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Dual GST Meaning, Provision and its Applicability

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Introduction: - In a federal country like India where the power to tax domestic trade is divided between the Central Government and the State Government, the designing of a destination based GST becomes extremely complicated. A conventional national GST cannot be implemented without the States losing their fiscal autonomy. Dual GST signifies that GST would be levied by both, the Central Government and the State, on supply of goods or services. Under the Constitution, presently the taxing powers are presently split between the State and the Centre. In case of certain transactions, the power to tax is vested with the Centre and while in certain others, the power is vested with the State. Under GST, the power to tax on supply of all goods and services would be vested in the hands of both, the State and the Centre. However, in certain cases, such as the inter-state transactions, the power to tax would be vested with the Central Government, while the revenue would in some appropriate manner, get distributed to the States. Considering the dual taxation power to tax transactions under GST, the structure is referred to as Dual GST. Considering the basic framework of the constitution and keeping its structure intact, Dual GST appears to be implementable solution for India scenario.

Key words:-GST, Dual GST

Meaning:- *The* Goods and Services Tax (GST) is a comprehensive value added tax (VAT) on the supply of goods or services. France was the first country to introduce this value added tax system in 1954 devised by a public servant. In India, due to non-consensus between central and state government, the proposal is to introduce a Dual GST regime i.e. Central and State GST.

Dual GST: - Many countries in the world have a single unified GST system i.e. a single tax applicable throughout the country. However, in federal countries like Brazil and Canada, a dual GST system is prevalent whereby GST is levied by both the federal and state or provincial governments. In India, a dual GST is proposed whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of every transaction of supply of goods and services

Benefits of Dual GST:-

The dual GST is expected to be a simple and transparent tax with one or two CGST and SGST rates. The dual GST is expected to result in:-

- reduction in the number of taxes at the Central and State level

- decrease in effective tax rate for many goods
- removal of the current cascading effect of taxes
- reduction of transaction costs of the taxpayers through simplified tax compliance
- increased tax collections due to wider tax base and better compliance

Dual GST can be divided into:

- Non-Concurrent Dual GST
- Concurrent Dual GST

How Dual GST is better than Unified GST :-

The Economic Survey 2008-09 recommended the Government to implement the goods and services tax (GST) throughout the country as a part of continuing fiscal reforms, while favouring a dual GST structure to be levied concurrently by both the Centre and State.

Citing the recommendation on a dual GST by the empowered committee of State Finance Ministers, the survey said a dual GST strikes a good balance between Centre and State fiscal autonomy, along with eliminating tax cascading.

"It empowers both levels of Government to apply the tax to a comprehensive base of goods and services, at all points in the supply chain. It also eliminates tax cascading, which occurs because of truncated or partial application of the Centre and State taxes," said the survey.

Despite improvements in the country's tax design and administration over the past few years, the systems at both Central and State levels are still complex, said the survey.

The complexities, it says, are policy related and also due to the present system of multiple rates and exemptions at State and Centre level.

The survey noted that deficiencies in CENVAT (Central value added tax) and service tax are grave and need to be looked at. For instance, CENVAT's already narrowed base is being further eroded by a variety of area-specific exemptions. "The introduction of GST would thus be opportune for deepening the reform process already underway," the survey said.

Impact on Prices of Goods and Services:-The GST is expected to foster increased efficiencies in the economic system thereby lowering the cost of supply of goods and services. Further, in the Indian context, there is an expectation that the aggregate incidence of the dual GST will be lower than the present incidence of the multiple indirect taxes in force. Consequently, the implementation of the GST is expected to bring about, if not in the near term but in the medium to long term, a reduction in the prices of goods and services. The expectation is that the dealers would start passing on the benefit of the reduced tax incidence to the customers by way of reduced prices. As regards services, it could be that their short term prices would go up given the expectation of an increase in the tax rate from the present 10% to approximately 14% to 16%.

