

# GOODS & SERVICES TAX (GST)

*(Status as on 3<sup>rd</sup> June, 2017)*

# PRESENTATION PLAN

- ❖ WHY GST : BENEFITS
- ❖ EXISTING INDIRECT TAX STRUCTURE
- ❖ FEATURES OF CONSTITUTION AMENDMENT ACT
- ❖ GST COUNCIL
- ❖ MAIN FEATURES OF GST LAW
- ❖ GSTN
- ❖ ROLE OF CBEC
- ❖ WAY FORWARD

**WHY GST?**

**BENEFITS**

# WHY GST : BENEFITS

## ❖ To Trade

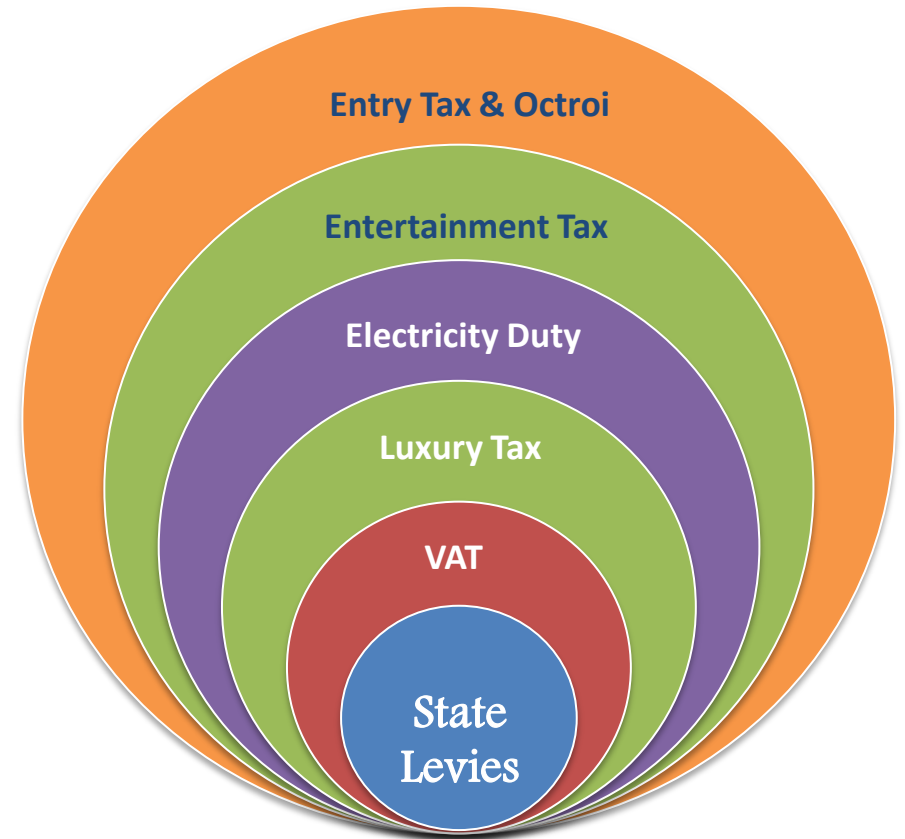
- ❑ Reduction in multiplicity of taxes
- ❑ Mitigation of cascading/ double taxation
- ❑ More efficient neutralization of taxes especially for exports
- ❑ Development of common national market
- ❑ Simpler tax regime
  - Fewer rates and exemptions
  - Distinction between Goods & Services no longer required

## ❖ To Consumers

- ❑ Simpler Tax system
- ❑ Reduction in prices of goods & services due to elimination of cascading
- ❑ Uniform prices throughout the country
- ❑ Transparency in taxation system
- ❑ Increase in employment opportunities

# EXISTING INDIRECT TAX STRUCTURE

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# FEATURES OF CONSTITUTION AMENDMENT ACT (CAA)

# NEED FOR CAA

- ❖ Taxation powers distributed between Centre & States
  - ❑ Centre levies duty on manufacture (except alcohol for human consumption)
  - ❑ Centre levies services tax
  - ❑ Centre levies CST (retained by originating States) on inter-State sales
  - ❑ State levies VAT on intra-State sales
  - ❑ State levies Entry tax / Octroi/ Luxury tax, etc.
- ❖ CAA required for assigning concurrent powers to Centre and States to levy GST on all supplies



