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**CHALLENGES AND OPPORTUNITIES OF GST  
GST AT A GLANCE AND PRACTICAL ASPECTS OF ITS PROCEDURE FOR  
BUSINESS AFTER ITS IMPLEMENTATION**

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**Abstract**

The Goods and Services Act, 2017 is the mile stone in the field of indirect taxation in India. It has consolidated a number of legislation such as sales tax, excise duties and others. Undeniably it was a tough task on account of several varieties of goods and services brought within its ambit. Further, the whole process of codification, registration, assessment, examination, valuation, determination, payment and appeal on the one hand, and equitable distribution of revenue earned among the State Governments and Union Territories, on the other, has been specified within the framework of the Constitution of India.

Human efforts are rarely immaculate or perfect. Hence, this Act has umpteen misgivings and shortcomings which are to be highlighted by academicians, professionals and practitioners of laws for the purpose of its reformation, and so is this paper.

**Key Words:**

Consolidation, Input tax credit, registered dealers, inter-state movement of goods and services, Appellate authorities, GSTN.

**Introduction**

Public consumption of commodities as well as public need for variety of services expand indiscriminately due to increase in the population and their earnings. The government responsible for maintenance of law and order and also for providing Name- Kuladip kalita

C/O- Kanak Kalita

Vill- Upartola

P.O- Upartola

Dist- Goalpara

Pin- 783124

Phn no. 8486325032 Name- Kuladip kalita

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Phn no. 8486325032 facilities and numerous services to the public requires considerable and regular source of revenue to effectively meet its obligations. The Constitution of India empowers the Government to levy taxes on people a through annual Finance Bill duly passed by the Parliament. The ultimate user of goods and services has to borne the taxes so levied by the government. Prior to the introduction of the Goods and Services tax form July 1, 2017, there were different overlapping taxes creating confusion worst confounded. For example, on sale of goods was subject to the Central Sales Tax levied by the Central Government and Sales Tax by the State Government. In order to rationalize and to make it fair and equitable, the Article 246A of the Indian Constitution amended as 101<sup>st</sup> amendment which empowered the Central & State to levy and collect the Goods and Services Act, 2017.(GST).

#### Necessity for GST

The necessity for a consolidated levy of tax was felt not only by the Central and State Governments and Union Territories, but also industry, trade and professions in the country for the following primary reasons.

1. A number of taxes, duties, cess, and surcharges either by the Central Government or by the State Government have been in vogue creating innumerable disputes and litigations between the governments and clients.
2. The revenue from the these taxes have been subject to distributions between the Central and the State Government according to the principles of devolution recommended by the Finance Commissions in every five years; In devolution, the dissensions between the Central and State Governments to the fore; The petitions to the Supreme Courts became the common phenomena.
3. The different enactments levying taxes on goods or on services have different and varied definitions creating problems leading to litigations in a number of cases.

This could have been rectified had the taxable goods or products or even services been codified after due standardization.

4. In the administration of taxes, almost every indirect tax levied has an appellate authority to decide the dispute between authority and businessmen- client and most of the time their decisions were final and binding. These numerous litigations put the business people and other professionals in a great loss- loss of time, energy and cost.
5. The problems get compounded in inter-state movement of goods and services. More often than not, a number of goods and services have been subject to double taxation and imposition of fines in case of any violation of the provisions of the laws.
6. Improper definitions of the taxable goods, products, services, lacuna in assessment of taxes, problems in payments of taxes, complaints and appeals perforce the taxpayers to evasion of taxes or manipulation of accounts and many unethical practices, reducing the amount of revenues to the governments.
7. In addition to above, every tax legislation prescribed a number of application formats and require a number of copies of financial and commercial documents. It was a paper-galore- submitting those statements repeatedly without any meaningful use.
8. The need for consolidation of numerous enactments such as: 1 Central Excise 2. Duties of Excise on Medical & Toilet preparations, 3. Additional Duties of Excise (Goods of Special Importance), 4. Additional Duties of Excise, Textile & Textile Products 5. Additional Duties of Customs 6. Special Additional Duties on Customs, 7. Service Tax 8. Surcharge and Cess on service tax 9. State VAT Act 10. Central Sales Tax Act 11. Luxury Tax, 12. Entry Tax, 13. Entertainment & Amusement tax (Except when levied by the local body) 14. Taxes on advertisement, 15. Purchase tax, 16. Tax on lotteries betting, gambling 17. State Surcharges & Cess: was deemed be necessary.

In the light of above infirmities, it is deemed essential to study how far the new GST 2017, has been successful in offering right solutions in the right manner for the right goods and services. In To avoid the overlapping and to nullify the cascading effects of these taxes of States and Central Governments the need for GST was arose in India as one tax.

## **Hypothesis**

This study is founded on the hypothesis that the Goods and Services Act, 2017 has certainly introduced the considerable corrective and curative changes by the unification of indirect taxes on goods and services used by the common public.

## **Objectives**

The following are the sole objectives of the present study:

1. To critically examine procedures laid out for levying taxes on goods and services; and
2. To highlight the structure of administration of the Act.

It is to be noted that the term 'goods' does not include money, security, immovable property such as land and buildings, while 'services' means anything other than goods.

## **GST Council:**

Under the provisions of this Act, the GST Council with the Finance Minister as the chairman is constituted for making suitable recommendations from time to time regarding the following subjects:

- [a] All kinds of taxes levied by the Central, State and Local bodies are consolidated under the Act
- [b] Taxes & surcharges to be levied by the Central and State Governments, local Bodies, and their possible consolidation'
- [c] The determination of threshold limits of turnover of goods and services to be exempted from the GST.
- [d] Fixation of rules for apportionment of IGST, for apportionment revenue generated , etc.
- [e] Special provisions for the regions such as Jammu and Kashmir, North-east states, Uttara Khand and Himaachyal Pradesh,
- [f] Any other matter relating to and within the scope of the Act.

## **Goods & Service Tax Net Work (GSTN):**

The GSTN is established under the Act to provide IT infrastructure and technology for communications services among several authorities, Agencies, agents governments, tax payers, consultants, etc. Its primary functions are as below:

1. Facilitating registration of taxpayers
2. Forwarding the returns to the Central and State government authorities,
3. Computation and settlement of INGST
4. Matching of tax payments details with balancing net work,
5. Providing various MUS reports to respective authorities regarding the returns,
6. Providing analysis of taxpayer's profile,
7. Running the matching engine for matching reversal and reclaim of input tax credit,

With this back ground the Government was very eager to levy the GST Act anyhow by hook and crook and the Act was levied to whole of India except Jammu & Kashmir with effect from 1<sup>st</sup> of July, 2017. Since, the Act being already levied without any proper and strong GST Net Work (GSTN) it appears that the Government hurriedly levied this tax without any full proof procedure.

The Government affirms itself that this is the Act of Compliances and Online Procedure, which is based fully on pathand protocol provided by hi-tech IT Sector and to be carried with the help of Computer. For this one must have internet connection and IT devices. Computer literacy among taxpayers is the need of the hour and the initiative need be taken by the business associations and this should be there. If a business man or service provider is not having the computer knowledge he can't carry his business.

This is the finding of our Government that, the people of India are not so literate as compared to people of European and American countries from where the GST Act is copied. Knowingly this fact the Government of India acted as deteriorative and forced rigorously the business to follow the tedious procedure to comply with the Act. On the other hand Government is failed to provide full proof IT procedure to the business. The trade is facing day to day hardship.

In the regime of GST the tax payer has to file the series of returns though the system is online but it is creating the hard ship to the taxpayers, traders and the dealers. The tax payers has to file the returns as per following:

**TRANS-1:** To claim the excise/customs duties paid by the purchaser of the goods which remained as closing stock on 30<sup>th</sup> June, 2017.

**GSTR-3B:** To be file by the dealer after adjusting the In Put Tax Credit (ITC) available on their purchases made from 1<sup>st</sup> of July, 2017 by paying the tax if any become to pay.

**GSTR-1:** A detailed sheet of sales affected by the taxpayer. He has to furnish very comprehensive details of each sale transactions such as the GSTIN of the customers, Invoice Number, Date, Quantity, the HSN Code of the goods sold etc.

