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GST Newsletter

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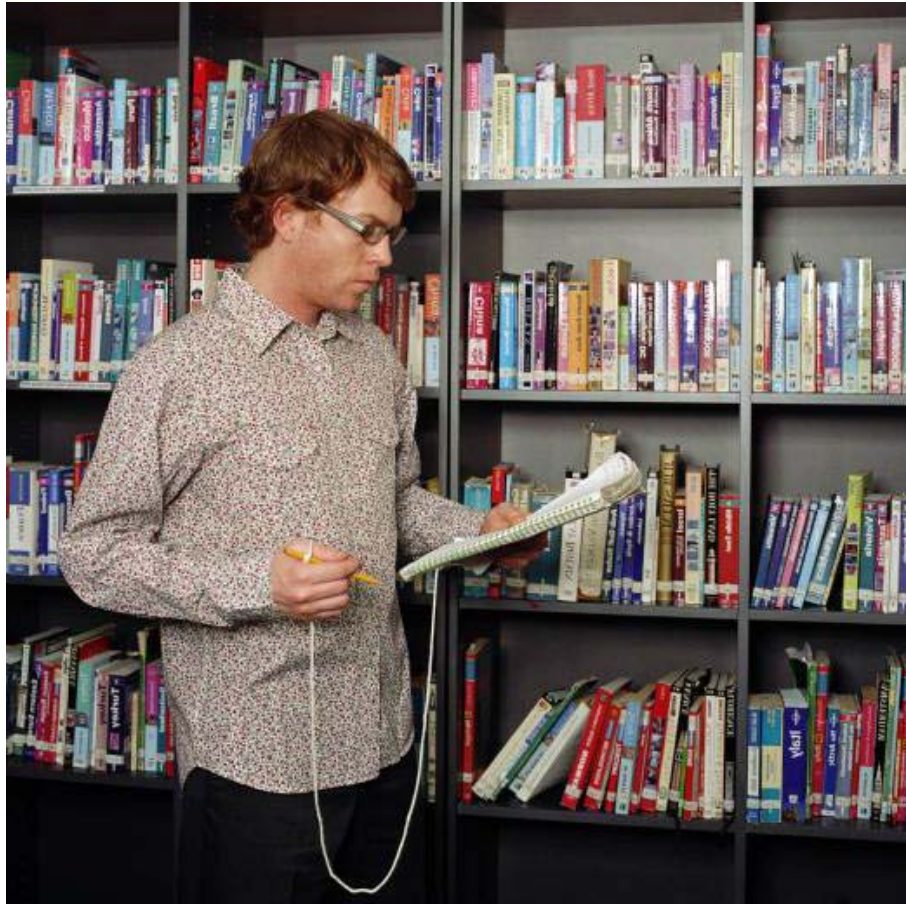
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News



The Union Finance Ministry has assured industry that its tax burden would come down by up to 25% upon the introduction of the GST.

The Revenue Secretary Mr P.V. Bhide, at a conference organized by ASSOCHAM, also stated that the GST would substantially enhance the competitive edge of both the manufacturing and services industries.

(RTT NEWS, December 24, 2009)

The Government may introduce a legislation in the budget session of Parliament to effect the necessary constitutional amendments and facilitate the launch of the GST, although the rollout of this comprehensive indirect tax reform from the scheduled date of April 1, 2010, seems unlikely.

A Government official stated that the legislation has been finalised and the attempt is to introduce it in the budget session. The Joint Working Group set up to formulate the above constitutional changes has already finalised the draft of the legislation. The Constitutional amendments are required for a rollout of GST as States need to be empowered to levy and collect tax on services. At present, the power to levy this tax rests with the Centre. Similarly, the Centre needs the authority to levy and collect tax on trade and levy of GST on imports.

(Times of India, January 8, 2010)

News

The Centre and States were unable to decide on a new date for the rollout of the GST and will now meet again by the month end to sort out all contentious issues. This will include the finalisation of the dates and rates.

(Economic Times, January 9 2010)

The Centre proposes to compensate the States for upto 50 per cent of the total revenue loss of Rs 9,000 crore this year due to a reduction in the rate of CST. The Finance Minister Mr. Mukherjee has asked the Empowered Committee (EC) to work out a package where the States have to share 50 per cent of the CST losses in the current financial year. He stated that this proposal will be discussed with the State Finance Ministers. The Chairman of the EC, Dr. Asim Dasgupta, said that the new package would cost about Rs. 14,000 crores and this proposal will be discussed with the State Finance Ministers.

