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GST in Play Alters the Taxation Rules for the Indian Business Game

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Abstract

With the dream to be positioned as the most preferred global destination for investment, Indian Government made one of the most significant reforms in the country's history in the midnight of June 30, 2017, through the implementation of the new indirect tax regime GST (Goods and Service Tax) from July 1, 2017, after a thirteen-year journey, overcoming many administrative and political hurdles. GST started with a slogan of 'One Nation, One Market, One Tax'. GST promise to change the manner in which business is carried out and bring a predictable tax regime which is at par with other developed economies. GST is not simply a tax change, but a business change that will affect most functional areas. Each industry needs to understand the impact and opportunities offered by this crucial indirect tax reform. This paper includes the basic changes involved in the taxation structure fundamentals in business.

Keywords Indirect tax reforms, Goods and Service Tax (GST), Taxation structure fundamentals

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ISSN (Online) - 2691-5103
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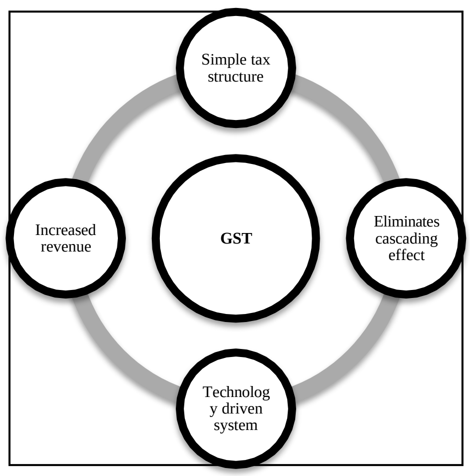
Introduction

GST is a digital, online destination-based taxation system which eliminates the complex cascading structure into a unified value added system of taxation. Tax will accrue to the jurisdiction, where goods and services will finally be consumed (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017). The impact of cascading taxes will be reduced significantly as credit flow through across the entire supply chain and across all State/Union territories. As the single rate for each category of goods and services, there will be a significant redistribution of taxes across all categories, which has resulted in reduction in taxes on manufactured goods and hence impacting the price of the product.

Figure 1: Benefits of GST



GST in other countries in the world

France was the first country to implement GST in 1954 (India Today, 2017) to reduce tax-evasion and since then more than 140 countries have implemented GST in some form, with few countries having dual GST, for example Brazil and Canada (Business Today 2017). Malaysia was the most recent country to implement GST before India on April 1, 2015 (India Tax Insights, EY, 2014). India has chosen the Canadian model of dual GST as she is a federal country (Taking advantage of GST- Critical impact areas and implications, Redseer, 2015), where the Centre and States have the power to levy and collect taxes. European countries have one rate of GST as they

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

do not have poor families and can be burdened with the same tax as the rich (Business Today 2017). The GST rates of few countries have been tabulated below.

Table 1: GST rates of few countries

Country	GST rates
Canada	13 to 15%
France	20%
United Kingdom	20%
New Zealand	15%
Malaysia	6%
Singapore	7%

*Source: (India's GST highest in the world: Here's what some other countries charge, Business Today, 2017)

Legislative route to GST

Before the commencement of GST in India, there were different tax laws and tax rates from State to State. It did

not provide tax credits for Interstate transactions, leading to distortion in the allocation of resources and indirect

taxes, becoming a major concern for business decision makers (The Times of India, 2017). In India, GST was conceived in 2004 by the Task Force on the implementation of the Fiscal Responsibility and Budget Management Act, 2003 (Kelkar Committee) while analyzing the prevailing indirect tax system both at the Central and State level. The Kelkar Committee observed that a tax reform would comprehensively tax the consumption of almost all goods and services in the economy and achieve a common market, widen the tax base, increase the revenue collected by the Government and also enhance the welfare of the society through efficient resource allocation (Goods and Service Tax in India: Trading Stock and setting Expectations, Deloitte, 2014).

