Launch of GST in India and its Reflection to Nepal's Foreign Trade

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CA Kaushlendra Jha
CA. Jha is a Fellow Member of ICAN
He can be reached at
kaushlendra@jkkfoundation.org

Background & Introduction

Goods and Services Tax (GST) was the first introduced and implemented by France in the year 1954. Within 62 years of its advent, about 160 countries across the world have adopted GST because this has the capacity to raise revenue in the most transparent and neutral manner.

It has been more than a decade since the idea of GST was mooted by Kelkar Task Force in 2004 in India. The Task Force strongly recommended fully integrated GST. Subsequently, the union finance minister presenting the central budget (2007-08), announced that GST would be introduced from April, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty. The LokSabha passed the Bill on 6th May, 2015 and RajyaSabha on 3rd August, 2016. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 received the assent of the President on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016, which paved the way for introduction of GST in India.

The introduction of Goods and Services Tax (GST) is very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it will mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods which is currently estimated to be around 25%-30%. Government of India has implemented GST with effect from 1st July, 2017 across India.

The GST is a Value added Tax to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services in India. It will replace all indirect taxes levied on goods and services by the Indian Central and state governments. GST is consumption type where only final consumption is treated as the final use of goods. GST is expected to integrate taxes on goods and services across all supply chain for availing set-off and capture value addition at each stage. Suppliers at each stage would be permitted to set-off the GST paid on the purchase of input goods and services against GST to be paid on the supply of goods and services.

There would be five tax rates namely 0%, 5%, 12%, 18% and 28%. The tax rates for different goods and services have been finalized. Besides, some goods and services would be under the list of exempted items.

Meaning of GST

GST is a destination based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

Destination based tax on consumption means the tax would accrue to the taxing authority which has jurisdiction over the place of consumption or place of supply.

Replacement of tax laws through GST Introduction

The introduction of GST has replaced so far total number of tax laws which were levied centre and states are seventeen of which eight number of tax laws by centre and nine number of tax laws by states:

The taxes currently levied and collected by the Centre:

1. Central Excise duty
2. Duties of Excise (Medicinal and Toilet Preparations)
3. Additional Duties of Excise (Goods of Special Importance)
4. Additional Duties of Excise (Textiles and Textile Products)
5. Additional Duties of Customs (commonly known as CVD)
6. Special Additional Duty of Customs (SAD)
7. Service Tax
8. Central Surcharges and Cesses so far as they relate to supply of goods and services

The taxes currently levied and collected by the states are:

1. State VAT
2. Central Sales Tax
3. Luxury Tax
4. Entry Tax (all forms)
5. Entertainment and Amusement Tax (except when levied by the local bodies)
6. Taxes on advertisements
7. Purchase Tax
8. Taxes on lotteries, betting and gambling
9. State Surcharges and Cesses so far as they relate to supply of goods and services

Some of important features of GST are:

- The threshold exemption limit is Rs 20 lakh. For special category states enumerated in article 279A of the constitution, threshold exemption limit has been fixed at Rs. 10 lakh.
- Composition threshold shall be Rs. Limit is 50 lakh. Composition scheme shall not be available to inter-state suppliers, service providers (except restaurant service) and specified category of manufacturers.
- The existing tax incentive schemes of central or state governments may be continued by respective government by way of reimbursement though budgetary route. The scheme, in present form, would not continue in GST.
- 5 Percent to 28 percent rates for different goods and services have been finalized. Besides, some goods and services would be under exemption items. The exempted services have been finalized which is same as the services exempted under service tax. The rate for precious metals is an exception to 'Four-tax slab-rule' and the same has been fixed at 3%. A cess over the peak rate of 28% on certain

specified luxury and demerit goods, like tobacco and tobacco products, pan masala, aerated waters, motor vehicles, would be imposed for a period of five years to compensate states for any revenue loss on account of implementation of GST. The lists of services in case of which reverse charge would be applicable has also been finalized.