**GSTR-2:** This is also a return provided under GST Act which is not required to file. Since this is the reflection of GSTR-1. Every dealer has to show their sales details in GSTR-1 as mentioned above. Thus, it will become the GSTR-2 for the purchasing dealer. This GSTR-2 will be auto popup return on the dashboard of the login dealer.

Apart from these returns there are many other return forms and most awaited E-Way Bill electronic Form. Recently the GST Council in its meeting decided to introduce the E-Way Bill with effect from 1<sup>st</sup> February, 2018. The E-Way Bill has to be procured by the registered dealers for the transportation of their goods of more than the value of Rs.50000.00. The E-Way Bill has to be carried with the transportation of the Goods this will cause the hardship since this has to procure online. This will also lead to Inspector Raj and may lead to corruption.

Practical problems in implementation of the Act 2017

[1] It is strongly pleaded that the application of the Act as tarnished the professionalism of all those consultants, like chartered accountants, tax consultants, and even the tax payers on account of absence of clear guidelines and proper directives;

[2].It is most unfortunate that GST server, more often than not goes out of order in getting hanged, generating wrong and incomplete reports, making the filing of returns impossible, poor connectivity. This results in wastage of time and money of the tax payers. Many a time, returns are not accepted on e-mails. Technical defaults are so common deterring the taxpayers to adopt these practices.

[3] The GSTN is so imperfect that more often than not the returns and confidential business papers and information get disclosed to others as a result of clicking in wrong manner and methods. Security of data and information when not assured by the concerned authorities, the clients are bemused and thereby hesitate to provide or submit them. The Government tax officials do not accept the responsibility of unauthorized disclosure. Despite repeated assurance of security in advertisements issued by the Government from time to time, at operational level things remain in utter mess and confusion.

[4] It is observed that the GST helpdesk or Government twitter Handle offers different replies for the similar or same queries thereby creating confusion in the minds of the recipients. They could not digest such irresponsible and meaningless answers. It becomes the mockery of the whole system howsoever modern and technically well-equipped as claimed by the government. All utilities are found to be full of bugs making the business people to suffer tardiness.

[5] The dealers have to feed the data and have to file the returns and pay the tax in three tier line of procedure. This is more time consuming. The businessman is busy in these formalities and they are not able to share the time for further business. They have to go through the Return Form GSTR 3-B, GSTR-1, GSTR-2 in a month apart from payment of tax which is to be paid online. The due dates of these Returns are so consequent the dealers remain busy in the follow up only which is resulting in losing the time in business activity.

[6] The procedures of submitting returns, enclosures and many certificates and documents are cumbersome to an extent of disorienting and demoralizing the industrial and business people. In fact, the procedures for tax assessment, reexamination of papers, submission of applications, clarifications and classification, etc, need be easy and simple so that there would be a pleasure for paying taxes and returns.

[7] The provisions regarding the Input Tax Credit (ITC) are beyond the understanding of the common registered dealers. They seek clarifications and ratifications as and when they submit the application as per provisions of the Act. The period of five years has elapsed yet the prevailing ambiguities and misconceptions still persist. No proper authority is able to explain and help taxpayers in eradicating their doubts.

Thus, this most significant Act governing the major sources of earnings of the Government, is

losing its effectiveness on account of impudence and equally imprudence on the part of the officials of higher order. The taxpayers have almost lost their keenness and earnestness in submitting the requisite prescribed returns and many other applications and financial papers.

### **Summary**

Undoubtedly, the legislation on taxes on goods and services in the name of the Goods and Services Tax, 2017 is a mile stone in the history of indirect taxes in India. The task was undeniably formidable and indescribable challenge before the government. The task multiplied on account of the objective of consolidation of numerous acts levying taxes, duties, cess and charge. The amalgamation of several indirect taxed cannot be an easy task due to differences in their definitions, scope, conditions, and allied legal factors. The Act is subject to modifications and reformation as required and the process in due course.

Apart from the objective of consolidation of several enactments on the indirect taxes, the government introduced the permanent mechanism for distribution of taxes so collected among several states and the Union territories on the recommendations of the Finance Commissions. Every piece of legislation is imperfect in initial stages but the experiences gained in different circumstances in application over the period, it gets perfection by amendments in later years. The government is not blind to the problems mentioned earlier but will certainly take measures to eradicate as many problems and ambiguities people come across.