In 2006, the Finance Minister announced in his Union Budget speech that India would introduce GST by April 1, 2010. This process involved intensive groundwork by the Finance Commission, the Joint Working Group constituted by the Empowered Committee (EC) of State Finance Ministers, the Standing Committees and Study Groups, Information Technology (IT) teams and all other stakeholders, including India Inc. The amendment of the Constitution for implementing GST before legislating associated provisions was a big challenge for the Government. But unfortunately, lack of consensus between the Centre and State and a few other practical difficulties resulted in deadlocks and delay in implementation of this much needed reform (India Tax Insights, EY, 2014).

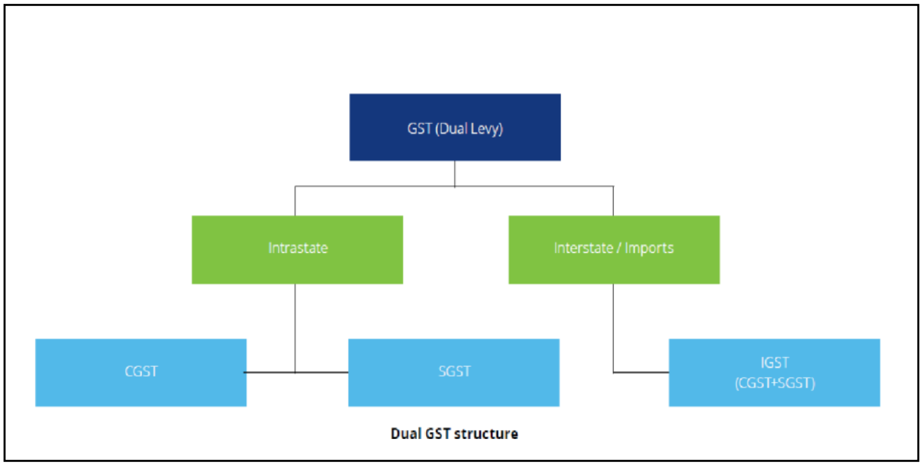
In the old tax regime, Center had no right to tax the sale of goods, except in case of Interstate sale and the States could not levy tax on services. Finally, the amendments to the Constitution (122nd Amendment) Bill 2014 led to roll out of GST (The Hindu 2016). The Constitutional Amendment act provided a clear division of powers mentioned in Article 246 in respect of taxation between the Centre and the States in respect of GST, a single tax on goods and services (The Economic Times 2016). The Constitution, by design, enlists heads of legislations, including taxing heads, in the Seventh Schedule. Post the Amendment, most heads dealing with indirect taxation have been removed from the Seventh Schedule and consolidated into a head titled Goods and Services Tax, levied on the supply of goods and services by both the Centre and the States by Laws passed by their respective legislatures under a newly added Article 246A. To decide on a unified GST rate and the rate at which taxes would be split between the Centre and the States, a GST council has been constituted to give recommendations to the Centre and the States on these issues.

Dual GST structure

With the advent of GST on July 1, 2017 in India, Central and State Governments abolished all multiple taxes (except customs duty) (The Times of India, 2017).

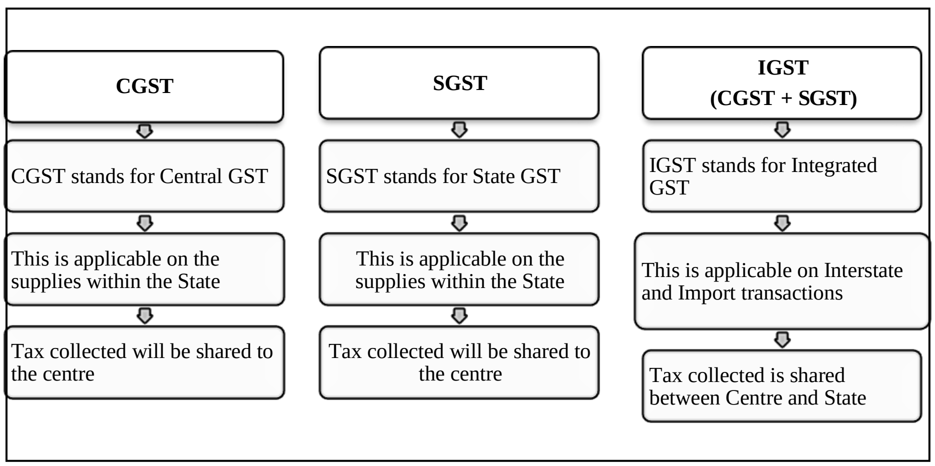
 ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

