggregate turnover’ means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

### **Composition levy and Collection:**

The Composition Levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit. **The objective of Composition Levy scheme is to bring simplicity, ease the compliance burden and reduce cost of compliance for the small taxpayers.** The scheme is optional. It essentially provides for a turnover tax regime for such taxpayers, with facility for filing of return on annual basis along with quarterly payment of tax. Under this scheme, a registered taxable person, whose Aggregate Annual Turnover has not exceeded R 1.50 Cr in case of goods (Rs. 75 Lakh in

case of Uttarakhand and 7 North Eastern States) in the previous financial year, may opt for this scheme. Composition Levy scheme has been made available for suppliers of services (to those who are otherwise not eligible under Section 10(1) of the CGST Act) with a tax rate of 6% (3% CGST + 3% SGST) having an Aggregate Annual Turnover in the preceding FY up to R 50 Lakh. An eligible manufacturer / service provider registered under Composition Levy scheme has to pay an amount equal to certain percentage of his turnover in the State or Union Territory, as tax to the government. However, any other eligible supplier (e.g. trader) has to pay an amount equal to certain percentage of his turnover of taxable supplies of goods and services in the State or Union territory. This tax has to be paid on quarterly basis. Such taxpayer does not have to maintain elaborate records and instead of regular monthly returns, which a normal taxpayer has to file under GST, he has to file a simple annual return in FORM GSTR 04. However, upon opting for this scheme, he cannot issue taxable invoice under GST law and he can neither collect GST from his customers nor can claim Input Tax Credit on his purchases.

### **Persons who are not eligible for the scheme:**

Barring few exceptions, all registered taxable persons whose Aggregate Annual Turnover has not exceeded the eligibility limit (as mentioned above) in the previous financial year are eligible to opt for this scheme.

List of taxable persons who are not eligible for the scheme is as below:

- (a) A casual taxable person i.e. a person who occasionally undertakes supplies in a State or Union Territory where he has no fixed place of business;
- (b) A Non-Resident Taxable Person i.e. a person who occasionally undertakes supplies but has no fixed place of business or residence in India;
- (c) A person engaged in providing inter-state supply of goods and services or both;
- (d) A person engaged in supply of non-

taxable goods i.e. goods which are not taxable under GST law; (e) A person engaged in supply of goods through an Electronic Commerce Operator (ECO) who is required to collect Tax at source under Section 52 of the CGST Act. (f) A person engaged in manufacturing of goods notified under Section 10 (2) (e) of the CGST Act 2017.

### **Benefits under GST Composition Levy Scheme:**

- (a) Less Compliance:
- (b) Reduce tax liability:
- (c) High Liquidity

### **Limitations of GST Composition Levy Scheme:**

There are some limitations under GST Composition Levy scheme, which a taxpayer must be aware of before opting for the scheme. These are:

- (a) No credit of Input Tax:
- (b) No Inter-State business:
- (c) Pay tax form own pocket: