GST: Time for institution building
Background
The role of institutions in economic development is growing. Noble Laureate Douglas North\(^1\) has been a pioneer in this area. His insight is that what matters is the ability to create appropriate incentives for desirable economic behavior through internalizing certain implicit and explicit behavioral norms. The GST reform has been built on a unique institutional innovation named the Empowered Committee of the State Finance Ministers (the Empowered Committee).

The Empowered Committee was created in 2001 for implementation of State VAT and was registered under the Societies Act in 2004 as an institutional body with Dr. Asim Das Gupta, the then Finance Minister of West Bengal, as its Chairman. The Empowered Committee has helped in building consensus on various issues and has strengthened the spirit of cooperative federalism. It delivered the State VAT in 2004 and the GST Council, which is merely the morphed Empowered Committee, has delivered the GST design.

There is a need now to create new institutional arrangements that can help in realizing all the potential gains of GST. The key would lie in forging greater cooperation between the Center and the states through creating new institutional arrangements. One possible option could be the creation of a Secretariat at the state level.

The Roundtable on GST: Time for institution building was organized on 4 September 2017 at New Delhi to help generate new ideas from the stakeholders which could be taken up to the policymakers for their consultation and implementation.

The Roundtable brought together distinguished experts, senior government officials and industry representatives, sharing perspectives on the ongoing process of tax reform in India. This document provides a summary of the issues discussed at the Roundtable and the conclusions reached.

The participants welcomed the GST in India, one of the most important reforms in the tax area over the last three decades. The discussions focused on the institutional mechanisms needed to ensure its smooth implementation.

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GST: Time for Institution Building

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Key recommendations of the Roundtable

State GST Secretariats

During the Roundtable, it was felt that while tax policy changes in terms of rate rationalization and procedural simplification are very important, the time has come now to create strong institutional support for GST. The designs of both the State VAT implemented in 2004 and the GST were delivered through a unique institutional innovation, namely, the Empowered Committee of States Finance Ministers/GST Council. The implementation of GST is a great example of cooperative federalism at its best, as now both the Center and states will jointly formulate indirect tax policy through what many political scientists have called “pooled sovereignty.” This development has, however, created a void at the state level, where we do not have an institution that can bring state and Central tax officials together on a common platform where the business sector can also engage with them on non-policy issues which are not in the domain of the GST Council.

The time is now right to create GST Secretariats in the states. These bodies, like the earlier Empowered Committee of States Finance Ministers, could be registered under the Societies Act and provided with a dedicated fund and a Secretariat. Rules of engagement can be clearly drawn up for collaboration between senior Central and state tax officials at the state level on various issues, including cross-empowerment and sharing of administrative resources. As the states have hitherto not dealt with taxation of services, the Center’s handholding would be useful. Similarly, Central tax officials can learn about administratively engaging with the businesses. This forum can forge the bond of fiscal friendship between Central and state officials and reduce the trust deficit. This platform can also be used by trade and industry to approach the tax officials on some vexatious non-policy issues. Today, trade and industry have no forum to redress their non-policy grievances at the state level. State GST Secretariats can also be an institutional conduit to provide inputs to the policymakers, and for this purpose the Department of Revenue can administratively strengthen its setup to receive this feedback.

The creation of GST Secretariat will require, first, a resolution to be passed by the GST Council. This can be followed up by the Cabinet Secretary writing to the Chief Secretaries of all the states. In our view, this would be an important institutional innovation, which can underpin the GST project going forward.
**Technical Secretariats**

The other interesting idea that came up in the Roundtable discussion was the creation of Technical Secretariats, both at the state and Central levels, to issue binding instructions on assessment matters. Hitherto, the Central Excise law had a provision under Section 37B to issue such binding instructions on assessment matter to ensure uniformity of practice. This provision has been retained in the CGST legislation.