Figure 2a: Dual GST structure



*Source: (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017)

Figure 2b: CGST, SGST and IGST

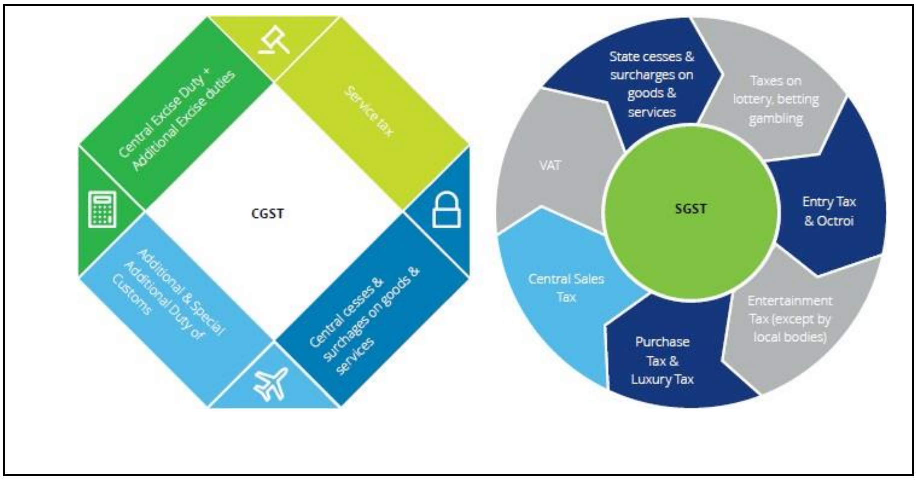


GST is levied simultaneously by the Central and State (CGST and SGST respectively). Every Intrastate transaction of supply of goods and services would be liable to CGST and SGST concurrently (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017).

As shown in the image below, all the Central taxes are subsumed under CGST, State taxes under SGST.

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

Figure 3: Taxes subsumed under CGST and SGST



*Source: (Goods and Service Tax Industry Insights Impact on the Retail industry, Deloitte, 2017)

Also, (The Times of India, 2017) if the supply is an Interstate, a single integrated GST (IGST), is levied on all supplies. Interstate transactions, including stock transfers and imports will become liable to IGST and the Central Sales tax (CST), Countervailing Duty (CVD) and SAD (Special Additional Duty) applicable on imports are subsumed under the IGST (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017).

Input credit Mechanism

A business can claim the Input Tax Credit (ITC) to recover the tax they pay for the incremental value they add to a product or service, so the tax is ultimately borne by the final consumer (India's New GST, KPMG International, 2017).

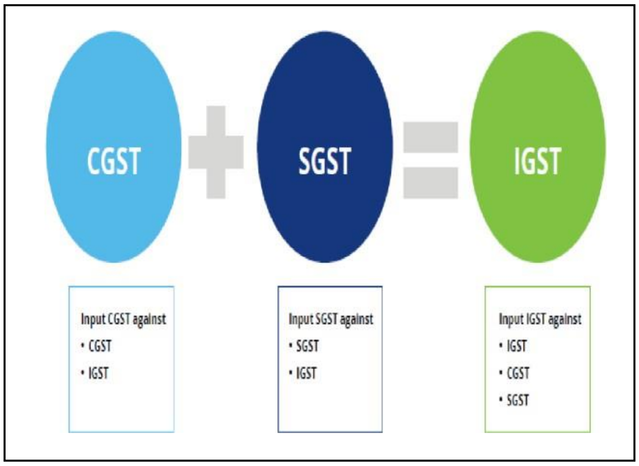
Set off mechanism (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017) of credit of CGST, SGST and IGST suggests that the dual GST will be a State-specific levy where the credit will accrue to the registered taxpayer at the place of supply and will be required to be accounted separately as CGST, SGST or IGST

a. IGST credit can be utilized against IGST, CGST and SGST liability to supply

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

b. CGST credit can be utilized against CGST and IGST, whereas SGST can be utilized against SGST and IGST
c. Cross Utilization of CGST and SGST is restricted

Figure 4: Input Credit Mechanism



*Source: (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017)

