



Introduction of Goods and Service Tax in 2016 – A MYTH OR REALITY?

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Media reports and press statements by Government Officials seem to suggest that the Union Government is keen to introduce Goods and Service Tax in the year 2016. While they themselves have given hope of its implementation from 1.4.2016, there seems to be a claim by some quarters that it is possible to implement GST from 1st October 2016. This article attempts to consider the feasibility of introducing GST in the middle of a financial year by analysing the pro and cons and practical issues.

Pending measures:

The Constitutional Amendment Bill, 2014, has been passed by the Lok Sabha but yet to receive the nod of Rajya Sabha. The Select Committee has submitted its report on 22.7.2015 but could not be debated and the monsoon session ended without passing the GST Constitutional Amendment Bill. The Government contemplated calling a special session of Parliament to pass the GST Bill but seems to have given up hope due to political compulsions and elections in the State of Bihar. The Government has pinned hopes of passing the much awaited GST Bill in the Winter Session. Passing the GST Bill is not the end of all and would at best pave way for taking steps for introduction and implementation of GST. There are a number of ¹further steps to be taken, which are discussed in tabular form with comments / remarks:

S.No.	Further course of action	Comments/remarks
1.	Passage of GST Constitutional Amendment Bill, 2014 in winter session	This would pave way for taking further steps discussed below. The Winter Session of Parliament would start in the month of November and GST Bill is expected to be taken up on a priority basis. Assume it is passed in the last week of November, 2015.
2.	Validation of Constitutional Amendments by 50% of the State	This would take at least a month after the GST Bill is passed by the Rajya Sabha. Some States may express reservations, which need to be resolved or addressed. Assume the validation by State Legislatures is done in

¹ The timelines are drawn with an optimistic and practical outlook.

	Legislatures (15 States)	last week of December 2015.
3.	Formation of GST Council	This would take a month after GST Bill is passed by the Rajya Sabha. Assume it would be constituted in the last week of December 2015.
4.	Recommendations of GST Council	Even assuming that the GST Council meets regularly and holds sittings continuously they would take at least two months to give their recommendations after it is constituted. ² Assume GST Council gives its recommendations by third week of February, 2015 (before the Union Budget 2016-17).
5.	Drafting and introduction of model law in Parliament/Legislatures based on GST Council's recommendations	The Government through its representatives has claimed time and again that the model law and rules are ready, surprisingly even before the GST Council is constituted and given its recommendations by holding deliberations. It is a classic instance of putting the cart before the horse. Are we heading for a law made by the Executive, which would be straight away passed without much debate or discussion, remains to be seen. Assume it takes a one month after the GST Council forwards its recommendations in the month of March 2015. Can the Government introduce it after the Finance Bill, 2016 is placed before the Parliament?
6.	Feedback and recommendations by public, industry and professional bodies about model law	The public, industry and professional bodies should be given adequate time to express their views to ensure that the model law is refined, re-refined and fine tuned and should not leave room for legal errors or disputes. It should be kept in the public domain for at least two months and assume it is upto May 2016.
7.	GST Law to be passed by Parliament and State Legislatures including transition provisions	The feedback and suggestions received from the industry and professional bodies should be carefully analysed and suitable changes should be made to the model law before it is passed by the Parliament. Will the Government encounter further hurdles while passing the Bill in the Rajya Sabha, as in the case of Constitutional

² Any delay in validation by the State Legislatures would affect the timelines to be followed by the GST Council, which in turn would delay the process of giving recommendations.

		Amendment Bill, Land Bill etc. Assume it is passed by end of June 2016.
8.	Framing of rules, notifications and regulations as per GST law including transition provisions	This exercise would take a month. Here again the Government claims that the rules etc are ready. Assume it is ready by end of July 2016.
9.	Feedback from public, industry and professional bodies about draft rules, notifications, regulations etc.	This would take a further period of one month and assume it happens by end of August 2016.
10.	Notifying the date of implementation of GST	Assume that the Government sticks to the time line of 1 st October 2016.