(Business Standard, January 9, 2010)

The Institute of Chartered Accountants of India (ICAI) has asked the Government to defer the implementation of GST from April 1, 2010 by an year to allow for a smoother transition to the new indirect tax framework. Though the rollout of the tax looks unlikely from April 1, 2010, both the Centre and the States are locked in a debate over whether to unveil it in middle of the financial year. The Centre is in favour of a mid-year launch while States want the new tax to be implemented from April 1, 2011 to give enough time to trade to prepare for the new regime.

(Economic Times , January 16 2010)

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Mr.Mukherjee said that the Union Budget is to be tabled in Parliament on February 26, 2010. He stated that the Constitutional amendments for the introduction of the GST is unlikely to be tabled in the budget session of the Parliament and will follow later. It is most likely that it will take another seven-eight months for building consensus on the amendments. The EC has to prepare a complete package and revert to the FM by end January. The complete package would include the revenue neutral rate, the tax base, the exemptions and the requisite constitutional amendments.

(CNBC TV 18, January 11, 2010)

The Centre has suggested setting up a common dispute resolution scheme for settlement of cases in the proposed GST. It is also suggesting sharing of service centres between the Centre and States, besides common registration facilities for traders.The industry has been asked to suggest whether there should be a single rate or dual rate, positive list or negative list for service tax, levy of IGST on inter-state branch transfer, one registration for all units in a state or separate registration, point of incidence of tax, consignment sale and procedural simplifications. The Government is deliberating whether to impose tax at the stage of raising invoice, making payment, provisioning or supply of goods and services.

(Business Standard , January 19, 2010)

Key recommendations of the GST Task Force

The Task Force appointed by the Thirteenth Finance Commission, Government of India, has issued a report on December 15, 2009 detailing the recommendations on various issues relating to the design and implementation of the proposed GST in India.

These recommendations differ considerably from the model and structure of the GST envisaged by the EC as described in the First Discussion Paper released by the EC on 10 November, 2009. The differences relate to several critical areas such as the tax base, tax rates, threshold limits, taxation of inter-State supplies of goods and services, exemptions/ compounding schemes and taxation of alcohol, tobacco and petroleum products in the GST regime, amongst others.

At the outset, given the inadequate preparation for GST implementation as of date, the Task Force has recommended that the implementation date of the dual GST be postponed by six months, to October 1, 2010. The key recommendations of the Task Force have been mentioned in the subsequent paragraphs.

GST structure

It should be a dual levy imposed concurrently by the Centre and the States and should have two components; the CGST and the SGST. The tax base should extend to all goods and services in a comprehensive manner upto the final consumption point and the destination principle should be followed, resulting in shifting of the tax base from the State of production to the State of consumption.

GST Rates

The CGST and SGST on all goods and services should be fixed at a single positive rate of 5 per cent and 7 per cent respectively. Out of the 7% SGST rate, a formula based devolution of an amount equivalent to 2 % SGST should be made to local governments and bodies in lieu of abolition of entry tax, octroi, cesses etc.

Coverage

The CGST & the SGST should be made applicable on all transactions of goods and services made for a consideration except for exempted goods and services, goods which are required to be outside the purview of the GST (negative list) and transactions which are below the prescribed threshold limits. The real estate and power sectors should also be integrated into the GST framework.

Classification

The GST should ensure that there are no classification disputes between goods and services i.e. whether a particular transaction would be taxed under VAT or Service Tax or both and hence no distinction should be maintained between goods and services in terms of tax treatment and rates.

Key recommendations of the GST Task Force

Subsumation of existing taxes

The Central taxes to be subsumed under the CGST are the Central Excise Duty; the additional Excise Duties; Service Tax; Additional Customs Duty commonly known as Countervailing Duty (CVD); surcharges and all cesses.

The State taxes to be subsumed under the SGST are VAT/ Sales tax (including Central Sales Tax CST and Purchase Tax); Entertainment tax (other than levied by the local bodies); luxury tax; taxes on lottery, betting and gambling; state cesses and surcharges in so far as they relate to supplies of goods and services and entry taxes not in lieu of octroi.

Other State levies such as stamp duties, taxes on vehicles, taxes on goods and passengers and taxes and duties on electricity should also be subsumed under the SGST.

Finally, all entry taxes and octroi levied by the local governments or bodies should be abolished.

The Central Sales Tax (CST) should be phased out upon the introduction of the GST.

Input Tax credits (ITC)

The ITC for the CGST & SGST would operate in parallel and would be available for utilization only against the output payment of CGST & SGST respectively. A taxpayer or exporter would have to maintain separate accounts for availment and utilization of credits. Full and immediate ITC should be allowed for tax paid on all purchases of capital goods in the year of purchase and any subsequent transfers of capital goods should attract GST liability.

Cross utilization of ITC between the CGST & the SGST should not be allowed.