# FEATURES OF CAA....

- ❖ CAB passed by Rajya Sabha on 03.08.2016 & Lok Sabha on 08.08.2016
- ❖ Notified as Constitution (101st Amendment ) Act, 2016 on 08.09.2016
- ❖ Key Features:
  - ❑ Concurrent jurisdiction for levy & collection of GST by the Centre & the States – Article 246A
  - ❑ Centre to levy & collect IGST on supplies in the course of inter-State trade or commerce including imports – Article 269A

# ....FEATURES OF CAA....

## ❖ Key Features contd.

- ❑ Compensation for loss of revenue to States for five years on recommendation of GSTC – Clause 19
- ❑ GST on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas & aviation turbine fuel to be levied from a later date on recommendations of GSTC

# ....FEATURES OF CAA

## ❖ Key Features contd.

### □ GSTC – Article 279A

- To be constituted by the President within 60 days from the coming into force of the Constitution Amendment
- Consists of Union FM & Union MOS (Rev)
- Consists of Ministers in charge of Finance / Taxation of each State
- Chairperson – Union FM
- Vice Chairperson – to be chosen amongst the Ministers of State Government
- Quorum is 50% of total members
- Decisions by majority of 75% of weighted votes of members present & voting (Centre plus 20 States)

# DECISION MAKING IN COUNCIL

- GSTC – proposed Article 279A
  - Weightage of votes:
    - Centre – 1/3<sup>rd</sup> of total votes cast
    - States (all taken together) – 2/3<sup>rd</sup> of total votes cast
  - Council to be guided by need for
    - a harmonized structure of GST; and
    - a harmonized national market for goods & services
  - Council to make recommendations on
    - Taxes to be subsumed in GST
    - Exemptions & thresholds
    - GST rates
    - Model GST Law & procedures

# GST COUNCIL

# GST COUNCIL....

- ❖ GST Council constituted w.e.f. 12.09.2016
- ❖ Fifteen meetings held so far: Decisions:
  - ❑ Threshold limit for exemption to be Rs. 20 lakh (Rs. 10 lakh for special category States)
  - ❑ Compounding threshold limit to be Rs. 50 lakh – not available to inter-State suppliers, service providers (except restaurant service) & specified category of manufacturers
  - ❑ Government may convert existing area based exemption schemes into reimbursement based scheme

# ...GST COUNCIL...

## ❖ Decisions:

- ❑ To ensure single interface – all administrative control over
  - 90% of taxpayers having turnover below Rs. 1.5 cr. would vest with State tax administration
  - 10% of taxpayers having turnover below of Rs. 1.5 cr. would vest with Central tax administration
  - taxpayers having turnover above Rs. 1.5 cr. would be divided equally between Central and State tax administration
- ❑ Same arrangement would be applicable for IGST Act with few exceptions

# ...GST COUNCIL

## ❖ Decisions:

- ❑ CGST, UTGST, IGST, SGST & GST Compensation Law recommended
- ❑ Formula for calculating compensation finalized
- ❑ Tax rates
  - Four tax rates namely 5%, 12%, 18% and 28%
  - Some goods and services would be exempt
  - List of exempt services and reverse charge cases finalized
  - 3% tax rate for precious metals
  - Cess over the peak rate of 28% on specified luxury and demerit goods
- ❑ Rules on registration, composition levy, valuation, input tax credit, tax invoice, payments, returns, refund and transitional provisions recommended
- ❑ Rate of interest on delayed payments and delayed refunds recommended



# MAIN FEATURES OF GST LAW

(AS NOTIFIED ON 12<sup>TH</sup> APRIL, 2017)

# MAIN FEATURES OF LAW....

## ❖ Taxable event:

- ❑ Tax on **supply of goods or services** rather than manufacture / production of goods, provision of services or sale of goods
- ❑ Powers to declare certain supplies as supply of goods or of services – Schedule II
- ❑ Powers to declare certain activities/transactions as neither supply of goods nor of services – Schedule III
- ❑ On Intra-State supplies of goods or services – CGST & SGST shall be levied by the Central and State Government respectively, at the rate to be prescribed
  - Maximum rate ring fenced in law
- ❑ On Inter -State supplies of goods or services – IGST shall be levied by the Central Government, at the rate to be prescribed
  - Maximum rate ring fenced in law

# ...MAIN FEATURES OF LAW...

## ❖ Determination of nature of supply:

- ❑ Elaborate Rules provided for determining the place of supply
  - Intra-State supply of goods or services – where the location of the supplier and the place of supply are in the same State
  - Inter-State supply of goods or services – where the location of the supplier and the place of supply are in different State