Numerical examples illustrate the comparison of tax calculated under the old regime and GST

Table 2a: Comparison of the tax calculation under the old regime and GST for Intrastate supply

	Intrastate supply	**Current tax**		**GST**
Manufacturer	Product sale price	1000		1000
	Excise duty at 12%	120	CGST at 9%	90
	VAT 14%	157	SGST at 9%	90
	Dealer invoice	**1277**		**1180**
Dealer	**Dealer cost (1000 +120)**	**1120**		**1000**
	Margin	100		100
	Sale price of the dealer	1220		1100
	VAT at 14%	171	CGST at 9%	99
			SGST at 9%	99

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

	Price to the customer	**1391**		**1298**
	Dealer's tax liability			
	Net VAT/GST after set-off	14		18
Customer	Saving to the consumer			93

Table 2b: Comparison of the tax calculation under the current regime and GST for Interstate supply

	Interstate supply	**Current tax**		**GST**
Manufacturer	Product sale price	1000		1000
	Excise duty at 12%	120	IGST at 9%	180
	CST at 2%	22		
	Dealer invoice	**1142**		**1180**
Dealer	**Dealer cost (1000 +120+22)**	**1142**		**1000**
	Margin	100		100
	Sale price of the dealer	1242		1100
	VAT at 14%	174	CGST at 9% SGST at 9%	99 99
	Price to the customer	**1416**		**1298**
	Dealer's tax liability			
	Net VAT/GST after set-off	174		18
Customer	Saving to the consumer			**118**

GST rate structure

-The GST will apply at five basic rates (India's New GST, KPMG International, 2017):

I. -The 0 percent rate will apply to essential food items, exports and supplies to Special Economic Zones (SEZ)

II. -The 5 percent rate will apply to some mass consumption items (e.g. Spices, tea)

III. -The 12 percent standard rate that will apply to other commonly used items (e.g. Soap, cell phones, processed phones)

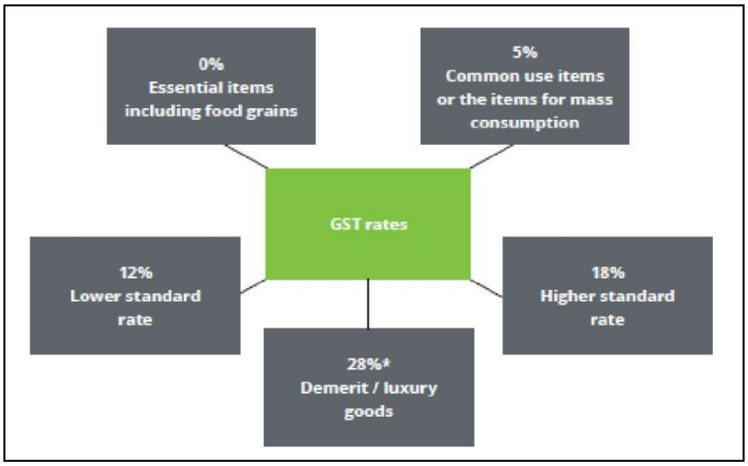
IV. -The 18 percent standard rates that will apply to most products and services

V. -The 28 percent rate will apply to consumer durable goods (e.g. Televisions, cars)

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

A surcharge on top of the 28 percent rate will apply to luxury items, such as high-end cars and 'Sin tax' items such as tobacco.

Figure 5a: Five basic rates applied by GST



*Source: (Goods and Service Tax: Industry Insights Impact on the Retail industry, Deloitte, 2017)

The GST Council at its 23rd meeting on 10 November 2017 recommended widespread changes in which it has been decided to keep the highest 28% tax on luxury and sinful items as a result, 177 items were shifted to 18% bracket (The Economic Times, 2018). In the 25th meeting on 25 January 2018 and 26th meeting on 10 March 2018 further GST rates have been altered to meet the needs of the people.

Figure 5b: Few rates mentioned in the 26th GST Council meeting

*Source: (cleartax)

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

Though GST has replaced most of the previous taxes in India, following items are kept outside the purview of GST in India like (Times of India 2017):

a. Alcohol

b. Petroleum products

Petroleum products such as petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel, etc. are kept outside the purview of GST in India.

c. Electricity

However, taxes applicable at present for these products will continue as per the structure before the implementation of GST.