Practical Challenges:

Going by the above analysis of steps to be taken it is possible to hastily reach a conclusion that the Government is well within its reach of implementing the GST law from 1.10.2016. There are weighty issues, which need not be legal steps but practical steps to be undertaken by any Government. This is more-so when GST would spell the death knell of some existing taxing statutes and would lead to a paradigm shift in indirect tax system. It could also be a serious issue politically. The following steps would be of paramount importance for successful implementation of GST.

- a. **IT Infrastructure:** GST law would be an IT driven law and we are not sure whether all the States and Union Territories in India are currently equipped with infrastructure and requisite manpower to embrace this law. Except few States like Karnataka, Maharashtra and Gujarat, who have pioneered the E-Governance model, we have not heard about this trend in other States and Union Territories. In some States even today only manual VAT returns are in vogue. They also need to be taken on board.
- b. **Officers training:** In any new law, the old law as well as the new thought process of trust needs to be imbibed. The unlearning of the old law and learning GST provisions is imperative. This could take quite some time as faculty also need to be developed after the law is passed. All central and state government officers whether in VAT, service tax, excise or customs would have to learn about GST.

Further GST law would heavily depend on Information Technology and hence proper training has to be given to the departmental officers for effective usage and implementation.

- c. **Public Education:** GST law would subsume many State and Central Indirect Taxes and even the taxable event would be supply of goods or services. The general public including trade and industry has to be educated about this new law by creating awareness. Seminars and workshops should be organised by the Government in association with trade/industry bodies or associations to spread awareness about this new law.
- d. **New Registrants:** GST is expected to bring within its fold many new registrants, who have been hitherto kept outside the purview of tax mainly due to exemptions and since the taxable event is wider in scope in GST.
- e. **³Transitional Issues:** There are many areas, which have to be addressed as a part of transition to GST. There are concerns about registration, carry forward of credits and taking new credits, pending refund/rebate claims, review of contracts, change in taxable event for incomplete transactions, pending assessments, job work transactions, treatment of stock in hand, filing of returns etc. The need for smooth transition is imperative for success of GST. Therefore clear procedures if available without vagueness would help. Practitioners and advisors would have their hands full in resolving the myriad issues which are sure to arise.
- f. **Past Disputes:** There are many disputes pending in the context of present indirect tax laws (both Centre and State), which are at various stages viz., adjudication or appellate level. The adjudicating/appellate authorities, Courts and Tribunal are burdened with the pending cases. Before GST is implemented the Government should find ways and means to resolve these disputes. A possibility of introducing a dispute settlement scheme on the lines of Kar Vivad Samadhan Scheme should be explored, which would enable the litigants to resolve many matters. If the past disputes are allowed to continue then the adjudicating/appellate authorities and Courts/Tribunals would be pre-occupied with old cases and would not have time to resolve any issues/disputes cropping up under GST law.

³ For further information on Transitional Challenges and Possible Way Forward, the readers may kindly refer the book on Goods and Service Tax – A Primer by Madhukar Hiregange and K.S.Naveen Kumar published by Wolter Kluver – CCH.

- g. **Tax Administration (alignment/merger):** After GST is implemented both the Centre and State level officers are expected to work under one roof and in tandem by giving up their differences and non-alignment in the old regime. Cadre differences may arise, as presently in Central Excise and Service Tax, the departments are headed by Officers of the Indian Revenue Service, whereas in the State Commercial Departments, the Commissioner is from Indian Administration Service (IAS) and his subordinates would be from State Administration Service. In Central Excise and Service Tax we have posts like Principal Chief Commissioner or Commissioner and Chief Commissioner or Commissioner etc. How these differences would be addressed in the GST regime remains to be seen and there is no whisper or murmur about it as of now.

Conclusion:

Considering the above challenges, it would be advisable to defer the implementation of GST to 1st April 2017 than bringing it in a hurry. The experience of implementing VAT in all States across India during 2003-07 would provide valuable direction for successful GST implementation. The transition should be smooth and not abrupt. As the Government keeps its hope alive of bringing GST from 1st October 2016, the authors believe that it would be a myth and not a reality, considering the practical challenges ahead. In spite of this if the Government forces the new law in the middle of the year, it would probably have a limited success other than bringing untold miseries to the tax payer. The possibility of partial acceptance as in VAT could also be the result.