The advantage of this would be that adjudicating officers in the field would not be able to take varying positions. For the Central Government, the Technical Secretariat could be located in the Tax Research Unit (TRU), while in the state it could be located in the office of the Secretary (Revenue). The concept of the Technical Secretariat is predicated on the premise that those who draft the law must interpret the law. These Secretariats can be set up immediately and are completely sanctified by the existing provisions of the law. The other important benefit is that the officials of the Technical Secretariats can meet annually or bi-annually in technical conferences, which can help to forge consensus on many technical issues going forward.

**Data analytics**

Another suggestion that cropped up during the Roundtable was the need for government support in the area of data analytics. The GSTN is going to generate significant volumes of transactional tax data. This data, if properly mined, can help the Government by providing tax insights for policy formulation. Tax data is extremely valuable for it provides early signals on how the economy is doing. The information from statistical surveys usually comes much later with a time lag. The Government could formulate policy guidelines for joint collaboration between government and non-government organizations.

**Taxpayer services**

Taxpayer services is a very important element in tax administration. Both the Center and states have created Directorates of Taxpayer Services to focus attention on this area. If India is to become a nation of taxpayers, dignifying the honest taxpayer is important. The US has a very important institution called the National Taxpayer Advocate General, which is a creature of its Internal Revenue Service law and is headed by a Revenue officer. This institution annually identifies a set of tax issues that worry taxpayers. The Advocate General then organizes detailed studies in these areas and puts forward his or her recommendations in a report. The report is then placed in the US Congress. We could also think of a similar institution with research support given by the newly created Tax Policy Research Unit in collaboration with other institutions such as National Institute of Public Finance and Policy (NIPFP). This report could be placed in the Parliament much like the Economic Survey. This could be an effective way of deliberating on taxpayer-related issues.

Another suggestion that was made was the creation of a Taxpayer Bill of Rights. Canada has a Taxpayer Bill of Rights, which also has a separate focus on protecting the rights of small taxpayers. While the time for implementing this idea might not have come yet, it could be considered later. These rights could be enforced through suitably empowered tax tribunals.
Opening remarks

V S Krishnan,
National Leader,
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EY India
John Maynard Keynes observed in the concluding chapter of his famous book *The General Theory of Employment, Interest and Money* that

The ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist.

V S Krishnan observed that the Tax Policy Group is a think tank within EY. The Group focuses on policy issues, and in keeping with this spirit, it has organized the Roundtable on GST: Time for institution building. The aim of the Roundtable is to bring together all the stakeholders under a common platform to generate ideas and suggest creative solutions to the Government.
GST and institution building: Industry perspective

Rajiv Roy-Chaudhury, Director Finance and Operations – India, BAE Systems

Rajiv Roy-Chaudhury presented an industry perspective on the theme of the Roundtable. He observed that GST has changed the business landscape. Whether this transformation will lead to ease of doing business now or later is an unanswered question at this time. However, the industry is convinced that GST is a step in the right direction.
The first impact of GST is the global tax alignment, leading to the global approach now being the India approach. Many companies headquartered in countries such as the UK and the US faced complexities in understanding taxes in India such as octroi, entry tax and central sales tax, which would be now resolved. GST would also lead to rationalization of the tax system, which would be important in determining the world’s outlook of India.

The second impact is the tax neutrality in multiple areas, for instance, in the case of imported vs. domestic supplies, local vs. interstate supplies, supplies by distributor vs. manufacturer and interstate sales vs. stock transfers. With GST, business decisions will no longer be tax-driven but market-driven. Also, GST will create a common market in India, which will allow businesses to have the flexibility to store in and supply goods from any state without worrying about entry tax/octroi and such considerations. GST offers the right opportunity to relook at the distribution models and consolidate warehouses.