Exemptions, Thresholds & Composition schemes

Exemptions

The Centre and the States should draw up a common exemption list which should be restricted to:

- all public services of Government (Central, State and municipalities / panchayats) including civil administration, health services and formal education services provided by Government excluding railways, post and telegraph, PSEs, Banks and Insurance;
- unprocessed food articles covered under public distribution system irrespective of the outlets through which they are sold;

Key recommendations of the GST Task Force

- education services provided by non-Governmental schools and colleges;
- health services provided by non-Governmental agencies;
- any service between an employer and employee either as a service provider, recipient or vice versa.

No exemptions should be provided to developers of or units in the Special Economic Zones (SEZs).

Uniform Thresholds

There should be a uniform exemption threshold limit both for the CGST and the SGST. The threshold limit has been prescribed for both taxes at Rs. 10 lakhs.

Compounding Schemes

The option for availing Composition / Compounding scheme under GST would be available to dealers having aggregate turnover of goods and services between Rs. 10 lakhs to Rs. 40 lakhs at a rate of one percent each towards CGST and SGST.

The dealers in high value products like gold, silver, platinum, precious stones and bullion, would be allowed to opt for the compounding scheme at the aforementioned rate irrespective of the turnover.

Taxation of Inter-State supplies of goods and services

The Tax Force has recommended that the taxation of inter-state supplies of goods and services be governed by the modified banking model. The principle that the Task Force has kept in mind in recommending this model is that of zero rating of goods in the state of origin and the charge of the tax of such goods in the destination states, in line with the objective of introducing a destination based consumption tax through the introduction of the GST. The above recommendation has also been extended to consignment sales and branch transfers.

Exports and imports

Exports will be zero-rated, with the benefit of recouping of input taxes as well. Both CGST and SGST will be levied on imports of goods and services into the country. Here again, the incidence of tax will follow the destination principle. Full and complete set-off will be available on the GST paid on imports of goods and services.

Key recommendations of the GST Task Force

Tax administration and compliance

All compliance and enforcement procedures under the CGST and the SGST should be uniform. The basis for division could be turnover or any other criteria which is considered reasonable so that the compliance and administrative burden is minimised. A common IT infrastructure serving the needs of both CGST and SGST should be established by the Central Government.

Registration

The GST registration number should be a PAN based twelve digit alphanumeric number. Dealers having branches across States should have multiple GST registration numbers, based on the number of States in which they operate.

Payment of taxes

One single payment is to be made both for CGST and SGST by assesseees and the transaction reporting should be made through a combined payment and transaction reporting statement in the prescribed format (Form No. GST-I).

Treatment of current area based exemptions

The existing area based exemptions in respect of CENVAT should be discontinued and if need be a direct investment linked cash subsidy may be provided to support the industry, for balanced regional development. The idea is to not break the GST chain with regard to both CGST & SGST.

Taxation of tobacco, alcohol and petroleum products

The Task Force recommends extension of the GST to all goods, without exception. It has also recommended that tobacco, alcohol and emission fuels should be subjected to both GST and excise. However, no set off of input tax credit for excise would be available. Industrial fuels should be subject only to the GST with full benefit of input tax credits.

Fiscal autonomy of states

In a major and welcome recommendation, the Task Force has suggested that in order to permanently institutionalize the States' collective decision making mechanism, the Empowered Committee of State Finance Ministers (EC) should be transformed into a permanent Constitutional body known as the Council of Finance Ministers under the Chairmanship of the Union Finance Minister with the State Finance Ministers being the members of the Council.

Roadmap & the Way Forward

The Roadmap for GST

A phased approach should be adopted for implementation of GST whereby in the year 2010-2011, the single CGST and SGST rates of 5 per cent and 7 per cent as recommended should be adopted and transactions in the real estate sector should be brought within the ambit of GST with the levy of stamp duty not exceeding 4 per cent.

In the year 2011-12, the rate of stamp duty should be reduced to 2 per cent. In the year 2012-13, the stamp duty should be eliminated and replaced by a nominal registration fee at a specific rate.

Way forward

These recommendations differ considerably from the model and structure of the GST envisaged by the EC as described in the First Discussion Paper released by the EC on 10 November, 2009. Given these significant variations between the recommendations of the Task Force & those contained in the first discussion Paper, it appears likely that several of these recommendations may not find favour with the EC.

Indeed, it appears the EC has, in its meeting of 7th January 2010, discussed and differed with the methodology and the approach of the Task Force. Asim Dasgupta, the EC Chairman, is reported to have said that the rates suggested by the Task Force need to be reconsidered as well. Clearly things are in a very fluid stage at this moment and the developments are to be monitored very closely.



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