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Special Tax Rates under GST

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Abstract: *The Goods and Services Tax (GST) is an indirect tax. With the introduction of GST the prices have gone up in the initial stages. The GST Council reduced the tax rates on many items step by step resulting in the fall in prices of the commodities. In the process of reducing the tax rates, the GST Council approved special rates for certain categories. The implementation of these special rates will be a boom for the growth of the business as well as the growth of economy. It will also create employment to lakhs of people. The GST is based on the philosophy of 'one tax, one market and one nation.' People are hopeful that the GST will bring down the prices of the commodities over a period of time and make consumers happy.*

Key Words: *GST, Commodities, Tax Rates, CGST, SGST, ITC, Composition VAT, APGST.*

1. INTRODUCTION:

Broadly there are two types of taxes, direct tax and indirect tax. The Income Tax comes under direct Tax and the GST comes under indirect Tax. The Goods and Services Tax Act, 2017 (GST) came into force with effect from 1st July, 2017. The GST is evolved by subsuming all the then existing taxes administered by the States and Central Government. The GST replaced the earlier Value Added Tax (VAT) which was in force from 1st April, 2005. The VAT Act replaced the then existing Andhra Pradesh General Sales Tax Act, 1957 (APGST) which was implemented since 15th June, 1957. The second and third Acts mentioned above were implemented at the State level and the taxes levied and collected based on the rules and regulations therein. The first one or the current taxation of GST is applicable for the entire nation based on the principle of "one tax, one market and one nation". (1) The APGST was levied on the sale and purchase of commodities at different rates of taxes. The VAT was next generation tax which levied on sale of goods at every point of sale with provision for set-off of taxes paid in its earlier stage. In other words the VAT was collected on value addition at every stage till it reaches the ultimate customer. The GST is the advanced system of taxation over both the previous repealed tax systems. The main features of the GST are: Firstly, no cascading effect on tax otherwise known as tax on tax. Secondly, provision of Input Tax Credit (ITC) that is tax paid on inputs is adjusted against the tax payable on the output. The VAT and the APGST were State specific taxes whereas the GST is uniform throughout the country. Under the GST there is no scope for evasion of taxes because all the transactions are handled through computer based network. The GST is aimed to reduce the prices of the commodities over a period of time.

2. SYSTEM OF TAXATION UNDER GST:

The GST is typically of four types. The CGST, SGST or UTGST, IGST and the CESS. The CGST pertaining to the Central Government, the SGST pertaining to the State Government; the UTGST pertaining to the respective Union Territories. The Integrated GST (IGST) collected by the Central Government on inter-State transactions. Finally the Cess is levied on 28% category items. The GST is a dual charge that is one CGST and one SGST charged on any intra-State transaction. For instance, the goods are charged at the rate of 12% then the CGST is 6% + the SGST 6%; both put together 12%. In the same way UTGST is also charged (CGST+UTGST). Similarly when the Inter-State transactions are occurred including the Imports the IGST is levied and collected by the Central Government but appropriated between the Center and the State Governments based on the destination principle. The destination is the place where the ultimate consumption of goods takes place.

3. THE RATES OF TAXES UNDER GST:

The GST Council has decided four basic slab rates of taxes under GST they are 5%, 12%, 18% and 28% depending upon the nature and classification of goods under HSN code. The essential items including food is taxed at 'zero' rate or exempted from GST. The lowest tax rate of 5% is covered about 50% of mass consumption and consumer items including food grains, vegetable oils, spices, tea, coffee etc., The processed food items are kept under 12%

category. The cosmetics, soaps, tooth paste, mobile phones, home appliances, consumer durables like Refrigerators attract 18% tax rate. The luxury and sinful items are kept under highest tax rate of 28% and the items falling under this category are Motor vehicles, automobile parts, Air conditioners, sin items such as tobacco products, pan masala etc., The Cement is also charged at 28%. In addition to this a Cess of 5% is imposed during the first five years on these 28% items to pool up the revenue for the purpose of compensation payable to the States in case any state does not get the expected 14% growth rate on its annual gross revenue collection on account of introduction of GST. However, the list of goods and services underwent change over a period of time as the GST council has reduced the rates of taxes on certain items from 28% to 18%; some items from 18% to 12% and some more items from 12% to 5%. The rates of taxes are applicable equally for both goods as well as the services.