Rajiv Roy-Chaudhury pointed out that an important learning for India from the international experience is the preparation time taken before the implementation of GST. Malaysia took one to one-and-a-half years of preparation before the actual date of implementation of GST. In India, clearly there was limited preparation time for all the stakeholders after full-fledged laws and notifications were finalized and made public. The process of implementation was accompanied by a continuous dialogue on various contentious issues; lack of clarity on the rules and regulations; uncertainty about transitional issues and so on. For example, there was heavy destocking by dealers in various sectors owing to the negative tax impact on transitional inventory. On the positive side, the Government is actually listening and responding to the various challenges that industry has been facing. Relaxation in compliance deadlines and deferment of the e-way bill will help ensure a smoother transition.

Last, but not the least, the GST Council as an institutional entity has played a crucial role in ensuring consistency among Central and state GST laws, rules and rates.

Rajiv Roy-Chaudhury discussed the possible business imperatives for the corporate sector. Given the broad business perspective, multiple aspects need attention to oversee the GST implementation over the next few months. Integration of the channel partners with the GST network is critical as GST is very highly dependent on suppliers and vendors in terms of their compliances. This, in turn, is dependent on the establishment of robust IT systems by them. The significance of regular checks on IT processes, data capturing and reports cannot be over-emphasized. In addition, regular training of employees across functions is of utmost importance and they need to be updated on the new laws and new rules for compliance. In keeping up with the spirit and objective of the Roundtable, he supported the advocacy of issues faced by the industry to the Government.

The aspect of possible areas of support that the Government can provide to businesses in transition to GST and its implementation was discussed. The first step is to embed the protocols for the dissemination of information. As a step toward this end, the Government was right to regularly release frequently asked questions (FAQs) and answer queries through Twitter. At the same time, Rajiv Roy-Chaudhury also pointed out the need for more official circulars to be issued for providing clarification on legal issues, instead of doing so merely through public statements.

Constitution of advanced ruling authorities across all states in an expeditious manner is the second possible action point. This becomes significant in the light of the expected interpretational issues, which are expected to require advanced ruling authorities to provide clarity. Hence, an authority for advance ruling is a necessity and should happen sooner than later. The third important aspect is the issue of clear guidelines for the industry with respect to compliance with anti-profiteering norms in order to have clarity and transparency.

The fourth action point is the leveraging of IT in GST. Today, there is access to big data and wonderful sources of information. The Prime Minister himself has also been pointing out the importance of data mining in his speeches. Reallocation of resources and improving risk profiling for audit through big data analytics and multiple sources of information would be important. It would reduce physical interaction between the taxpayer and the tax department.

The Government also needs to provide the mechanisms to continue contractual tax exemptions in G2G (Foreign Military Sales) contracts for the defense industry.
GST and institution building: Government perspective

Arbind Modi,
Special Secretary and Member (Legislation),
Central Board of Direct Taxes
Arbind Modi opened the discussions by emphasizing the significance of maintaining the constitutional balance between the three wings of the Indian democracy – the legislature, the executive and the judiciary – in the context of GST. The role of the executive is clear and is vested in the GST Council, which is the policymaking body. The legislature’s role lies in framing GST-related legislation. The CGST law has been passed by the Parliament, while the SGST law has been passed by the states and the IGST law by the Center. However, the role of the judiciary remains a little unclear.

The GST visualizes dispute resolution through two verticals, namely, the National Tribunal and the State Tribunals. The Government has tried to incorporate a National Tribunal in the GST law, to circumvent the independence of the judiciary and to serve the larger objective of building up a uniform national tax structure. The National Tribunal will deal with issues of inter-state place of supply, while all other issues will be sorted out by the State Tribunals. The State Tribunals would also look at current issues such as the valuation aspects, which are indicative of a potential threat of base differentiation/erosion.

In the case of any disputes regarding the place of supply rules, the taxpayers will have to move from the National Tribunal straight to the Supreme Court, with the High Court level being excluded. On the other hand, the State Tribunals, which deal with all other issues including valuation and procedures, will go through multiple rulings. There is a need to think about the structure or the institution that can prevent multiple rulings. If these matters were decided by the GST Council, it could have quickly deliberated on them and taken a view and all States would have to follow the same ruling. However, some issues are between the tax administration and the taxpayer. Even if all tax administrations agree to follow a uniform practice, the taxpayer may not be happy with the ruling of the Council. For instance, the Council may decide that a supply will be subject to a tax rate of 28% and not 18%. The Council will debate and take a view. However, if the taxpayer insists that the rate applicable to a supply is not 28% but 18%, how will the issue be resolved? The Council’s view is not binding on the taxpayer.

