

GST : Comparative Analysis of Concepts

□ Presentation by:

Mahendra Ranga
Addl DG (Adjudication)
DG GST Intelligence

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NJA, Bhopal



Scheme

2

- Limited to concepts and important features
- GST includes both CGST and IGST
- Comparison restricted to major taxes viz CX, ST and VAT
- VAT comparison is with reference to Haryana
 - ▣ 29 states, 2 Uts with legislature, 5 other UT s

Abbreviations used

3

- GST- Goods and Service Tax
- CX- Central Excise
- ST- Service Tax
- VAT- Value Added Tax
- ITC- Input Tax Credit
- CST- Central Sales Tax

Tax law : Features

4

- Taxable event
- Measure of Tax
 - ▣ Rate
 - ▣ Value
- Person liable to pay tax
- Other machinery provisions
 - ▣ ITC
 - ▣ Exemptions
 - ▣ Refund

Machinery provisions

5

- Compliance verification
 - ▣ Audit
 - ▣ Return scrutiny
 - ▣ Anti evasion (search/seizure)
- Penalties
- Prosecution
- Refunds
- Treatment of Exports

Machinery provisions

6

- Dispute resolution
- Demands
- Refunds
- Search seizure

Taxable event

7

- GST- Supply of goods or services
- CX- Manufacture of goods
- ST- Supply of services
- CST- Inter State Sale

- VAT-Sale of goods

Point of Taxation

8

- CX: Clearance from factory date
- ST: Time of supply of services
- VAT: Time of transfer of goods
- GST: Time of Supply
 - ▣ Separate Rules for goods and Services
 - ▣ Earlier of time of clearance for goods or receipt of payment
 - ▣ At the time of issuance of invoice or receipt of payment for services

GST Supply: Includes

9

- All forms of supply of goods or services or both such as
 - ▣ sale, transfer, barter, exchange, license, rental, lease, or disposal
 - ▣ for a consideration
 - ▣ in the course of or furtherance of business
- Import of services for a consideration
- Specified activities without consideration

Rates of Duty

10

- CX : About 10 rates
- ST: 14% + Cess
- VAT: 1%, 5.5% ,14.5%
- GST: [0.25 % , 3%] [1% 2%] 5% 12% 18% and 28%
- 0 is also a rate of duty/ tax
- Schedules for rate of duty with more variations
- Rates to be read with large no of exemptions both for products and industries
- Scope of exemptions reduced under GST

Value for taxation

11

- GST- Transactional value
- CX- transactional value
 - ▣ MRP linked
 - ▣ Specific rate
- ST- Gross value of services supplied
- VAT

Persons liable to pay

12

- GST- supplier of goods/services or both
 - ▣ Subject to Reverse charge Mechanism
- CX- Manufacturer of goods
 - ▣ Principal manufacturer in case of job work (optional)
- ST- Supplier of services
 - ▣ Reverse charge
- VAT- Seller

Threshold limit

13

- CX: Rs 1.5 Crore for those with turnover upto 4 Crore
- ST: 10 Lakhs
- VAT: 5 Lakhs if sale/purchase is within Haryana
 - ▣ From first sale if interstate sale
- GST: 20 Lakhs (10 Lakhs for 11 Spl Category States under article 279 A (8NE+ J&K, HP, UK)
 - ▣ From first sale if inter state sale

- Optional to pay from first clearance

Composition Scheme

14

- CX: No composition scheme
 - ▣ Capacity based levy for Pan Masala
- ST: No composition Scheme
- VAT: Available
 - ▣ for Contractors (5%), Brick Kiln owners, Plyboard, Developer, Retailer @ 1% (for turnover upto 40L)
- GST: Composition scheme for turnover upto 75 L @ 1% for Traders, 2 % Manufacturers and 5% Restaurant
 - ▣ Turnover 50 L for 9 states (8 NE+ HP)

Reverse Charge Mechanism

15

- Normal scheme of person liable to pay is reversed
- CX: Manufacture was always required to pay
- ST: 12 Services under RCM
- VAT: RCM if registered dealers purchase from unregistered
- GST: RCM for specified services
 - ▣ RCM if registered person purchases from unregistered

Input Tax Credit

16

- CX : Credit of inputs, input services & capital goods used in manufacture of final products
- ST: Credit of inputs, input services & Capital Goods used for supplying output services
- Common Rules for CX and ST.
- Fungible/ Integrated Credit of CX and ST
- VAT: Credit of inputs available on purchases from within the state after payment of tax used in manufacture of goods and sale thereof
 - ▣ Credit of Capital goods as in GST
- GST: : Credit of inputs, input services & capital goods, used or intended to be used, in the course or furtherance of business
- Credit of Capital Goods available