GST registration

A business whose aggregate turnover in a financial year exceeds 20 lakhs has to mandatory register under Goods and Services Tax. This limit is set at Rs 10 lakhs for North Eastern States flagged as special category States. The special category States include Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand (cleartax).

GST registration is a tedious 11-step procedure which requires submission of many business details and scanned documents. Documents required for GST registration are Permanent Account Number (PAN) of the applicant, Aadhaar card, proof of business registration or Incorporation Certificate, identity and proof of address of Promoters/Directors with photographs, proof of address of the place of business, bank account statement/cancelled cheque, digital signature and letter of authorization/board resolution for authorized signatory (cleartax).

Penalty for not paying taxes or making short payments for genuine reasons is 10% of the tax amount due, subject to a minimum of Rs. 10,000. The penalty will be at 100% of the tax amount due, when the offender is deliberately evading paying taxes (cleartax).

A business that operates in more than one State has to do a separate GST registration in each State and also a business with multiple business verticals may obtain a separate registration for

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

each business vertical (cleartax).

The GST Council in its 23rd meeting has decided to increase the threshold for composition scheme to 1.5 crore and also decided to amend the law to increase the statutory threshold to 2 crores (The Economic Times, 2017), enabling them to pay tax at a flat rate without input credits (NDTV PROFIT, 2017). Small businesses can now pay tax at a prescribed percentage of the turnover every quarter, instead of paying tax at a normal rate. In the Service sector this scheme is available only for restaurants and is unavailable for tobacco and manufactured tobacco substitutes, pan-masala and ice-cream and other edible ice, whether or not containing cocoa (NDTV PROFIT, 2017). In the composition scheme (cleartax):

-Composition dealers are required to file only one quarterly return (instead of three monthly returns filed by normal tax payers).

-They cannot issue taxable invoices, i.e, collect tax from customers and are required to pay the tax out of their own pocket

-Businesses that have opted for Composition Scheme cannot claim any input tax credit

Composition Scheme is not applicable to (cleartax):

-Service Providers

-Interstate sellers

-E-commerce sellers

-Supplier of non-taxable goods

-Manufacturer of notifying goods

A special registration procedure is prescribed for (India's New GST, KPMG International, 2017):

a) Businesses required to deduct or collect tax at source
b) Taxable non-residents
c) Businesses supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

GSTN (Goods and Service Tax Network)

Union cabinet (Goods and Service Tax in India: Taking Stock and Setting Expectations, Deloitte, 2015) approved a proposal to set up the SPV (Special Purpose Vehicle), namely GSTN, as an exclusive nodal agency for enabling IT infrastructure for the smooth introduction of GST. GSTN was incorporated on March 28, 2013 under Section 25 of the Companies Act, 1956 (as non-Government, non-for-profit, private limited company) promoted jointly by Central and State Governments. GSTN has a self-sustaining revenue model, based on a levy of user charges on taxpayers and tax authorities availing its services. GSTN has been set up with the following objectives:

1. Integration of the common GST portal with the existing tax administration systems of the Central/State Governments and other stakeholders
2. Facilitation, implementation and setting standards for providing services to the taxpayers through the common GST portal, State Governments and other stakeholders
3. Building efficient and convenient interfaces between taxpayers to increase tax compliance
4. Carrying out research, studying best practices and provide training to the stakeholders

Technical glitches and teething problems post GST

As complaints of technical glitches in the GST network mount like the bandwidth capabilities of the network, robustness of the software, security aspects and the architecture of the entire system, the Comptroller and Auditor General (CAG) is expected to look into these issues to make it ready to handle enormous amounts of transactions (The Hindu 2017).

Other teething problems of GST includes understanding of the new laws/procedures or taxpayers' reluctance/apprehension. The problems have just started pouring in - be it technical glitches, understanding of the new laws/procedures, or taxpayers' reluctance/apprehension. Forgetting of passwords is a trivial issue, but resetting it consumes 4-5 working days, but risky is sharing the passwords with advocates as it has security threats. Registering a digital signature is also a cumbersome process (Business Today, 2017).