Arbind Modi shared his concern on the implementation of GST. According to him, in the next eight months there may be no disputes. Procedural issues will be resolved through simplification. Disputes will start only after filing, when compliance verification takes place in the form of return scrutiny and audit. That is when the whole system will come under immense pressure. The priority of the Government till now has been to spell out the law. Over time, confidence issues are expected to come up. The taxpayers and the governments should be prepared to resolve the issues amicably by creating some formal or informal mechanism. Should there be a taxpayer-Government forum or not is an aspect that needs to be decided and deliberated. There will be areas where interpretation will be an issue, more so because state laws are not completely identical. Even though they are very small, there are differences between state laws. It is hoped that those differences do not grow bigger over time.

As for the legislature, it must be careful that the provisions do not in any way alter the basic constitutional scheme visualized by the framers of the constitution.

Arbind Modi emphasized the need to build public opinion for convergence when differences arise between state laws. According to him, the participation of judges from the Supreme Court or High Courts in such discussions would be important for their inputs and guidance. He commended the role of the GSTN in unifying the whole country and in implementing GST across states. He said he was positive and optimistic that the procedural glitches faced by the taxpayers will be soon resolved.
Some ideas: GST institutional mechanisms

V S Krishnan,
National Leader,
Tax & Economic Policy Group,
EY India
V S Krishnan shared some specific ideas on the steps needed to make GST sustainable. He said that recent discussions on GST have focused on short-term transactional issues such as rates, exemptions and transitional credits. However, the industry is concerned, and naturally so, about its bottom-line as it implements the GST. Institution building is extremely important for any reform as can be seen throughout India’s economic history. The large stock of skilled labor that we have at the upper hand of the skill spectrum is due to the investment that took place in the 1950s in the area of higher education, an example of which is the setting up of IITs and the chain of CSIR laboratories. For GST to yield the visualized benefits, such institutional benefits have to go hand-in-hand.

The GST reform itself has been built on a unique institutional innovation, namely, the Empowered Committee of State Finance Ministers. The Empowered Committee of State Finance Ministers was created in 2001 for implementation of State VAT and was registered under the Societies Act in 2004 as an institutional body. The Finance Minister from West Bengal, Dr. Ashim Das Gupta, was chosen as the head of the Committee. Having a Finance Minister from the Opposition to chair the Committee helped enormously in reaching a consensus and strengthening the spirit of cooperative federalism. The Empowered Committee of State Finance Ministers delivered the State VAT in 2004 and it has now delivered the design of GST. The GST Council is merely the morphed Empowered Committee of State Finance Ministers.

The GST Council is now the premier decision-making body for indirect tax policy making and is an example of pooled sovereignty. All over the world, there are incessant demands for greater devolution of political and economic power (for example, Scotland seeking to separate from Britain, Catalonia wanting to break away from Spain and Britain’s recent decision to exit the European Union). In India, we are witnessing a counter-trend toward pooled sovereignty where the Center and the states have voluntarily decided to give up their unilateral powers of levying indirect taxes and have agreed for joint indirect tax policymaking through the GST Council.

While these are welcome developments, the implementation of GST has created an institutional void at the level of the states. While the GST Council at the national level will deal with the policymaking, there is a need for a GST Secretariat at the state level that would deal with non-policy matters, including implementation issues. Just as the Empowered Committee of State Finance Ministers was created in 2001, in 2017 we need to create a permanent GST Secretariat in each state registered under the Societies Act, with funding.