Certainty of implementation:- The Finance Minister has made a categorical statement in Parliament that GST will be implemented on April 1, 2013. In his subsequent media interactions, he has further indicated that he is keen to implement the GST even if some of the States are not ready or willing to implement GST by this date. Accordingly, based on the present indications, as also on the basis of our subsequent interactions with senior Government Officials, we believe that the April 1, 2013 timeline for introduction of the dual GST will be met.All businesses, whether engaged in sales / supply of goods or supply of services, would be impacted by GST. The impact would be on supply chains, ERP, product pricing, dealer margins etc.

Applicability to service providers :-Unlike the transition from the sales tax regime to the VAT, where only businesses dealing in goods were affected, in the case of GST, as the name suggests, both goods and service providers will be impacted. Thus, even pure service providers need to plan for the transition to the GST.

Applicability of both CGST and the SGST on all transactions:- A transaction of **'supply of goods'** will attract both the CGST & SGST as applicable on goods. Similarly, a '**supply of service'** will attract both the CGST & SGST as applicable on services.

Applicability of other indirect taxes: It is proposed that the taxes to be subsumed under CGST will include Central Excise Duty (CENVAT), Service Tax and Additional Duties of Customs and the taxes to be subsumed under the SGST will include Value Added Tax, Central Sales Tax, Purchase Tax, Entertainment Tax, Luxury Tax, Octroi, Lottery Taxes, Electricity Duty and State surcharges relating to supply of goods and services.

GST collection model: - GST is collected on the value added at each stage of sale or purchase in the supply chain. The tax on value addition is ensured through a tax credit mechanism throughout the supply chain. GST paid on the procurement of goods and services is available for set-off against the GST payable on the supply of goods or services. The idea is that the final consumer will bear the GST charged to him by the last person in the supply chain. It is thus a consumption based indirect tax.

Applicability of taxes on imports of goods:- It must be understood that customs duties will remain outside the GST regime. Thus, the applicable basic customs duty will continue to be leviable on import of goods. In addition, both the CGST and the SGST are expected to be levied on imports of goods. Thus, the additional duty of customs in lieu of excise (CVD) and the additional duty of customs in lieu of sales tax / VAT will both be subsumed in the import GST.

Tax on import of services and person liable to pay:- Importation of services will be taxed and both the CGST & the SGST will apply on such imports. The tax will be payable on a reverse charge mechanism and the importer of services will hence need to self-declare and pay the tax. As to which State will have authority to collect the relevant SGST, this will be determined based on the place of supply rules that the government is expected to notify for this purpose.

Separate enactments for the Central and State GST:-There will be separate enactments. The CGST will be a common code throughout India. Further, each State will legislate its own enactment to levy and collect the SGST. However, it is understood that a white paper will be released by the Federal Government/Empowered Committee of State Finance Ministers based on which each State will legislate. The expectation is therefore is that a majority of the provisions will be uniform across the States.

Carry forward of Input Tax Credits (ITC) and CENVAT Credit (CC) balances:-Going by the precedence at the time of VAT implementation, it is believed that the accumulated ITC and CC will both be allowed to be carried forward under the GST regime, albeit upon fulfillment of prescribed conditions, if any.

Refund of un-utilised CC on inputs and input services:-It is envisaged that under the proposed Dual GST model there would be refund of unutilized accumulated CCs at the end of each fiscal year and that refunds would not be restricted only to those relating to exports.

Cross utilization of credits between goods and services:- Under the GST regime, the incidence of tax will be on supplies, be it supplies of goods or services. The taxes will be levied in parallel by the Centre and the States who will levy the CGST and SGST respectively on each supply of goods/services. Accordingly, the cross utilization of credits for goods and services would be allowed subject to the fact that cross utilization of credits between the CGST and SGST would not be permissible.

Threshold limits for e levy of GST:-No threshold limits have been prescribed as yet. However, it has been indicated that the thresholds will be uniform and will be based on the cumulative turnover of goods and services. Dealers with turnover below these thresholds will not be covered under the ambit of the GST.