- Power under the GST ACT shall also be cross-empowered on the same basis as under CGST and SGST Acts with few exception.
- Power to collect GST in territorial waters shall be delegated by central Government to the states.
- www.gst.goc.in, managed by GSTN, Shall be the common Goods and Service Tax Electronic Portal.
- Actual GST rates would however be a four-tier tax structure of 5, 12, 18 and 28 per cent as approved by the GST Council
- A Union Territory GST Bill will take care of taxation in UTs of Chandigarh, Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu
- A Bill on Integrated-GST to be levied and collected by the Centre on inter-state supply of goods and services, was also introduced in the Lok Sabha.
- The IGST law provides for a maximum tax of 40 per cent
- A fourth legislation called GST (Compensation to States) Bill, 2017 has also been introduced for mechanism for making good any loss of revenue of states from introduction of GST in first five years of rollout.
- Another mirror legislation of CGST, called State GST, will amalgamate all state taxes like VAT, will be levied by states and has to be approved by all state legislatures
- Together, CGST and SGST will enable the GST incidence of 40 per cent
- CGST law will not apply to Jammu and Kashmir
- The CGST Bill also provides for e-commerce companies to collect tax at source at a rate not exceeding 1 per cent of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals
- To protect small businesses, the CGST provides for a tax of not more than 1 per cent of turnover for manufacturers with annual turnover of up to Rs 50 lakh
- To ensure that benefit of lower taxes is passed on to consumers, an anti-profiteering measure has been incorporated in the law. It provides for constituting an Authority to examine whether input tax credits availed by any registered taxable person, or the reduction in the price on account of any reduction in the tax rate, have actually resulted in a commensurate reduction in the price of the said goods and/or services supplied by him
- The law provides for arrest, ordered by no less than a Tax Commissioner, in case of suppression of any transaction or evading taxes. A person convicted is punishable up to 5 years of imprisonment and/or fine.
- Compensation will be paid bi-monthly and the amount due would be calculated after considering a 14 per cent growth rate in taxes over the base year of 2015- 16.
- Hotels selling liquor cannot avail the composition scheme even if the turnover does not cross Rs. 50 lakhs.
- Schedule I of GST Bill provides that gifts not exceeding Rs 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods and services. However, use of assets and many other amenities like car drops, scholarship to employees' children etc. may be covered under GST ambit.
- Leasing of land, renting of buildings as well as EMIs paid for purchase of under-construction houses will start attracting the Goods and Services Tax. Sale of land and buildings will be, however, out of the purview of GST

Impact of GST in Nepal Trade

If we see the article and expert opinion back to 2015/16, they have been expressed the positive views on GST and its positive impact on Nepal trade. But now most of the article and expert opinion expressed the serious concern and even says Nepal economy is at risk.

GST is a comprehensive indirect tax on supply of goods and services throughout India. It is a destination based tax on consumption of goods and services. GST brings benefits to all stakeholders of industry, Government of India, importers, exporters and consumers. It will lower the cost of goods and services to make the products and services globally competitive.

The significant benefits of GST implementation in India to Nepalese Importers are listed below:

- Single rated GST will make the import and export process from India organized and systematic.

- The transport cost while importing from other countries will be reduced.
- The cost of finished goods and raw materials will also decrease and will reduce the price of goods in Nepalese market.
- Prior to the implementation of GST, there was no tax in terms of import from India. However, Nepali Importer had to pay various kinds of service taxes and different types of taxes levied by the local governments. The GST Implementation will provide some relief.
- Implementation of GST has helped to strengthen the economy of Nepal which depends on India for its two thirds of total imports.
- Implementation of GST has eased the problems in import-export trade of Nepal as GST has created uniformity in tax rates.

The government of India has provided various fiscal incentives and exemptions to promote export. Industries for which exports play a crucial role are oil and gas, IT, electronics, agriculture, automobile, chemicals, and pharmaceuticals. Various export promotion schemes such as the Merchandise Exports from India Scheme (MEIS) will continue after the GST. Coupled with this, duty exemption and remission schemes offered by the government are expected to get a boost with the new tax structure.

For levy and collection of 'Integrated Goods and Service Tax' on inter-State supply of goods or services or both by the Central Government introduced Integrated Goods and Service Tax Act, 2017. Integrated Goods and Service Tax (IGST) will be levied on Inter State transactions of goods and services which are based on destination principle. Moreover it is proposed to levy an additional tax on supply of goods, not exceeding one percent, in the course of inter-state trade or commerce, to be collected by the Central Govt.

