

GST – UNITY & DIVERSITY

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"Nothing can stop an idea whose time has come"

- **Victor Marie Hugo**

If the First Draft Paper by the Empowered Committee (FDP) is the Holy Bible, the Department of Revenue is the Holy Church, where the Bible is preached, and at times, breached! The Department of Revenue has given their commentary on the FDP, wherein, they had assented in some, dissented in some and appended to some!

The DoR has in their commentary to the FDP, has consented with the majority of the basic propositions made in the FDP, whereby, consent has been given to the DUAL GST structure as well as the proposed CGST and SGST as per FDP. The DoR has also agreed to the basic proposition that the dual GST would be implemented through multiple statutes viz., one for the CGST by the Centre and a separate SGST statute for every State but with the uniform basic features of law such as chargeability, definition of taxable event and person, measure of levy including valuation, basis of classification etc, as far as possible.

In this connection, the DoR has opined that, in respect of the Integrated GST (IGST) on inter – state transactions, should be levied and collected by the Centre, which is in line with the FDP. In addition, DoR has also commented that, the SGST on imports shall also be levied and collected by the Centre and subsequently passed on to the State, where the said goods or services are consumed, based on the "destination principle".

The DoR has also agreed to the proposition of the FDP that CGST as well as the SGST shall be applicable on all the transactions of the goods as well as services made for a consideration except the exempted goods and services, goods which are kept outside the purview of GST, and the transactions which are below the prescribed threshold limits, with a remark that the basis of taxation shall be common between the Centre as well as the States.

While agreeing to the propositions of the FDP in respect of the concurrent jurisdiction between the Centre and the States, CGST and SGST has to be paid to the accounts of the Centre and State respectively, the DoR has also stated that the IGST shall be paid to the accounts of the Centre.

Likewise, the DoR has agreed in toto the propositions in the FDP regarding the Input tax Credit (ITC), utilization of ITC between CGST,SGST and IGST and also the bar for cross utilization between the CGST and SGST, the DoR has also agreed to the million dollar proposition that the refunds, if any, has to be granted in a time bound manner!!! Everyone knows that a refund from the revenue department is a only a mirage and this bold acceptance by the Revenue only raises my eyebrows as raises a age poser,"Whether a Leapord would ever change its spots?"

Coming to the threshold prescription, FDP has stated that the present thresholds prescribed in different State VAT Acts varies from State to State. Hence it has prescribed a uniform SGST threshold across the States and has thus recommended a threshold of gross annual turnover of Rs.10 lakh both for goods and services for all the States and Union Territories with adequate compensation for the States, particularly for the States in North-Eastern Region and Special Category States. Likewise, in the case of small traders and small scale industries, a threshold for CGST for goods to the tune of Rs.1.5 Crore and to keep the threshold for the CGST for services relatively high, had been recommended.

In this context, the DoR has commented that there should be a uniform threshold for goods and services for both SGST and CGST. The DoR has also recommended that the annual turnover threshold could be Rs.10 lakh or even more than that but the threshold exemption should not apply to dealers and service providers who undertake inter-State supplies.

The DoR has also tried to address the sensitive issue of dual control through a compounding scheme as well as administrative simplification for small dealers through measures such as:

- Registration by single agency for both SGST and CGST without manual interface
- No physical verification of premises and no pre-deposit of security
- Simplified return format
- Longer frequency for return filing
- Electronic Return filing through certified service centres / CAs etc.
- Audit in 1-2% cases based on risk parameters
- Lenient penal provisions

Further, the DoR has also discouraged any need to have direct link between compensation package and the threshold for North-Eastern and Special Category States.

In respect of the compounding scheme proposed by the FDP, whereby, a compounding cut – off of Rs.50 lakhs of grss annual turnover alongwith a floor rate of 0.5% has been prescribed for SGST along all the States, the DoR has not only gracefully accepted the same

but has gone a step further to propose the same compounding scheme for the CGST also and has also suggested, in such a case, the administration of such compounding scheme of CGST as well as SGST, shall be vested with the respective States.

