

GST @ 6- HITS & MISSES: By Dr. Vineet Kothari (Former Acting Chief Justice)

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The law, acclaimed as biggest tax reform in India, enforced from **1st July, 2017**, after six years of its life, still has a debate going on about its pains and profits by the business community, and the Tax Consultants, scratching their heads, while Government goes to Bank all the way smiling.

GST subsuming 14 indirect tax levies like VAT, Excise, Service Tax, Octroi etc. in India was brought about, not as a novel concept, but to fall in line with international treaty obligations and to harmonize the present a picture of 'Ease of Doing Business' to the world at large, and of course, the very scenario of fourteen such laws to be carried in head with their respective administrative set ups, which business community always understands what it means, came to halt, but does it still remain **an old Wine in New Bottle** or we are to say three Cheers, is the point, lets briefly look with a retrospect in view.

Plus Points or Hits of GST

Higher Revenue Collection

1. What came a pack of GST laws with IGST & CGST for central kitty and SGST for States, with birth pangs of Constitutional 101st Amendment followed by five or six enactments to enforce this law on the midnight session of Parliament on 30th June and 1st July, 2017 consolidated the revenue collection and increased the same with almost compulsory registration for all dealers and service providers of tangible and intangible goods and services, the constantly increasing revenue collection brought smiles on the face of Government and apparently provided ease of business and every business house, big or small, having a sense of participation in the economic development of the country. The integration of data of direct and indirect taxation department is gradually persuading dealers to fall in line and avoid out of books business and profits and is a good sign of law compliant society, as far as taxation is concerned.

Smooth transition and compliance

2. With the science and technology making use of virtual platforms and e-commerce and e-banking a day to day affair and no longer an elite status symbol to use gadgets, the GST law, a e-platform based law no longer remained a no-no by the business houses and to the credit of tax collectors and tax administration, which was closely monitored by the GST Council and Ministry, their educative and training sessions and seminars established a close connect and smooth relationship between tax payers and tax collectors. The Covid-19 era for two years compelled all of us to use technology to carry on our business and profession when the physical contact and travels were under blockade, and as a blessing in disguise, business and accounting methods settled quite a bit making the compliance with not-so smooth procedures under GST law also possible

Less Administrative Costs and Corruption

3. With the different departments implementing different indirect tax levies coming under one Umbrella, naturally administrative costs for tax collection reduced substantially leaving bigger revenue share for

with such larger fund availability, the GST through its electronic platform reduced the interface or direct contact of businessmen with the departmental officers to minimum and apparently reduced the chances of corruption, though whether actually corruption got reduced or not can be a matter of debate, with the ingenuity of minds therein is far more than the complexity of law still lying there on the statute book. The Inspector Raj definitely was curtailed in size and with the Faceless Assessment schemes under Income Tax laws, if the same is implemented in GST law also, will meet this ambitious goal post also.

Negatives and Misses - Flip side of GST

Simplification is Not Achieved

4. The most ambitious and desirable target of simplification of indirect tax regime has not been achieved by this new GST regime. On the contrary, I feel, it might have made things more complex than earlier. The dream of **'One Nation, One Tax'** could be fully achieved by enacting in fact only one law applicable throughout the country and including the six commodities left out like Petroleum, Tobacco, Aviation Fuel, Gas etc. This dream fell more because of political divisiveness in the States rather than any principles or jurisprudence of taxation or economics or lack of constitutional support. The States could have been allocated proper share of total tax revenue and administrative control could also have been better. It is the lack of their good prudence and care more for the integrity and uniformity of good governance of taxation policies which led to half baked good dish of GST what we have today. There was no need to have five or six GST laws as we have today and a far more simpler GST law could have been there. Well, one should still hope that good sense will prevail someday.

Too many Slabs of Tax

5. The number of Slabs for taxation in GST law should have been simple three : (a) NIL or Zero for essential commodities used for Poor people and others like Food Grains, Pulses etc. and services by Administration and Charitable Organizations (b) 5 % or may be 10 % on Middle Class consumables – almost all goods and services. (c) 20 % on Rich People Consumable – Cars, Tobacco, Buildings, Soft services by Corporates and IT sector etc. More the slabs or more classes of goods and services defined, more are the problems, debates and litigation. Keep them simple and broad. The increased compliance and consistent revenue collection would have given almost equal or even more revenue in this format than the present one. At least an observation period of six months could have given an idea whether to change the rates or add one more slab of taxation. No body can predict exact tax collection and it is as good or as bad as an Astrologer telling your future.

6. Simpler and Fool Proof ITC Regime

The Input Tax Credit to remove the cascading effect in multiple point GST collection system – rules, procedures and forms, mischiefs and frauds, has given goose bumps to both sides. The routine refusals of ITC on fancy and illegal grounds like Selling Dealer not having deposited GST in Government Treasury, is neither based on sound taxing principles nor on efficient tax administration of GST regime. If you have control over all registered dealers having duly verified their physical existence, how can you refuse ITC to purchasing dealer so long as he holds a valid GST Invoice issued by a registered dealer. If selling dealer is at fault, how can purchasing dealer be punished, unless he has conspired in a fraud. A simple condition on a selling dealer not depositing his output tax liability within stipulated period and three such defaults resulting in cancellation of his registration was a threat enough to bring him to book or senses at least. The Assessing Authority of Selling dealers being vigilant and quick enough to track them and take action against them. The credit cycle of payments of GST invoices by the purchasing dealer can be regulated instead of leaving that absolutely to the contractual freedom of parties. Some flexibility in that can be made to adjust to peculiar circumstances of some classes of dealers.

Faceless Assessment and Appellate mechanism be introduced.

Like in Income Tax Law, the GST law should also introduce Faceless Assessment and Appeal mechanism. Unbiased and independent assessment procedure is the backbone of tax administration and a strong check against possible corruption. Much in this regard is achieved by electronic filings and compliances and whatever remains to be done, can be achieved by this administrative reform. Simplification of

packing.

Partly Fulfilled Dream : Full can also be a Reality.

Ultimately, the simplification of laws, voluntary and hassle-free compliance of law on one side and deterrent check on fraudulent dealers will be the answer. Honest dealers should not be unnecessarily punished for their bona fide lapses in compliances, while the fraudulent dealers should be dealt with by the iron hands of justice both at departmental level as well as judicial dispensation in the courts of law. Every body understands the need of tax revenue collections. It is all about manner and understanding of tax laws and voluntary compliance, which should be debated introspectively by both the sides.