Section 5(1) of Integrated Goods and Service Tax Act, 2017 levies a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption. As may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

Section 7(5) of The Integrated Goods and Services Tax Act, 2017 states that Supply of goods or services or both when the supplier is located in India and the place of supply is outside India, to or by a Special Economic Zone developer or a Special Economic Zone unit and in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

Shall be treated to be a supply of goods or services or both in the course of 'inter-State' supplies of Goods and Services.

However, section 16(1) of The Integrated Goods and Services Tax Act, 2017 states that 'Zero Rated Supply' of goods or services includes export of goods or services or both. Central Goods and Services Tax Act specifies, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:

- Supply of goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit, or
- Supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied

Overall study of The Integrated Goods and Services Tax Act, 2017 it has emerged that, export of goods and services from India satisfy the inter-state supplies of Goods and Services for levy of Integrated Goods and Service Taxes. However, zero rated supply covers the export of goods and services from India. Therefore, the export of goods and services under Bonds or Letter of Undertaking from India is free from GST.

Petroleum products (i.e. Crude Oil, Petrol, Diesel, Aviation Turbine Fuel and Natural Gas) are excluded from the coverage of GST while the remaining petroleum products (kerosene, naphtha, LPG etc) are covered within the coverage of GST. Because of this peculiarity, this industry would be complied with both the current indirect tax regime as well as the GST regime. As a result it results in non- availability of input tax credit of GST paid on the procurement of plant, machinery and services by oil refinery company for the refining of petroleum products (like: diesel and petrol) on payment of excise duty and VAT which would be levied on refining and sale of petroleum products. The said tax costs increase the price of petroleum products in domestic as well as international market.

Import of Petroleum Products like: Kerosene, LPG, High Speed Diesel, Motor Spirit and Aviation Turbine Fuel from India to Nepal is undertaken by NOC under Bonds will be free from GST. Although, import of petroleum products are free from GST, price to be paid by NOC for import of petroleum products might be hiked due to non-availability of input tax credit of GST paid by the Refineries since petroleum products are out of GST regime.

The numbers of ways in which GST will impact tax incentives and export competitiveness are cited below:

Gains to Exporter

After the GST implementation, exporters will be able to capitalize on the refunds and rebates from the taxes which will come under the ambit of state taxes (SGST). The refund and rebate on the export of services is likely to be increased substantially after the GST rates are applied. To make the refunds easier, Government of India has ensured that all the relevant data on GST rates are available online which tends to do away with the verification of documents.

Export Drawback Scheme

The GST is to alter the nature of tax incentives currently under the export drawback scheme and the rate of duty draw back. As per market experts, the rate of duty drawback will go higher. However, no definitive decision by the government has been reached so far. It is a concern for exporters to know if the import duty amount is presently waived off against few exemption schemes. If this continues after GST, traders and exporters will need foreign exchange from overseas buyers to compete their products. Currently, there is lower or no customs duty on exports. After the GST is put into effect, there will be zero rating of exports leading to an inverted tax structure which will prove beneficial. As a result, input credit will be accumulated and can then be regularly claimed for refunds. Thus, manufacturers will be placed at par with importers.

Level of playing areas for domestic manufacturers and importers

The GST regime has ensured zero rating of exports which has offered a competitive edge to the Indian exporters. The Government of India has already offered various export-linked tax incentives extended under the Foreign Trade Promotion (FTP) which includes various schemes such as Served from India Scheme (SFIS), Export Promotion Capital Goods Scheme (EPCG), Focus Market Scheme (FMS), Establishment of Export Oriented Units (EOU), Focus Product Scheme (FPS), and Special Economic Zones (SEZ). The objective of exemptions under FTP is to offer relief to traders and manufacturers by sparing them from various central levies such as Central Excise duty, Customs duty, and Central Sales tax. After the GST implementation, there are changes in the nature of exemptions against SGST and CGST.

SEZ Gains to be Impacted

The GST is to put an end to various indirect tax and duty exemptions enjoyed by the SEZ developers. This may dampen investment, at least for the near future. In the current tax regime, the SEZ developers and units import their requirements without any duty or tax. In addition, all the supplies from the domestic suppliers to SEZ developers are exempted of any tax or duty, since they are considered exports. However with the GST to put into effect, this will change. The SEZs are no longer considered under the ambit of exports as they are technically considered within the domestic border of the country. This will render SEZ equivalent to other domestic firms and are likely to attract different tax components of the GST : CGST, SGST or IGST. This means that the SEZ units are treated as equivalent to any DTA exporter. Hence they have to claim refunds of any unutilized input tax credits in GST. The Government of India is trying to make the refund of the claims easier for all stakeholders.