To achieve this, senior indirect tax officials from both the Central GST and the State GST (the existing commercial tax departments) could engage in this institutional forum to discuss the various issues. These could include compliance verification issues and sharing of risk assessment details. The states can benefit much from the Center’s handholding, especially in matters related to taxation of services, which hitherto was handled by the Center. Similarly, the Central officers can gain from the states’ experiences in dealing with small traders and their non-compliant ways. This engagement will reduce the trust deficit between the Center and state tax officials and forge the bonds of fiscal federalism. This can also be a useful forum for the trade and industry to represent its problems jointly to Central and state officials on non-policy issues. In order to ensure its success, it is important that the GST Council pass a resolution to establish such State GST Secretariats, which should be followed by the Cabinet Secretary writing to all the Chief Secretaries of states to start the process of creating them. For the success of these Secretariats, both the Center and states need to provide funds on a joint sharing basis and a dedicated staff for running a permanent secretariat as in the case of the Empowered Committee of State Finance Ministers.
V S Krishnan further suggested the creation of a mini institution, or a Technical Secretariat, both at the Central and the State levels, which would periodically issue instructions on assessment matters. These instructions would be legally binding on the field officers. The GST law already has an enabling provision in this context, which has the objective to ensure uniformity of assessment practices across the country. The Central and the state government officials could meet periodically in biannual conferences to exchange notes on assessment practices and forge a consensus on technical matters. This will be a great learning process for both and will bring Central and state tax officials together. The salutary consequence of the Technical Secretariat would be that dispute resolution would be much easier and the prospect of field officers talking different views across the country on similar matters would be greatly diminished. This in turn would ensure that GST leads not only one nation, one market and one tax but also one common assessment practice on the same issue.

**Medium-term institutional innovation:**

International tax practices provide examples of replicable institutions. However, as Dani Rodrik and Arvind Subramanian highlighted in their article *The Primacy of Institutions*, the key to success is intelligent adaptation, not blind replication. One institution worthy of imitation is the National Tax Payer Advocate in the US. It is a legal creature of the Internal Revenue Code and officers are drawn from the Revenue Department. Every year, the National Tax Payer Advocate is required to submit an annual report to the US Congress in which it identifies at least 20 issues/concerns of taxpayers and, after detailed study and research makes, administrative and legislative recommendation to the US Congress.

**Taxpayers’ concerns as identified by the National Tax Payer Advocate**

- The IRS’s compliance strategy for the expanded adoption credit has resulted in excessive delays to taxpayers, has increased costs for the IRS and does not bode well for future credit administration.
- The IRS offshore voluntary disclosure programs discourage voluntary compliance by those who inadvertently failed to report foreign accounts.
- The IRS has failed to make free return preparation and free electronic filing available to all individual taxpayers.
- IRS processing flaws and service delays continue to undermine Fundamental Taxpayer Rights to Representation.
- The IRS lacks a service wide strategy that identifies effective and efficient means of delivering face-to-face taxpayer services.
- The IRS is substantially reducing both the amount and scope of its direct education and outreach to taxpayers and does not measure the effectiveness of its remaining outreach activities, thereby risking increased non-compliance.
- The diminishing role of the Revenue Officer has been detrimental to the overall effectiveness of IRS collection operations.

A similar institution can be replicated, with some modification, in the Indian context. The Government can create a National Tax Payer Advocate through an amendment of the Central Board of Revenue Act, 1958. The National Advocate General could be an IRS officer either from the CBOT or CBEC by rotation with one annual term. Like in the US, key issues of taxpayers’ concern could be identified. The research work based on sample surveys could be done by the Taxpayer Research Unit (TPRU), a new body created by the Ministry of Finance. Some research work can also be done through the National Institute of Public Finance and Policy (NIPFP). The report prepared could be laid in the Parliament on the same lines as the Economic Survey.
Taxpayer Bill of Rights

