

GST File

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By Vijay Kumar

IN his 2006 Budget speech, Finance Minister Chidambaram stated:

It is my sense that there is a large consensus that the country should move towards a national level Goods and Services Tax (GST) that should be shared between the Centre and the States. I propose that we set April 1, 2010 as the date for introducing GST. World over, goods and services attract the same rate of tax. That is the foundation of a GST. People must get used to the idea of a GST.

Before that, the Kelkar Task Force on the Fiscal Responsibility and Budget Management (FRBM) Act, 2003 suggested a comprehensive GST based on the Value Added Tax principle.

Addressing the CMs and officers of the Northern States, the Prime Minister said on 28.09.2006,

In an ideal world, VAT should be the only tax on goods. We continue to have octroi, luxury taxes, mandi taxes and other levies. In the long run, as we move to a common Goods and Services Tax as announced by the Finance Minister, most of these taxes should disappear.

West Bengal Minister for Finance, Asim Dasgupta, who was also the Chairman of the empowered group of finance ministers, said after returning from a tour of Brazil and UK in September 2007,

"the taxation model of the proposed Goods and Services Tax (GST) is being formulated."

In her address to the Joint Session of Parliament on 04.06.2009, the President, Ms. Pratibha Devisingh Patil said,

The roadmap for moving towards a Goods and Services Tax will be vigorously pursued.

I wrote then,

The Government hardly has ten months to meet the GST implementation target and as of now they don't have the law, the infrastructure or even the direction. For a successful GST you need a good IT infrastructure and even in Central Excise the computerisation project is not taking off. The ACES is still somewhere in the wiring stage. The other day I went to a Central Excise Chief Commissioner's office and found the whole place weird. They were trying to do the wiring for the ACES project! The State Commercial Taxes Departments are not even on talking terms.

On 6th August 2007, we in TIOL started a new column called 'ST se GST Tak' ten years before GST was officially launched. In our August 21 2007 issue [Who discovered the concept of Service Tax?](#), the author stated,

It must be a philosopher who, while getting his beard shaved by a barber, got the bright idea that what the barber is doing is an 'economic activity' and it must be taxed. Probably he would have started running on the street, half shaven, shouting 'Eureka.. Eureka' for he had found resources to meet the expenditure for his emperor's costly habits.

Taxing services.... Such a thing was unheard of in this country. After all, unlike goods or money, service is intangible. While goods are like bodies, services are like souls. You can operate the body, but how can you operate the soul? There must be heated arguments in the rooms of the North Block and elsewhere. Some smart revenue officer would have questioned, - **"Hey man, I can stop a truck and check whether the goods being carried are duty paid. But how can I check if whether a barber has given 10 shaves or not."**

Some would have smiled mischievously saying taxing services should start with the 'oldest profession in the world', for it would be nice to go to collect tax from the service providers.Â

The Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. However, the issue of payment of compensation to the States for loss of revenue remained an important bone of contention between the Centre and the States, and in the face of resistance in the Parliament, the Bill was referred to the Standing Committee on Finance for examination. No consensus could be formed around the contentious issues of compensation, treatment of petroleum products and subsuming of entry tax. The amendment bill lapsed with the dissolution of the 15th Lok Sabha in May 2014.

In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government. The Constitution (122nd Amendment) Bill was passed by both Houses of the Parliament on 8th August 2016. After ratification by 50% of the States, the Constitution (101st Amendment) Act, 2016 was assented to by the President on 8th September 2016.

There was some apprehension between the Central government and State government officers on who would **man** the GST.

The IRS (C&CE) Association in a Resolution dated 06.10.2016 stated:

1. IRS (C&CE) officers as well as Association are totally committed to very successful and smooth implementation of GST in the country w.e.f. 1st April, 2017.
2. Association has never ever opposed any decisions of the government nor intends to do so.
3. CBEC& IRS officers have requisite experience of working smoothly and successfully in the field of Indirect Tax Administration in the country for decades and have witnessed several transitions without any glitch including when first time Service Tax was implemented in India in 1994.
4. At the moment, we assure one and all that we are for extremely successful implementation of GST and ready to do whatever is required. However, the State VAT officials may not be allowed to bring distortions in GST to weaken the Centre. A strong sustainable Centre is the need of the hour.