ITC: Features

17

- Receipt of goods and utilization thereof essential conditions under CX, ST , VAT and GST
- GST; ITC will be subject to payment of duty by the supplier of goods or services
 - ▣ Recipient will be required to make payment of value and tax to the supplier within 180 days
 - ▣ Subject to filing of returns
- CX: No such condition
- ST: Recipient will be required to make payment of value and tax to the supplier within 90 days
- VAT: ITC subject to return filing

ITC features

10

- **Petroleum products outside ITC in all laws**
- Motor vehicles are also restricted for CX/ ST.
 - ▣ unless they are used for transportation of goods
 - ▣ For transportation of passengers by persons in such services
- Matching of invoices under GST

TDS: Tax Deduction at Source

19

- No such concept under CX/ ST
- VAT: TDS required to deducted on payments made to contractors
- GST: Central/ State govt, local Authority or State agencies are required to deduct tax while making payments

Exports

20

- CX: Zero rated: All tax elements in the value of the export product either not to be charged or to be reimbursed.
- ST: Ditto
- VAT: Exports are exempt from payment of duty
- GST: Exports are zero rated

Demands

21

- CX: Duty not paid and short paid can be demanded within two years from the date or due date of filing of return
- Extended limitation of five years in cases of suppression/ misstatement of facts, fraud, collusion and violation of rules with intention to evade duty
- ST: Similar to CX with time limit of 30 months
- VAT: Assessment to be completed in 3 years
- GST: Demand and adjudication within 1/3 years of filing of annual return.

Refund

22

- CX/ST: Duty paid in excess. Time limit is one year
- VAT:
- GST: Time limit increased to two years

- Doctrine of unjust enrichment stays

E-way bills

23

- Information of goods valued more than Rs 50000/- to be provided on the GSTN portal.
- An e-way bill is to be generated.
- This has to accompany the goods to enable transit checks
- CX/ST: No such provision
- About 8 states have this system

Search & Seizure

24

- CX/ ST : provisions for search of business premises and other places on issuance of search warrants
- VAT: Search of business premises
- GST: Inspection not involving intrusive search of business premises allowed
 - ▣ search of business and other premises on issuance of search warrant

Arrests

23

- CX: Arrest in extreme cases where duty involved was more than Two Crore
- ST: ditto as CX
- VAT: No provision of arrest but at the time of Recovery of dues arrest by Collector 1st grade provided under Land Revenue Act. Most states don't have arrest provisions
- GST: Arrest allowed if ITC wrongly availed or duty evaded id more than two Crores; Also in repeat offences

Review / Revision of orders passed by authorities:

26

- ❑ Mechanism provided if Revenue is aggrieved by orders of its authorities
- ❑ CX/ ST: Orders of Authorities can be reviewed by deptt by a Committee system.
 - ❑ Appeals against orders can be filed
- ❑ VAT: Commissioner can review orders passed by lower authorities
- ❑ GST: Both Review and revision are provided

Prosecution

27

- CX: Offences attracted punishments upto Seven years imprisonment.
 - ▣ Lesser punishments for lesser offences
- ST:
- VAT: No prosecutions
- GST: Punishments upto five years prescribed

Settlement Commission

23

- CX and ST: Taxpayers who wish to admit duty liability over 2 lakhs can approach the Settlement Commission. Commission can provide such terms of settlement as deemed fit in respect of duty, penalty, interest and the manner in which such sums are to be paid.
 - ▣ Immunity from prosecution can also be provided.
- VAT: No such provision
- GST: No such provision

Advance Ruling Authority

29

- GST: Two tier structure ARA and Appellate
 - CX: One National Authority headed by a retired SC judge
 - ST: As in CX
 - VAT: -
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- CX/ ST Advance Ruling Authority was limited to foreign companies or their collaboration/ Jt venture. Scope widened to all tax payers

Administrative arrangements

30

- Central and state administrations for enforcing the respective laws
- Single interface provided for administering GST
- Single authority will administer CGST and SGST

IT Infrastructure

31

- Centre and States have their own IT infrastructure
- GSTN shall act as common IT platform for registration, filing of returns, payment of duty and filing of refunds
- Centre and state shall operate their IT backends
- 27 states have authorised GSTN to operate their IT backend

New Concepts in GST

32

- ❑ Electronic Commerce Operators (ECO) who own electronic platform for e-commerce. They may be called upon to pay duty on inter state supplies e.g. Flipkart Sec 9(5)
- ❑ Tax collection at source (TCS) by ECOs (S. 52)
- ❑ GST compliance rating
- ❑ E-way bill and invoice matching followed by few states are being extended pan India
- ❑ Anti profiteering
- ❑ Tax to be first charge



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YOU