4. THE TAX RATES UNDER PREVIOUS VAT AND APGST:

There were multiple rates of taxes under Sales Tax {APGST} regime, such as: 1%,2%,4%,8%,10%,12%,15%,16%,20% 24%,34% and 70%. Under VAT system, there were only a few tax rates: 1%, 4%, and 12.5% (later, revised as 14.5%). On introduction of VAT the commodity rates of taxes prevailed under APGST had been reduced from a higher rate to a lower rate under VAT.

a) High rate in APGST: 20%, 16%, 15%,
Reduced to a standard rate in VAT: 12.5 %

b) Moderate rate in APGST: 12%, 10%, 8%,
Reduced to a lower rate in VAT: 4 %

c) Lower rate of tax in APGST: 4%
Some were exempted from payment of tax under VAT: Nil

5. SOME ITEMS STILL CONTINUED UNDER VAT RATES:

The commodities like Petrol (MS), Diesel HSD), and Liquor (IMFL) are not brought under the GST system of taxation. These commodities are still continued to be under the VAT system. This is because the contribution of revenue by these commodities is very much substantial and the States revenue will be drastically affected if they are brought under the GST system of taxation. The States are also not willing to bring them under the GST purview. The present VAT rates are 35.2% (Petrol), 27% (Diesel) and 70% (Liquor). In view of escalation of prices of these commodities people want that these commodities are brought under GST.

6. SPECIAL RATES OF TAXES UNDER GST:

- In addition to the basic four slab rates of taxes under GST, the GST Council has decided three more rates of taxes as special rates for the following items: The rates are 0.25%, 1% and 3%. The commodities and the instances of application of such special rates are as under:
- The first category of special rates is that of 0.25% on rough precious and semi-precious stones and 3% on gold. The high value goods comprising of gold, silver and platinum ornaments, precious stones and bullions are prone to smuggling and evasion of tax if the tax rate is kept at higher slab rate. Therefore it was recommended that the dealers in such high value items may also be allowed to opt for the compounded levy of 1% (one percent) each towards CGST and SGST.
- Position under VAT & APGST: 1 % floor rate for gold, silver, Bullion, Jewellery, precious and semi-precious stones
- The second category is that of 1% Tax: The composition or Compounding Scheme will be an important feature of GST to protect the interests of the Small traders and small scale industries. The dealer, the manufacturer, or service provider or trader whose annual turnover is below Rs.20 lakhs (and Rs.40 lakhs for supplier of goods) they need not register and need not pay tax under GST. This limit is set as Rs.10 lakhs for North-eastern States and special category States. The dealers whose turnover is above Rs.40 lakhs and below Rs.1.5 crore, (Rs.75 lakhs for special category states) annual turnover are permitted to opt for Composition Scheme, file Quarterly returns and pay tax at 1% on their turnover. In the 28th meeting of the GST Council these limits were raised. This scheme reduces the compliance burden on the dealers. However, these dealers are not eligible to claim ITC benefit. Accordingly they are not permitted to engage in inter-state trading and issue of ITC Invoices. In the Service sector, the composition scheme is available only for one sector that is the Restaurants. The composition scheme is not available for manufacturers of tobacco and its substitutes. The GST Rates of Composition are: i) for Traders – 1%; ii) for manufacturers -1%; and for restaurants -5%.

7. ADVANTAGES TO THE DEALERS UNDER COMPOSITION SCHEME:

The dealers got registered under composition scheme will receive supplies of goods without ITC benefit, and without ITC Invoice. So their inward supplies are charged at full rate of tax. The cost of purchases will be more when compared to the general GST dealers. When the issue of sale of goods arises, the composition dealers will pay tax at 1% on his intra-state taxable turnover not on the basis of rate of tax of the commodities sold. At the time of payment of tax the calculation of output tax minus input tax does not arise. Under the circumstances the composition trader can sell his commodities much below the general GST dealer's price and stand as a competitor in the market to certain extent. The retail Kirana and General stores are majority of traders falling under this scheme. Customers prefer to buy the goods from the composition dealer's stores rather going to the general GST dealer's stores. The Government with a view to help the small traders and small scale manufacturers brought out this scheme of composition so that they can stand in the advantageous position over the GST dealers. This composition scheme is a boon for the small traders and small scale manufacturers as they are getting support from the government, and helping the economy to grow by way of creating assets and providing employment to lakhs of people in every State.

Position under VAT & APGST: Threshold limit approach was introduced for the first time under VAT. If the dealer's taxable turnover in 12 months period was falling below Rs.5 lakhs – No tax liability. If the turnover ranges between Rs.5 lakhs and Rs.40 lakhs the TOT (Turnover Tax) was liable to be paid at 1%.