## ❖ Liability to pay:

- ❑ Liability to pay tax arises only when the taxable person crosses the exemption threshold

# ...MAIN FEATURES OF LAW...

## ❖ **Composition Scheme:**

- ❑ Provision for levy of tax on fixed rate on aggregate turnover upto a prescribed limit in a financial year (Composition scheme) without participation in ITC chain

## ❖ **Time & Value of supply:**

- ❑ Elaborate principles devised for determining the time of supply of goods or services with following being crucial determinants with certain exceptions:
  - Date on which supplier issues invoice
  - Date on which supplier receives the payment, whichever is earlier
- ❑ Tax is to be paid on Transaction value (TV) of supply generally i.e. the price actually paid or payable for the supply of goods or services

# ...MAIN FEATURES OF LAW...

## ❖ Input Tax Credit (ITC):

- ❑ ITC is available in respect of taxes paid on any supply of goods or services used or intended to be used in the course or furtherance of business (i.e. for business purposes)
- ❑ **Negative list** approach for non-allowance of ITC
- ❑ ITC of tax paid on goods or services used for making taxable supplies by a taxable person allowed subject to four conditions:
  - possession of invoice;
  - receipt of goods or services;
  - tax actually paid by supplier to government;
  - furnishing of return

# ....MAIN FEATURES OF LAW....

## ❖ Input Tax Credit (ITC):

- ❑ Full ITC allowed on capital goods in one go
- ❑ Proportionate credits allowed in case inputs, inputs services and capital goods are partly used for business and partly for non-business purposes
- ❑ Proportionate credits allowed in case inputs, inputs services and capital goods are used for taxable including zero rated and exempt (including non-taxable) supplies

# ...MAIN FEATURES OF LAW...

## ❖ Input Tax Credit (ITC):

- ❑ ITC cannot be availed after filing of return for the month of September of next Financial Year or filing of Annual Return
- ❑ ITC available only on provisional basis for a period of two months until payment of tax and filing of valid return by the supplier
- ❑ Matching of supplier's and recipient's invoice details
  - ITC to be confirmed only after matching of such information
  - ITC to be reversed in case of mis-match
- ❑ Input Service Distributor mechanism for distribution of ITC of input services

# ....MAIN FEATURES OF LAW....

## ❖ Registration:

- ❑ PAN based Registration
  - required to be obtained for each State from where taxable supplies are being made
- ❑ A person having multiple business verticals in a State may obtain separate registration for each business vertical
- ❑ Liability to be registered:
  - Every person who is registered or who holds a license under an earlier law;
  - Every person whose turnover in a year exceeds the threshold



# ....MAIN FEATURES OF LAW....

## ❖ Registration:

- ❑ A person, though not liable to be registered, may take voluntary registration
- ❑ Certain suppliers liable for registration without threshold
- ❑ Registration to be given by both Central and State Tax Authorities on a common e-application
- ❑ Deemed registration after three common working days from date of application unless objected to
- ❑ Self –serviced Amendments except for certain core fields
- ❑ Provision for surrender of registration and also for suo-moto cancellation by the tax authorities

# ....MAIN FEATURES OF LAW....

## ❖ Returns:

- ❑ Normal taxpayers, compositions taxpayers, Casual taxpayers, non-resident taxpayers, TDS Deductors, Input service Distributors (ISDs) to file separate electronic returns with different cut-off dates
- ❑ Annual return to be filed by 31<sup>st</sup> December of the following Financial Year along with a reconciliation statement
- ❑ Short-filed returns not to be treated as a valid return for matching & allowing ITC and fund transfer between Centre and States
- ❑ GST practitioners scheme to assist taxpayers mainly in filing of returns

# ....MAIN FEATURES OF LAW....

## ❖ Payment:

- ❑ System of electronic cash ledger and electronic ITC ledger
- ❑ Tax can be deposited by internet banking, NEFT / RTGS, debit/credit card and Over The Counter
- ❑ Date of credit to the Govt. account in the authorized bank is the date of payment for credit in electronic cash ledger
- ❑ Payment of Tax is made by way of the debit in the electronic cash or credit ledger

# ....MAIN FEATURES OF LAW....

## ❖ Payment:

- ❑ Cross-utilization of ITC between CGST & IGST, between SGST/UTGST & IGST allowed
- ❑ Hierarchy for discharging payments of various tax liabilities
- ❑ Provision for TDS on certain entities
- ❑ E-Commerce Operators, facilitating supplies by other suppliers, to collect Tax at source (TCS), at the time of supply, out of payments to be made to such suppliers