- You have the right to receive entitlements and to pay no more and no less than what is required by law.
- You have the right to service in both official languages.
- You have the right to privacy and confidentiality.
- You have the right to a formal review and a subsequent appeal.
- You have the right to be treated professionally, courteously and fairly.
- You have the right to complete, accurate and timely information.
- You have the right as an individual not to pay income tax amounts in dispute before you have had an impartial review.
- You have the right to have the law applied consistently.
- You have the right to lodge a service complaint and to be provided with an explanation of the findings.
- You have the right to have the cost of compliance taken into account when administering tax legislation.
- You have the right to expect us to be accountable.
- You have the right to have relief from penalties and interest under tax legislation because of extraordinary circumstances.
- You have the right to expect to publish a service standards and reports annually.
- You have the right to expect us to warn you about questionable tax schemes in a timely manner.
- You have the right to be represented by a person of your choice.

Commitment to Small Business

- The Canada Revenue Agency (CRA) is committed to administering the tax system in a way that minimizes the costs of compliance for small businesses.
- The CRA is committed to working with all governments to streamline service, minimize cost and reduce compliance burden.
- The CRA is committed to providing service offerings that meet the need of small businesses.
- The CRA is committed to conducting outreach activities that help small businesses comply with the legislation we administer.

The Tax Payer Bill of Rights in the Indian context could be made a little more specific and could be enforced through tax tribunals, which, like the consumer grievance tribunals, could be created by an Act of the Parliament and given legal teeth.

Institutions are important for sustaining reforms. The introduction of GST was facilitated by certain institutional innovations such as the Empowered Committee of State Finance Ministers. Going forward, the benefits of this transformational tax reform could be consolidated through the creation of state-level GST Secretariats. In the medium and long term, we need to move to the next step of addressing taxpayer grievances through the creation of the office of the National Tax Payer Advocate modeled on the US practice. Finally, drawing of up a Bill of Rights could secure the rights of the taxpayers like in Canada.

V S Krishnan ended his presentation with the message that just as a vibrant democracy respects its voters, it must also dignify its compliant taxpayers.
Keynote address on the importance of an institution for GST

Dr. Arvind Subramanian, Chief Economic Advisor, Government of India

Dr. Arvind Subramanian at the outset made it clear that he would not go into specific details of the GST law and procedure that focus on certain broad themes.
Reflecting on the past three years, Dr. Arvind Subramanian commended GST for being an extraordinary accomplishment of the Government. Politics, administration and technology, all three came together to enable GST. GST is an extraordinary feat of politics because with the Empowered Committee, the Government has created an institution that has forged political consensus among various groups and different states to pass the Constitution (Amendment) Bill and subsequently the GST Law. The quality of discussions and the states’ response has been of a very high order.

There was a short time space between the passage of the Constitution (Amendment) Bill and implementation of GST. Even in terms of technology, GST has been quite extraordinary. Few countries have been able to do what India has done to GST. The benefits would be seen in due course and the gains would start showing up once the system stabilizes.

The number of new taxpayers who have registered under GST is encouraging. Going by the first trade numbers, 17-18 lakh new taxpayers have registered, and this number is going to increase steadily over time. A preliminary analysis was done where the PAN numbers of the first 3 lakh new registrants under GST were used to match the GST returns with their income tax returns to see the potential for scrutiny. It turned out that the mismatches were quite substantial. Based on this analysis, Dr. Arvind Subramanian opined that after the system stabilizes in the next few months, the expansion of the taxpayer base is very likely with significant revenue gains. Even in Malaysia, when the new VAT was introduced, the number of registrations was two to three times higher than the number expected. This is an interesting and promising experience.

There are still complications around GST rate structures and the GST base still has a lot of exclusions. It is hoped that after 6 months, the GST Council will embark on the process of evaluating how it is working and how it can be improved.

Indian tax administration is impressive as compared to many countries, but it is unlikely to resemble that in the US or other European countries very soon. Tax policy is 70% tax administration. If you have a simple, clear policy, administration becomes that much easier. That is why policy is so important for improving the quality of administration. Having one or two tax rates or no distinction between goods and services puts less burden on the tax administration. In this context, the land and real estate, health, education and electricity sectors should also come under the GST base in the next one or two years. This will clearly make this GST a better accomplishment.