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

The industry faced major issues in meeting compliances with the GST portal not functioning and deadlines being extended at the last minute. The return file process of GSTR1, GSTR2 and GSTR3 should have been postponed till the portal is fully stable. Also, the facility of revising GSTR3B should be allowed, given the assessment were not fully ready with data meeting GST compliances (Analysis and Findings from GST survey 2018-19, KPMG, 2018).

Anti-profiteering provisions are not clear and the Government should have laid down clear guidelines on how to calculate the profit on account of GST, much before GST was implemented (Analysis and Findings from GST survey 2018-19, KPMG, 2018).

GST has impacted their procurement and supply chain, with decisions now being taken largely on the basis of commercial aspects rather than tax, as was done earlier. But a reduction in the number of depots for pan India operations are yet to become a reality (Analysis and Findings from GST survey 2018-19, KPMG, 2018).

Refunds on exports have not been processed till date, leading to blockage of working capital. Withdrawal of exemptions on procurement for export purposes has further increased the strain on working capital (Analysis and Findings from GST survey 2018-19, KPMG, 2018).

With respect to the transition, problems still persist around carry forward of credits of cess and the eligibility to carry forward credit on stock lying at different locations (Analysis and Findings from GST survey 2018-19, KPMG, 2018).

Revamp of GST

The Government has been proactive in ensuring that the rollout of GST is smooth without leading to speculation, panic or profiteering by controlling rumor mongering, clarifying ambiguities/confusions and resolving taxpayers' issues. In order to achieve that it has set up facilitation centers in all sales tax and excise offices, organized interactive sessions with industry and traders and come out with Frequently Asked Questions FAQs to clear confusion. Also, there is an incident that unscrupulous elements are trying to fleece shopkeepers and customers for

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

which the finance ministry has barred tax officials from paying an unauthorized visit to any business premises (Business Today, 2017).

After the GST council's 24th meeting, there was a revision of rates on 29 items and 53 categories of services, ahead of the Union Budget. The new rates have been applicable from 25 January 2018 (The Economic Times, 2018).

Figure 6: Revamp of GST

*Source: (GST Council rejigs rates of 29 items, 53 services, The Economic Times 2018)

The Council also included cuts in 20-liter packaged drinking water, biodiesel, diamonds and precious stones, sugar candies, tailoring services, amusement parks and low-cost housing construction services (The Economic Times, 2018).

The GST Council meeting on 10 March 2018 decided that the E-way bill will be implemented from 1 April 2018 (Economic Times, 2018). Under the reverse-charge mechanism, a person receiving goods or services collects the GST levied and deposits the tax to the Government. The provision was only meant for unregistered entity supplying goods or services or both. In such instances, those taking goods or services levy and collect taxes on a reverse-charge basis, ensuring its payment (Economic Times, 2018). The liability to pay tax on reverse-charge basis has been deferred till 30 June 2018. In the meantime, a group of Ministers will look into the modalities of its implementation to ensure that no inconvenience is caused to the trade and industry (Economic Times, 2018).

Union Budget 2018-2019 on 1 February 2018

In Indirect Taxes (Hindu Times, 2018), there is not much the budget can do and contained numbers for the old indirect taxes that existed up to June 20, 2017. Any decision regarding the changes in GST rates is taken by the GST Council apart from changes in the basic custom duties which is outside the arena of the GST (Business Standard, 2018). ~~This year's~~ The 2018-2019 budget has been the most awaited announcement since the introduction of GST and the incumbent Government's last budget of this term.

On 1 February 2018 Finance Minister's fifth and last full budget came in the Loksabha in which the name of the Central Board of Excise and Customs is proposed to be changed to Central Board of Indirect Taxes and Reforms.
The expectations of the industry from the budget were with respect to the amendments required in the GST Act
arising out of the last six months of implementation. The GST rate related amendment has been constantly made. With the consolidation of Excise Duty and Service Tax under the GST, the changes are expected to focus on the import of goods in India and Central Excise Duty applicable on petrol and diesel (India Forbes, 2018).

Against the backdrop of consistently rising oil prices and cut in the excise duty for fuel but there was no sign of relief as petroleum taxes are specific in nature and also there are problems with the revenue buoyancy. Since the GST council could not approve the changes they were not introduced on the first day of the budget session and likely to be done on the second-half of the Budget session in March 2018 (Hindu Times, 2018).