The third category pertaining to the persons who can pay 1% GST: The persons who have constructed or bought apartments they have to pay tax under the GST Act. The GST Council, in its 34th meeting held on 19th March, 2019 had reduced rate of tax as 5% on non-affordable and 1% on affordable housing scheme applicable on under construction properties with effect from 1 April 2019. Prior to this the old rates were 12 per cent on non-affordable and 8 per cent on affordable housing scheme.

- If the builder opts for the newer rate i.e. 5 per cent on non-affordable and 1% on affordable housing scheme, then there will be no ITC provided.
- Affordable housing is termed as property valuing less than 45 lakhs or carpet area of a house in the metro city up to 60 square metres (around 650 square feet) and in the non-metro i.e. 90 square metres (970 sq.ft.)
- Properties valuing more than 45 lakhs will be levied with a 5% GST rate at par with the under-construction properties tax rate.

Position under VAT: Construction and Selling Residential Apartments, Houses, Buildings, Commercial Complexes: under composition liability at 4% of 25% of consideration received or receivable or the market value fixed for Stamp Duty whichever is higher. The effective rate is 1%.

8. FINDINGS & RECOMMENDATIONS:

The GST is considered to be more fool-proof system since all the transactions are handled through the computer network and therefore there will not be any scope for evasion of taxes and fraudulent transactions. However it came to light in the recent years that there are unscrupulous traders who search for the loopholes in the system of taxation. There was a case reported in the 'Eenadu Telugu daily newspaper, dated 1.2.2020,' captioned: "11.81 Crores Service Tax and GST evasion".(2) The officers of the CGST, Mumbai have unearthed the scam relating to creation of fictitious invoices and availing ineligible ITC. The GST, Central Tax, Delhi zone also made several arrests in various cases involving GST evasion amounting to Rs.4,450 crore. The Department identified 17 bogus firms false billing scam and fraudulent claims of ITC without actual movement of goods which were involved in a scam of around Rs.70 crore.(3)

The following Recommendations are made with regard to check the evasion of GST, turnover and bogus claims of ITC without actual movement of goods:

1) The Goods Vehicle Traffic Check (VTC) is one of the features to be implemented on regular basis; it can be a check for bill trading without actual movement of goods.
2) The Auditing of the records or data of dealers at random selection will give good results about the suspicious transactions to nip the evasion at the budding stage itself.
3) Cross verification of ITC claims with reference to the e-way bills and the invoices has to be done by the department on regular basis.
4) Verification of newly registered traders and their nature of business and performance at short intervals are required to be verified and the turnover reported and actual turnover scored to be monitored by the Enforcement wing of the Department.
5) Inspection of front line shops and establishments located in the busy localities and prime areas dealing in sensitive commodities will unearth the actual and suppressed turnovers of such traders who are continued to be either as exempted dealers or retain themselves within the threshold limit not to attract the taxation.

6) Encourage Dealers and informers to provide intelligence information on fictitious transactions and fraudulent claims.
7) The Department should always support and encourage the genuine traders at the same time take stringent measures against the fraudulent and dubious traders.
8) Encourage and provide incentives to the best performers and regular taxpaying dealers selecting them area-wise, district-wise, state-wise and also at the National level and grant awards. These are non-monetary incentives and work very well to boost the morale of the trading community.

9. CONCLUSION:

The GST Council has been reducing the rates of taxes on many commodities and products since the introduction of GST in 2017. Though the Council has fixed four basic rates of taxes under the GST structure, it has also given acceptance for special rates of taxes for special commodities and circumstances. These special rates will create a lasting effect and growth on the national economy. The high value goods, like precious and semi-precious stones (0.25%), gold, silver, and platinum (3%) because of their importance in the Bullion market. This will create a strong hold in the International market. The second application of special rate is for small traders and small manufacturers whose annual turnover falling below the threshold limit permitted to pay tax at 1%. This is a boon for the small scale industrial sector and small traders for their survival and able to compete in the open market. Thirdly, the GST Council took significant decisions for the real estate sector and was keen to provide relief to the builder's community. The people who construct or buy the houses or apartments were to pay at 12% for non-affordable and 8% for affordable houses. They were given relief by reducing the burden to 5% for non-affordable and 1% for affordable houses. With this radical change the real estate will get a boom and the constructions will be multiplied resulting in the creation of employment to lakhs of people under organised as well as unorganised sector. It will create growth in the GDP of the country because of huge investments directly coming into in the sector thereby indirectly helping in the growth of the Indian Economy.

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