# ....MAIN FEATURES OF LAW....

## ❖ Refund:

- ❑ Time limit for refund of tax or interest is two years
- ❑ Refund of accumulated ITC allowed in case of exports or where the credit accumulation is on account of inverted duty structure
- ❑ Refund to be granted within 60 days from the date of receipt of complete application
- ❑ Interest is payable if refund is not sanctioned within 60 days

# ....MAIN FEATURES OF LAW....

## ❖ Refund:

- ❑ Refund claim along with documentary evidence to be filed online without any physical interface with tax authorities
- ❑ Provisional sanction of 90% of refund claim on account of zero-rated supplies within 7 days
- ❑ Tax refund will be directly credited to the bank account of applicant

# ....MAIN FEATURES OF LAW....

## ❖ Assessment and Audit:

- ❑ Self –assessment of tax
- ❑ Provisions for assessment of non-filers, unregistered persons & summary assessments in certain cases
- ❑ Provision for provisional assessment on request of taxable person – to be finalized in six months
- ❑ Audit to be conducted at the place of business of the taxable person or at the office of the tax authorities, after prior intimation to taxable person
- ❑ Audit to be completed within 3 months, extendable by a further period of 6 months

# ....MAIN FEATURES OF LAW....

## ❖ Demand:

- ❑ Adjudication order to be issued within 3/5 years of filing of annual return in normal cases & fraud / suppression cases respectively
- ❑ SCNs to be issued at least 3 months and 6 months prior to last date of passing adjudication order in normal cases and in fraud cases respectively
- ❑ Taxable person can settle demand at any stage, right from audit/investigation to the stage of passing of adjudication order and even thereafter



# ....MAIN FEATURES OF LAW....

- ❖ Power of officers and taxpayers right to appeal:
  - ❑ Officers to have power of search & seizure with inbuilt safeguards
  - ❑ Restricted power to arrest and for prosecution
  - ❑ Elaborate provisions for appeals up to Supreme Court

# ....MAIN FEATURES OF LAW

## ❖ Miscellaneous:

- ❑ Advance ruling mechanism
- ❑ Comprehensive transitional provisions for smooth transition to GST
- ❑ Provision for Job work provided
- ❑ System of GST Compliance rating provided
- ❑ Anti-profiteering provision made to dis-incentivize non-passing of price reduction benefits to consumers

# GST NETWORK (GSTN)

# GSTN....

- ❖ Incorporated on 28.03.2013 as Section 25 private limited company with authorized equity of Rs. 10 crore
- ❖ Strategic control to remain with Government
- ❖ Equity Holders
  - ❑ Central Government – 24.5%
  - ❑ EC and all States together – 24.5%
  - ❑ Financial Institutions – 51%

# ....GSTN

- ❖ To function as a Common Pass-through portal for taxpayers–
  - ❑ submit registration application
  - ❑ file returns
  - ❑ make tax payments
- ❖ To develop back end modules for 27 States (MODEL –II)
- ❖ Infosys appointed as Managed Service Provider (MSP)
- ❖ Appointed 34 GST Suvidha Providers (GSPs)
  - ❑ to develop simple applications to be used by taxpayers for interacting with GSTN

# ROLE OF CBEC

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- ❖ Prominent role as custodian of Centre's fiscal destiny in relation to indirect taxes
- ❖ Role in Policy making: Drafting of GST Law, Rules & Procedures – CGST, UTGST & IGST Law
- ❖ Assessment, Audit, Anti-evasion & enforcement under CGST & IGST Law
- ❖ Levy & collection of Central Excise duty on products outside GST – Five specified Petroleum Products & Tobacco
- ❖ Levy & collection of Customs duties
- ❖ Developing linkages of CBEC – GST System with GSTN
- ❖ Training of officials of both Centre & States

# WAY FORWARD



# WAY FORWARD....

- ❖ Passage of SGST laws by all State legislatures
- ❖ Recommendation of remaining Model GST Rules by GST Council
- ❖ Notification of GST Rules
- ❖ Establishment and upgradation of IT framework

# ....WAY FORWARD

- ❖ Meeting implementation challenges
- ❖ Effective coordination between Centre & State tax administrations
- ❖ Reorganization of field formations
- ❖ Training of Officials
- ❖ Outreach programs for all stakeholders including Trade & Industry

Thank You