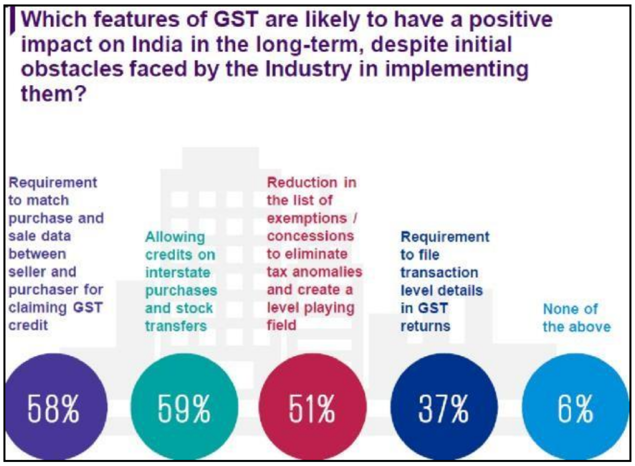
Conclusion

As per a report based on analysis of a survey on GST (Analysis and Findings from GST survey 2018-19, KPMG, 2018):

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

- 93% of the respondents agreed that GST would have a positive impact on the Indian economy, especially with the availability of full credits on procurement and requirement of matching of sale and purchase data for claiming credits. 68% agreed that the Government is taking all the adequate steps to make the industry experience of GST as convenient as possible for the people.

