

GST – THE ASYMMETRY

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"An idea can be flawless but its execution will always be full of mistakes"

- **Brendt Scowcraft**

"Flawless GST!" (That is how the Task Force calls its proposals in its Report)! Whereas in Part I, we saw the parts of the Report of the Task Force singing along symphony with the proposals contained in the First Draft Paper (FDP) released by the Empowered Committee on GST. In this Part let us see a crucial aspect of the GST proposal, where there is a sharp divide between the Empowered Committee and the Task force, in respect of the all - important Inter -State transactions!

In brief, CST is the villain in the VAT chain! With no VAT credit for the CST, today, CST forms part of the cost, in the value chain! As on date, CST is payable @ 2%, if the sale is between two registered dealers across states and the transaction is documented through the use of the (in)famous "C Forms". The latter is issued by the importing State to the importing registered dealers within the state, and is submitted to the exporting dealer in order that the latter can avail himself of the concessional rate of tax. If the good is sold to unregistered dealers outside the State and is not a declared good, the transaction, by law attracts the rate applicable in the exporting State. If the rate applicable in the exporting State is less than the CST rate, the transaction is not required to be documented through the "C Form". Since sales tax applies only when there is a sale, no tax is attracted when goods move from one state to another as transfer between branches of the same enterprise or on a 'consignment' basis.

Today CST remains to be a distorting factor in the location of industries and the flow of internal trade, impeding the growth of a truly common market in the country. It also causes inter-jurisdictional inequity and reduces the international competitiveness of exports. Further, the administration of and compliance with the CST is also beset with problems. The Department is constantly under pressure to monitor the exports to registered dealers. Similarly, the importers have to incur considerable transaction cost to procure "C Forms" from the department. The exporters are also burdened with the responsibility of obtaining the "C Forms" from the importers on time. Further, the treatment of branch transfers and consignment sale under the CST provides an easy avenue for evasion.

The Empowered Committee of State Finance Ministers had set up a Working Group for addressing a model for the Inter – State transactions and in the FDP, it had prescribed the Integrated GST (IGST) model. In a sharp divide, the report of the Task force, dismisses the IGST model prescribed in FDP and prescribes a Modified Banking Model (MBM) for the Inter – State transactions based on the reasons that the IGST Model recommended in the FDP, requires a IT and complex accounting infrastructure and would also require a separate legislation for levy of IGST on inter-state transactions, similar to that of the present CST legislation. Further, the IGST Model envisages that the IGST may be paid either by using the CGST or the SGST. Similarly, credit for the IGST by the buyer can be claimed to make payment of either CGST or SGST. Rules would also be required to be framed for prioritizing the set-off against CGST, IGST and SGST. This implies a complex accounting of input tax credit and apportionment between CGST and SGST which would considerably enhance both compliance and administrative burden. Further, the Centre and the States may also have to compensate each other at different points in time. It also envisages the establishment of a centralized agency for settlement of accounts between the Centre and the States. Thus the report dismisses the IGST model prescribed by the FDP and proposes a new MBM.

The functional components of the **Modified Bank Model** would be as under :-

- (i) In the course of inter-state transaction where the seller is in State A and the buyer is in State B, the seller in State A shall pay collect the SGST leviable on the transaction from the buyer in the State B as if the sale was within the origin State.
- (ii) The seller in State A would issue an invoice to the buyer in State B indicating the details of the transaction (including the date of the transaction) and his business identification number (BIN).
- (iii) The seller in State A shall use the input SGST for payment of the output SGST on both intra-state (within State) as well as the inter-state transactions. To the extent total output SGST is in excess of the input SGST, the same shall be paid in cash, which would ensure a self-adjustment mechanism for input credit, thereby, minimizing the need for issue of refunds.
- (iv) The buyer in the destination State B shall make use of the SGST so paid in the State A for making payment of output SGST in the destination State B.

(v) All registered dealers across the country shall pay the sum due as CGST and SGST to the credit of the Central Government and all other States within one week from the end of the month to which the sale transactions relate.

(vi) The Central Government and State Governments shall jointly identify a nodal bank to receive the collection of CGST and SGST by collecting banks. The nodal bank will also receive all information relating to purchase and sale by registered dealers.

(vii) The nodal bank shall host the IT infrastructure, provide payment gateway to all banks in India and provide screen-based upload or file upload facility for receiving payment and transaction information.

(viii) It would be mandatory for all registered dealers to make the payment by electronically furnishing Form No. GST-I, which would be a combined monthly payment and return form for all intra-state and inter-state transactions.

(ix) As far as the registered dealer is concerned, he would be required to make a **single payment** of the aggregate of all sums due to the Centre and all other States. Even though he would have collected tax in the Origin State for inter-state transactions with buyers in a number of destination States, he can fulfill his obligation of directly remitting the tax so collected to all the destination states through a single payment made along with the electronic furnishing of Form No. GST-I.

(x) It would be mandatory for all registered dealers to make electronic payment of CGST and the SGST by electronically remitting it in to the RBI, SBI or any authorized bank.

(xi) The procedure for making payment of CGST and SGST **and** furnishing information relating to transactions of both purchases from and sales to registered dealers in Form No. GST-I has been detailed in the Report< which is, to me, hair splitting!!!

The Task Force has further recommended that;

i. all inter-state transactions in goods and services should be effectively zero rated by adopting the Modified Bank Model along the lines discussed in the aforesaid paragraphs.

- ii. the consignment sales and branch transfers across states should be subject to treatment in the same manner as if it was a inter-state transaction in the nature of sale between two independent dealers.
- iii. the function of all state border check posts should be reduced to checking contrabands by setting up large scanners for trucks to pass through without any need for physical verification.
- iv. The cost of the scanners should be entirely borne by the Central Government.
- v. All check-posts should be jointly manned by both States so as to reduce the number of check-posts and enhance efficiency in the road movement of goods.

To me, this MBM suggested by the Task force as against the simplest and novel IGST model recommended by the Empowered Committee in the FDP, is more cumbersome and taxing than the existing predator CST and reminds me of an age old adage, "From frying pan to the fire!!!"

Having analyzed the Report of Task Force vis-à-vis the FDP of the Empowered Committee, let's dwell into another significant milestone in the evolution of GST – in the last part of this sequel - in **Part III**