On the technology aspect, the GSTN has done a spectacular job but needs to be beefed up. The jury is still out on the success of invoice matching, and the technology must ensure that the complexity matches up to commercial requirements. In an area like this, with the Government having some capacity constraints, consultancy organizations such as EY can play a very important role and contribute. Data analytics is the next big thing waiting to happen in GST. Significant volumes of transactional tax data will be generated on the GSTN, which can be used productively for policymaking, including formulating an effective compliance policy. At this point in time, there is a lack of clarity around the usage of such information that is coming in.

GST should be seen as the first step in an overhaul of the entire tax system, including direct taxes as well going forward. India should become a nation of taxpayers subject to low exemption thresholds. To achieve this, there must be a broad tax base with low rates of tax but every citizen must become part of the income tax net. The GSTN along with GST can help in making progress on this by using data analytics to know how many potential taxpayers are still outside the tax net.

It is not just about direct or indirect tax, nor about the Center or states, but about the broader reform of tax policy that can bring citizens into the tax net. With the present situation of only 5%-6% of voters paying taxes, there is a need to increase this in medium to long term to about 25%-30%. Only then will India have the resources to push for development.

Lastly, the GST reform, using the GSTN, would bring down the direct interface between the taxpayer and tax administration, which would ensure anonymity of the taxpayer. Any interaction should take place only if there is any value addition for the taxpayer. It is expected that GST will encourage more citizens to become taxpayers by making tax paying easier.

Dr. Arvind Subramanian is confident that GST would open up enormous possibilities for radical changes in tax policy, tax administration, quality of institutions and use of data analytics.

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**Concluding Thought**

“GST is one of those historic achievements with immense potential and we have to think about how we can productively capitalize on the opportunities going forward.”
1 Expansion of tax base

During the Roundtable, there were many questions on the impact of GST on the expansion of the tax base, leading, in turn, to a rise in the tax to GDP ratio. Dr. Arvind Subramanian in his keynote address brought out many interesting points.

He cited the example of Malaysia, where he said that the number of registrants after the implementation of VAT was two to three times the expected registrations. He interestingly also mentioned that evaluation of the first sample data of 3 lakh registrants given by the GSTN along with the PAN numbers showed that a large portion of them were not reporting turnover in the direct tax returns. This would suggest that compliance is likely to be much higher in GST going forward. The tax base would also increase if the excluded sectors such as real estate and electricity are brought within the GST taxable base.

Finally, he emphasized that GST supported by the GSTN would throw up a lot of transactional tax data for analysis. Evaluation of data through effective data analytics techniques can help the Government identify potential taxpayers. The panelists felt that India can then become a nation of taxpayers and substantially increase the percentage of voters who are taxpayers (from the present level of 5%-6% to 25%-30% in the medium to long term).

2 Pendency before Authority for Advance Ruling (AAR)

Each state will have an authority for advance ruling. A national body to reconcile the state rulings will be needed.

3 GST impact on the textiles sector

GST also envisages zero-rating of exports as per Section 54(3)(i) of the GST Act. However, such zero-rating of exports as prescribed in the GST law will not be complete and will be limited to refunding of input taxes, which are directly incurred by the exporters and are visible. There are a number of GST taxes that are embedded in the FOB value of exports given the design of the Indian GST.

Each government should bear the cost of refunding the respective blocked GST taxes, especially when the benefits of value addition, export earnings and employment generation accrue to both the Center as well as the respective states from where the exports take place. The following elements should therefore be considered for the post-GST drawback system:

Central drawback system:
Embedded CGST taxes in the exempt/excluded sectors, Basic Customs Duties (BCD) and Central Excise Duties on specified petroleum products

State drawback system:
Embedded SGST taxes in the exempt/excluded sectors, state VAT on specified petroleum products, electricity duties, stamp duties and registration charges, motor vehicle taxes, mandi taxes, green taxes, property taxes etc.