At that time, I wrote [DDT 2948](#)

While the commitment and promise of the association are laudable, what makes them think that the State VAT officials will bring distortions in GST to weaken the Centre? After all, the senior officers of the VAT in the States are officers of **"All India Service"** called the IAS, to which their illustrious boss, the Revenue Secretary also belongs. Further what does it mean by **A strong sustainable Centre is the need of the hour** ? Don't we have one already?

Can there be one rate of GST for air-conditioners, chappals, milk and Mercedes? ÂIt all started with air-conditioners and chappals and ended with milk and Mercedes. Writing in his blog on October 26, 2016, the then Finance Minister Mr. Arun Jaitley stated,

Some have suggested that multiple tax rate is disadvantageous to the GST and would neutralise some of the advantages of a uniform tax structure. The reality is that a multiple tax rate in India is inevitable for several reasons.

Different items used by different segments of society have to be taxed differently. Otherwise, the GST would be regressive. Air conditioners and hawai chappals cannot be taxed at the same rate.

The Prime Minister agreed, though his choice of commodities was different. While it was air-conditioners and chappals for Mr. Jaitley, the PM chose milk and Mercedes. He said,

It would have been very simple to have just one slab, but it would have meant we could not have food items at zero per cent tax rates. Can we have milk and Mercedes at the same rates?

Once you understand the intricacies of chappals and milk on one side heckling air-conditioners and Mercedes cars on the other side, GST is easy.

Dr. Kelkar, who started it all, in his book in 2019 has some interesting observations on GST.

1. Government is an important buyer of goods and services, and a low single-rate GST would yield cost savings for all levels of government.
2. A successful GST reform will yield higher direct tax collections also.
3. Fundamental tax reforms always involve giving up revenues in the short term and making it up on higher GDP growth.
4. We should have been comfortable running up larger budget deficits in the short run. An insistence on achieving revenue neutrality in the short run was a mistake.
5. A simple single-rate GST is easier to implement, as opposed to a complex GST system with multiple rates. It would make sense to first build a single-rate GST, achieve a high compliance environment, and then examine the possibility of having multiple rates.
6. At the early stages of learning how to build a tax administration, the officials should have low powers of investigation and punishment . If high powers are given to officials, alongside the poor checks and balances of an early-stage organization, this will yield a collapse into intimidation and corruption. Only after a tax administration is working at high levels of probity with low tax rates, low powers of investigation and low penalties, can we consider gently raising these powers.

At Kelkar's book release event, Fifteenth Finance Commission (FFC) chairman N K Singh said:

1. the Goods and Services Tax (GST) system needs to get simpler so that it becomes easier for businesses and traders to comply with it.
2. Policy makers need to go back to the drawing board on GST.
3. Frequent changes have resulted in a clutter that has made compliance difficult for businesses.

Speaking in the Lok Sabha on 29.03.2017, Finance Minister Arun Jaitley said,

The law that we are dealing with even though Parliament and State Legislatures have the plenary power to legislate, but this is a unique experience of Indian Legislature because ordinarily we legislate in areas which exclusively belong to the domain of Parliament or to the domain of the State Legislature. Here, we are legislating in an area where we have simultaneously under Article 246(a) conferred jurisdiction on both Centre and States. So, the States have pooled in their sovereignty to the GST Council, the Centre has pooled in its sovereignty to the GST Council. So, the GST Council is India's first federal institution where sovereignty of the Centre and the States in relation to indirect taxes has been pooled together in a federal institution.

Recently, the Supreme Court told us that the GST Council is only a recommendatory body and that the recommendations are not binding on Parliament or State Legislatures.

In fact, in Parliament, Mr. Veerappa Moily, asked:

My simple question is, who gave the power or who empowered the GST Council to make law under article 265 of the Constitution? We would like to know about it. Is the GST Council the authority to make law under article 265?

And Mr. Arun Jaitley replied: The answer to Shri Moily's question is very simple. The GST Council has been given the power to make a **recommendation** with regard to the model law. Who gave that power? The Constitution Amendment gave that power.

The PIB in its [release](#) dated 30 th June 2018 stated, "

Before implementation of GST, Indian taxation system was a farrago of central, state and local area levies"

"farrago" means a confused mixture and that is how GST stays.

Winston Churchill is reported to have said, **"There is no such thing as a good tax."** In February 1907, he remarked in Parliament,

"Taxes are an evil-a necessary evil, but still an evil, and the fewer we have of them the better."

As we are completing five years of GST, I am reminded of **Nani Palkhiwala's words,**

The health of our economy will not improve until we inject the 'S' factor into our fiscal laws, and make them Sane, Simple and Stable.

Until Next week