Figure 7: Features of GST likely to have a positive impact in India

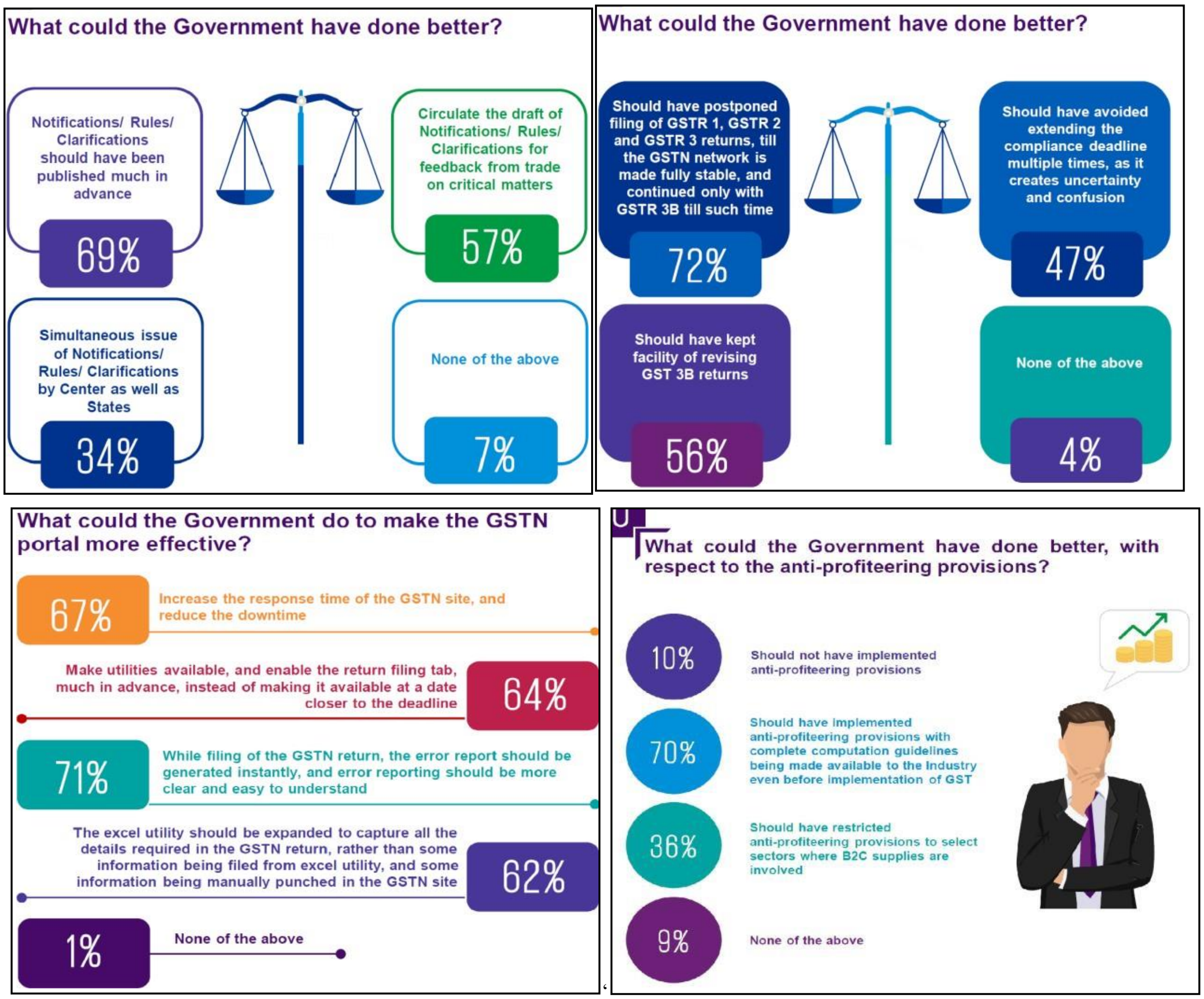


*Source: (Analysis and Findings from GST survey 2018-19, KPMG, 2018)

- Almost all the respondents felt that the GSTN portal can be made more effective, by making the return filing utilities available much earlier rather than closer to the deadline and the error report being generated instantly in a clear manner.
- The industry expects further rationalization of GST rates and simplification of compliance with 55% of the
respondents saying they are unsatisfied with the time given to assess to implement the GST Council's decisions, few adequate steps that can be taken by the Government are suggested by them represented through the images given below:

ISSN (Online) - 2691-5103
ISSN (Print) - 2693-4108

Figure 8: Adequate measures that can be taken by the Government to make GST easier in India



*Source: (Analysis and Findings from GST survey 2018-19, KPMG, 2018)

GST claims to ease the process of doing business in India by widening and expanding the marketplace and reducing the tax compliance burden (The Economic Times, 2017). For businesses in India, the GST entail a distinct move from an origin-based taxation to a destination-based tax structure, with significant potential impacts on cash flow, pricing, working capital, supply chain and IT systems (India's New GST, KPMG International, 2017).

With the onset of GST, many businesses in India were not much prepared with the new obligations, but the transition, it offers an excellent opportunity for organizations to take a transformative approach, assessing and realigning business models to drive efficiencies and gain competitive edge (India's New GST, KPMG International, 2017). The implementation of the GST was chaotic with various industries seeking for several clarifications, frequent revision of rates and other teething troubles. The traders and businesses took their time to adopt the technologies to be GST compliant.

In retrospect, the implementation of the GST was not easy for micro, small and medium enterprises (MSME) sector, which struggled with cash flows and GST compliance. The situation has improved with the 48 lakhs MSMEs registered with the Udyog Adhaar Memorandum (UAM) Portal as of July 2018, mostly credited to the “Make in India” initiative. Further, the replacement of as many as 17 levies and numerous cesses with a single tax has simplified tax filing and further streamlined processes (The Economic Times, 2019).

The real impact of the lockdown of the pandemic on GST revenue, will be reflected in the revenue collections of May, 2020 (for business activity in April, 2020) as the country was in complete lockdown in April, 2020 with permission of essential services only. Experts said that the GST mop up in May, 2020 would be primarily from sectors like telecom, FMCG, food processing and pharma. The Central Board of Indirect Taxes and Customs (CBIC) had launched a Special Refund in April, 2020 to to clear pending GST and drawback refunds to help businesses tide over the liquidity crunch amid COVID-19 crisis (The Economic Times, 2020).

The efforts of the Government of India are being hindered by unexpected challenges and hopefully all these problems are solved so that the country can continue to celebrate the triumph of GST and achieve the purpose of the slogan of ‘'One Nation, One Market, One Tax’. The Government is trying to ease the GST rates, providing clarifications on various issues, simplifying the return filing process and providing relaxation on operational aspects. The GST is not simply a tax change, but a business change that will affect most functional areas.

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