GST may affect Working Capital for Exporters

Traders who are fully dependent on exports can claim refunds on the exports but will have to first obtain duty paid inputs. The exporters will need separate refund applications for all SGST and CGST/IGST refunds and approval by various authorities will delay the whole process. This is a practice that has drawn criticism from exporters. Furthermore, what makes the refunds more unviable is the law that the interest rate for delayed payments by assesses is at eighteen percent while for any delay by tax authorities it is mere six percent which may lead to a loss to exporters. Coupled with that, most companies, especially SMEs, face difficulty in obtaining working capital. Businesses which manufacture products that require advanced technology and expertise are in higher need for external sourcing of capital. After the GST is put into effect, companies will face significant constraints in marketing their products.

Impact of GST to Export of Goods and Services to Nepal

Commodities like wheat, rice and cereals and milk and curd have been put outside the preview of the GST. Previously various state authorities used to impose the VAT on such products. For coal products in Pre-GST the tax rate is 11.69 percent. After the implementation of the GST from July 1, 2017 the tax will slash to 5 percent only. That means the energy produced from coal will be cheaper henceforth. For the products like tooth paste, hair oils the existing tax rate ranges from 22 to 24 percent. Now that has been specified to 18 to 28 percent. The Nepalese consumers will also get benefit from this. Currently, Indian government is levying 12 percent excise duty and 14 percent VAT in small vehicles and cars. After the implementation of GST it will be 28 percent whereas the aggregate tax before was 27 percent. On top of that a sale tax of 1- 3 percent is also levied. Hence the tax rate will increase from 27 percent to 31 percent. The cost of the imported car will be increased marginally. Sweets will be taxed by 5 percent and AC and Fridge will be taxed by 28 percent. The essential drugs will be taxed by 5 percent. Now the rate ranges from 8 to 10 percent after the implementation of GST, the rate will be 18 percent. All Exports to Nepal of any goods and services (including Transportation of Goods within India which is destined for consumption in Nepal) has qualified for full exemption of GST. Services to include any type of services including consulting services, transportation services etc. whether provided from India or on ground in Nepal.

Although, evaluation of the impact of GST on exporters and indigenous traders is to be concluded, unarguably, the new indirect tax regime i.e. GST has enhanced the competitiveness of Indian export. As a whole, the GST has ensured that the process of getting tax incentives is streamlined and made easier for the stakeholders. In addition, the GST is also likely to expedite the process of getting various refunds for exporters.

Exporters are continued to get certain duty refunds as incentives after the Goods and Services Tax is implemented. GST is a destination based tax on consumption of goods or services. It is also the policy of the Government of India to export the goods and/or services not the taxes out of India. Thus, import from India will become cheaper.

In terms of para 2.52 of the Indian Foreign Trade Policy (2015-2020) exports proceeds to Nepal and Bhutan can be realized in Indian rupees. Despite receipt of export proceeds in India, Indian rupee exports of goods to Nepal and Bhutan will be treated at par with export to any other country as definition of 'export of goods' under IGST Law attaches no condition other than 'taking goods out of India to a place outside India'. However in case of export of services, in case export proceeds are received in Indian rupees, it does not consider 'export of services' attracts levy of IGST as 'export of services' mandates involvement of 'convertible foreign exchange'.

Section 17(6) of CGST Act, 2017 clarifies that plant and machinery excludes following for the purpose of input tax credit of GST paid:

- Land, building or any other civil structures;
- Telecommunication towers; and
- Pipelines laid outside the factory premises.

The exclusion of pipelines outside the factory from the definition of plant and machinery results in over burden of GST paid on procurement, results in increase in production cost as well as price of the petroleum products in market.

The main immediate impact is transport and logistics management due to delays in Clarence process which is inevitable due to some administrative understanding and up gradation in the software but this issues will no longer exist for longer time.

Hence, there is impact in both way positive and negative but need to have comprehensive study from the Nepal government side on the changes required in its export and import policy, laws and regulations, customs, revenue policy, transport and logistics etc rather than raising any adverse comment on India's tax reform GST.