The DoR has also given a suggestion that , keeping in mind the convenience of the tax payer as well as the fact that the tax base is going to be identical for both CGST as well as SGST, a harmonized system for scrutiny, audit and dispute resolution / settlement and Advance rulings need to be set up.

While agreeing to the Central Taxes to be subsumed in the CGST, in respect of SGST, the DoR has opined that the Electricity duty, Octroi, Purchase tax, and the taxes levied by the local bodies shall also be subsumed in SGST. Regarding Purchase tax, the DoR has opined that the purchase tax being in the nature of sales tax, the same shall be subsumed into the SGST. Further the DoR has also commented that even if a compensation package is agreed, the same shall be independent and need not be linked to the subsuming of any particular tax in the GST stream. The FDP proposals about tobacco has been agreed in *toto*.

In a major departure from existing system as well as the recommendations contained in the FDP, the MoR has decided to get intoxicated by proposing to include the alcoholic beverages under the purview of GST in order to remove the cascading effect on GST paid on inputs such as raw material and packaging material. It has also stated that the Sales tax / VAT and State Excise duty can be charged over and above GST. Similar recommendations have been made to opium, Indian hemp and other narcotic drugs and narcotics. But it has been reiterated that the medicines or toilet preparations containing these substances should attract only GST.

Coming to the petroleum products, the FDP has proposed that the basket of petroleum products, i.e. crude, motor spirit (including ATF) and HSD should be kept outside GST and Sales Tax shall continue to be levied by the States on these products with prevailing floor rates and the Centre could continue its levies. The FDP has not made any proposal regarding Natural Gas.

In this connection, the DoR has given a very valid comment that if the crude petroleum and natural gas are kept out of the GST, it would only imply that the credit on capital goods and input services going into exploration and extraction would not be available resulting in cascading effect. It has also commented that as the Diesel, ATF and motor spirit are derived from a common input, viz., crude petroleum along with other refined products such as naphtha, lubricating oil base stock, etc, leaving diesel, ATF and motor spirit out of the

purview of GST would make it extremely difficult for refineries to apportion the credit on capital goods, input services and inputs. Further it has been opined that, as these products are principal inputs for many services such as aviation, road transport, railways, cab operators etc, keeping them out of the GST net would only result in cascading effect. It has been alternatively suggested that these may be levied to GST at the first place and in select cases, credit of GST paid on these items may be disallowed, in order to minimize the possibility of misuse.

While agreeing to the fundamental propositions made in the FDP like Zero rating for exports, Integrated GST (IGST) model for inter – State transactions, proposals regarding tax exemptions, remissions, special industrial area schemes, and IT infrastructure, the DoR has emphasised that the levy of both CGST as well as SGST on import of goods shall be done by the Centre through a Central legislation either like the present Customs duty or in line with the proposed IGST. In respect of taxation of services, the DoR has recommended the “reverse charge” model!

Last but not the least, coming to the GST rate structure, in sharp contrast to the two tier structure proposed in the FDP, one lower rate for necessary items and one standard rate for goods in general, the DoR has suggested a single rate of SGST for both goods and services.

The DoR has also commented that, if a two rate structure for goods is adopted, it would result in various problems like, likelihood of inversions in duty structure with raw materials and intermediates being at a higher rate and finished goods being at a lower rate, especially as the intention is to apply the lower rate to necessities and such inversions would result in input credit accumulation and demand for refunding the same from time to time.

Further the MoR has also commented that, at present there are around 99 items which are exempt under VAT and the same may be allowed to remain exempted in GST regime also, but in future, there should be no scope with any individual States, for expansion of this list even if it is of local importance. It has also been stated that the Centre would take all efforts to substantially reduce the number of items presently exempted under the CENVAT regime and at the end there must be a common list of exemptions for CGST and SGST.

Epilogue: "I like to pay GST. With that I buy sophistication!"