Import of capital goods:
Under the GST regime, the EPCG scheme can only be used for BCD-free import of capital goods, while IGST will have to be paid on such imports. Such IGST on capital goods will be eligible for input
tax credit (ITC) only if IGST is paid on exports. This is negatively impacting exporters, who have a substantial portion of export turnover with domestic turnover being nil or negligible. Such payment of IGST on exports in order to claim credit on capital goods is again leading to blockage of working capital.

4

Taxation of lotteries under GST

Imposing GST on the face value is conceptually wrong. Prizes or winnings under a lottery are merely a redistribution of money among participants in the lottery. They are akin to a partial refund of the consideration paid by the participants. The consideration paid by the consumers is not the face value but the operators’ margin, i.e., ticket sales net of the prizes/winnings paid to the participants.

The rate discrimination between a lottery run by state governments (12%) and a lottery authorized by state governments (28%) creates a discrimination between the same goods. This is because tickets in the case of lotteries run by state governments are required to be sold only within the states while the others can be sold anywhere including the originating state.

5

Stability in tax rates: Cess on the automotive sector

Frequent changes in GST rates and cesses:

Only 75 days have passed since the rollout of GST and there have been repeated changes in the tax rates. Moreover, notifications effecting the changes are issued much later when the decision has been taken in the GST Council and conveyed through a press release. The frequent changes and delays in the issue of notification affect the industry adversely and cause uncertainty for the applicability of changes. To provide greater clarity to industries on applicable tax/cess rates, it would be important that once decisions taken by the GST Council are not unsettled almost immediately, these may be reviewed after the system has stabilized.
6 Taxation of tractor components under GST

The GST Council in its meeting on 11 June 2017 reduced the GST rate on some tractor parts and components from 28% to 18%. However, key tractor components that are specific to the tractor industry and can be technically described with HSN codes, such as tractor engines, transaxles and parts thereof, gearbox and parts thereof and hydraulics, continue to be classified at the 28% GST rate. This gap between the policy announcement of 30 June 2017 and the policy action is reflected in the notification issued.

The GST Council should consider reducing the GST rate from 28% to 18% for exclusive tractor parts used in agricultural tractors under HSN codes 8701 9100 to 8701 9500.

7 Inclusion of natural gas under GST base

Coverage: Currently, GST leaves out electricity, oil and gas, alcohol and real estate from its purview. The non-GST sector is not entitled to ITC of GST paid on capital goods and on some other inputs and input services. Further, ITC of taxes paid on such non-GST items is also not admissible to the recipient. This will lead to lack of ITC availability on use of these items, particularly natural gas, which is a basic input.

The exclusion of any product/sector is against the interests of the industry and the economy. The suppliers of excluded goods and services are not eligible to claim a credit for the tax on inputs. Non-recovery of input taxes results in substantial tax cascading, adding to the cost of production and distribution. Moreover, the burden of blocked input taxes falls entirely on domestic manufacturers – foreign manufacturers acquire their inputs abroad, free from Indian taxes. The huge burden of cascading taxes increases the cost of doing business in India, discourages investment in the sector and creates a bias in favor of imports. This is contrary to GST’s basic objective of minimizing tax cascading. It will erode manufacturers’ competitiveness. It is therefore suggested that all sectors that are currently out of the ambit of GST be included in the base at the earliest.

8 Clarity about applicability of tax rates

In some sectors such as heavy electrical equipment, there is no clarity about the specific HSN code and, accordingly, the GST rate that will apply. The GST Council should review this situation and provide clarity.

9 Practical challenges in filing GST returns: Need for extension of time for filing returns

The industry has been facing practical issues in filing returns due to system-related issues under the GSTN. In view of the difficulties experienced, the Government should consider extending the time limit indicated for filing GST returns, i.e., GSTR 1 and GSTR2.
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EYIN1712-007
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