Uniformity under the various indirect tax legislations:- The Dual GST model envisages uniform threshold limits under both the Central and the State GST .

Exemptions from GST, lists of exempted goods and exempted services:- Under the GST, exemptions are expected to be minimal. Further, a common list of exemptions for both the Central and State GST with little flexibility for States to deviate therefrom is envisaged.

Benefits availed presently by EOUs (exemption from excise duty and Central Sales Tax (CST) on domestic procurement of goods):-CST will be phased out and will have no place in the GST regime. It is expected that the benefits presently availed by the EOUs by way of exemptions would continue to be available in the GST regime as well.

Status of Software Technology Parks/ 100% Export Oriented Units/Special Economic Zone units:-Typically, in view of the common list of exemptions, the exemption would extend to both the CGST and the State GST. With regard to the position on the Software Technology Parks/ 100% Export Oriented Units/Special Economic Zone units, it is envisaged that the status quo will remain.

Continuation of exemption currently available:-In view of the fact that under the GST scheme, exemptions would be minimal, it may not be correct to proceed on the assumption that the present exemptions would continue under the GST dispensation.

Position with regard to investors who enjoy area-based exemptions or who have entered into a Memorandum of Understanding with the Governments in respect of exemption, subsidy etc.:-All exemption schemes are proposed to be converted to post-tax cash refund schemes. However, it is advised that companies approach the Government to negotiate their MOUs so that their interests are not jeopardized and that the incentives granted under the present tax regime are protected.

Taxation of Inter-State sale transactions: Presently, inter-State sales are subject to Central Sales Tax (CST), which is origin based. However, the GST regime would work under a destination / consumption based concept and hence the tax on inter- State sale transactions will accrue to the destination State. As a corollary, it will be zero rated in the Origin State.

Treatment of stock transfers:-The taxable event will be the supply of goods and therefore the stock transfers could be taxed. However, certainty will only emerge once the GST law is finalized.

Taxation of inter State supply of services: - Detailed place of supply rules will be framed for such transactions. Taxation of such supplies will however continue to pose a challenge. Practices currently being followed in the European Union, Canada and Brazil are being studied. Policymakers are also looking at different options of taxing inter State supplies of services based on whether they are Business to Business (B2B) or Business to Customer (B2C)

Fresh registrations and registration of existing VAT and Service tax dealers: - The position in this regard is not clear at present. However, the rules are expected to be assessee- friendly in this regard with appropriate soft-landing provisions for the transition phase.

Single return or multiple returns:-It is expected that a single return will be required to be prepared by the assesse and copies filed with the Central GST and State GST authorities. The draft GST laws / Rules will provide further details.

Process of assessment under the dual GST:-The dual GST is expected to be a self-assessed tax. The Tax administration would have powers to audit and re-assess the taxpayers on a selective basis.

Refunds on exports: In view of the Government policy that no taxes should be exported, refund of GST paid on inputs should be available in case of exports of goods and services, which will both be zero rated.

Uniformity in classification of goods, procedures, forms etc. across the States:- Based on the current discussions in the Empowered Committee, it is expected that there should be uniformity in classification of goods, procedures and forms across States.

Conclusion:- Dual GST signifies that GST would be levied by both, the Central Government and the State, on supply of goods or services. Under the Constitution, presently the taxing powers are presently split between the State and the Centre. In case of certain transactions, the power to tax is vested with the Centre and while in certain others, the power is vested with the State. Under GST, the power to tax on supply of all goods and services would be vested in the hands of both, the State and the Centre. However, in certain cases, such as the inter-state transactions, the power to tax would be vested with the Central Government, while the revenue would in some appropriate manner, get distributed to the States The GST will be a dual levy imposed concurrently by the Centre and the States, but independently. It will have two components: one levied by the Centre (hereinafter referred to as CGST), and the other levied by the States and Union Territories (UTs) [hereinafter referred to as SGST]Both the CGST and SGST will operate over a common base. That is, the base will be identical.

Source:-

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