Impact of GST on Software Sector

[1]Goutam Bhatta , [2]Sri Rupanjit Das
[1& 2] Assistant Professor, G.L Choudhury College, Barpeta Road, Assam, India.
Email - bhatta_goutam@yahoo.com

Abstract: *Software sector in India has been struggling with uncertainty in taxation matters for long. Some issues were raised whether software is a goods or services, liability or not etc. The issues were always contentious. Therefore other issue was raised as whether Service Tax, VAT is payable on IT services. These issues could not be decided by most of the Information Technology (IT) companies ended up paying both of Service Tax and VAT. It was procedural nightmare to get the refund input taxes paid on inputs used in the export of software. In the Proposed GST provisions are likely to remove these uncertainties conditions. It is said that uncertainty law is the greatest tyranny. In the Clause 5d Schedule II of CGST Act shows that the design, programming, development, adaptation, customization, up-gradation, enhancement, implementation of IT software will be treated as services. This explanation removes the uncertainty as whether such software is service or good. As software has been declared as service, place of supply the IT software can easily be determined. Different place of supply the software shall always be send to the location of the recipient.*
The above mention two provisions remove all uncertainties from the Service taxation arena. Some other issues can be determined using these yardsticks.

Key words: *GST, Software, Development, Tax, E-Commerce.*

1. INTRODUCTION:

IT service provider is located at one place and provides services from that place. The place can be registered under GST rules. The registered place shall be treated as the location of supplier. From that place all taxes can be paid based on whether the recipient is located within state (CGST plus SGST) or outside the state (IGST). All inputs shall be received from that place & all input tax credit shall be collected.

Sometimes outward supply is made from a single place & the service provider has different development centres at different location. The different development centres located at various locations can also be registered under the GST. Input the tax credit received at various locations may be taken there. At the last week of the month these development centres can issue an invoice to the main centre place based on month wise costing the data of development centre. In this way all input tax credit received from the various locations can be transferred to the principal / main centre. These credits used to pay the GST on outward supplies.

2. IMPORT OF SERVICES:

The IT service provider may import the services from outside the India. In such manner on these import of services IGST shall be payable and full credit of IGST shall be available.

3. EXPORT OF SERVICES:

In section 16 of the IGST Act shows export of goods and the services on same footing. Exported IT services shall be treated as zero rated supply. The supplier can either export the services after paying the IGST or export without payment the IGST amount under bond/ under the undertaking letter.

4. ANOMALY IN DEFINITION OF EXPORT OF SERVICES:

There are two conditions which have been imposed in the definition “export of services”. In Section 2(6) of the IGST Act shall create unnecessary hardship to the service exporters. The first condition is the receipt of payment into the convertible foreign exchange. It is unfortunate and it appears that the tax authorities are not aware of fact ie, INR is a convertible foreign exchange. There are many exporters which prefer contract value in INR to protect themselves from the vagaries of currency market. No such conditions are there, in case of export of the goods. Second condition is even more unreasonable and illogical. It says that the supplier of service and the recipient of service must not be merely distinct person. Which likely saying that if a development centre of TCS in India is supplying services to TCS in some foreign countries but it shall not be treated as export. Nobody knows why this condition is there. There is no such condition in case of goods. If Suzuki company export goods to Suzuki outside of India then it is very well an export. It shows that Government has not been able to understand the basic premises of GST. If we want to tax services as goods, services must get all benefits goods. There is no distinctions between goods and services in case of exports. I hope the service exporters shall raise the issue with GST council to eliminate the motherly treatment to the service exporters.

5. CASCADING EFFECT OF TAXES:

The cascading effect of the taxes will be effectively addressed under GST regime. The Traders under GST will be eligible to avail the credit of services, such as in the case of Annual Maintenance Service (AMC) contracts. Currently the IT service providers can't claim to credits of quality including deal charges spent on setting the IT infrastructures. Moreover, the services charged by the IT service provider to a client through a broker who is an expense incurred for the IT service provider. Under the GST Return section, both the IT service providers and their clients will be eligible to claim the full credit of GST. This is expected to eliminate the cascading effects of present tax structure.

6. BUSINESS PROCESS CHANGE:

Under the GST tax is collected by the state where the goods or services will be consumed. Most of the IT companies are registered only with Central Service Tax authorities and usually all billing and accounting tasks are carried out from the central location. Under the GST regime, the service providers are required to obtain the registration process for all the states that they are catering to all the states that they have customers in. It is to be done, so that the State Goods and Service Tax (SGST) component of Integrated Goods and Services Tax (IGST) is rendered for respective states. Therefore IT service providers will have to bifurcate their services and bill to their customers based on location of the consumption.

7. E-COMMERCE SPHERE

For E-Commerce traders the GST RETURN is expected to increase the administrative costs. Also, since the E-trailers that have hundreds of sellers on their platforms which significantly increases the compliance burden. Some small sellers will face cash flow issues and claim for refunds on the tax paid on the inputs, in which the e-Commerce platform may not support. Therefore TCS (tax collection at source) guideline under GST will increase the documentation and administration workload for e-Commerce firms.

8. CONCLUSION:

The proposed GST regime is a half hearted attempt to rationalize the indirect tax structure. Till date more than 150 countries have implemented with the GST. Also the government of India should study on GST regime set-up by different countries and also find their fallouts before implementing it. At the same time; the government should make an attempt to insulate to the vast poor population of India against likely inflation due to the implementation of GST. Despite anomalies discussion above the GST laws bring certainty in taxation of Information Technology services. It shall be a great assistance for the development of IT service sector.

REFERENCES:

1. The Economic Times : Featured Articles from The Economic Times. (2009)
2. GST India : Economy and Policy. (2015)
3. Mehra P : Modi govt.'s model for GST may not result in significant growth push. (2015)
4. Sardana M : Evolution Of E - Commerce In India Part 3. (2005)
5. TRAI : Highlights of Telecom Subscription Data as on 28th February. (2015)
6. Patrick M : Goods and Service Tax: Push for Growth. Centre for Public Policy Research (CPPR). (2015)
7. SKP : GST: Impact on the Telecommunications Sector in India. (2014)