



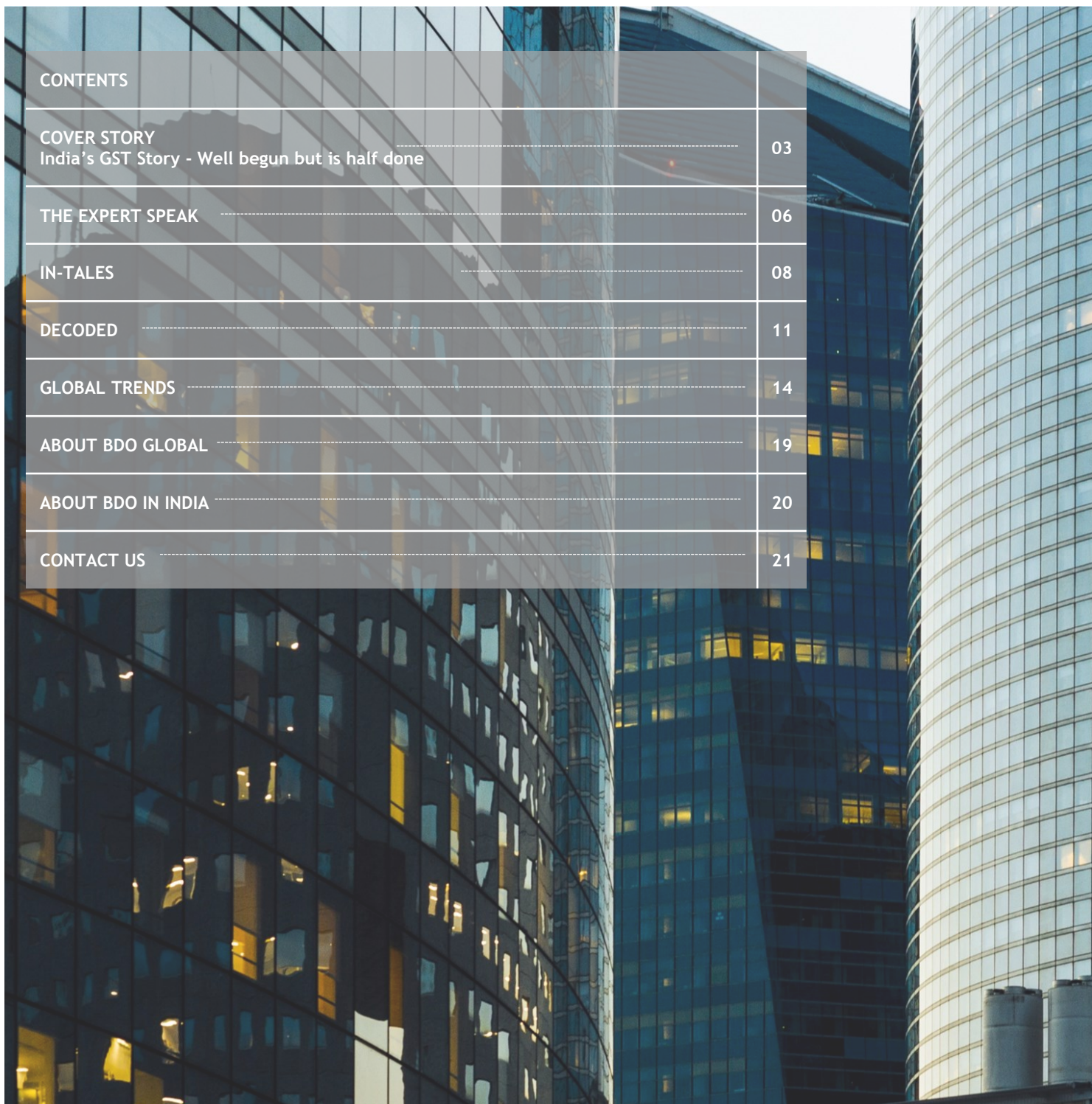
# The **TAX** POST

A bimonthly bulletin on the world of Indirect Taxes

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# PREFACE

This edition of the Tax Post is coinciding with the optimism of the country's GDP growth revival to ~8.10% in Q2 of FY2021-22 and the expectation to strengthen it further to above 9% by the end of the fiscal year. This trend is reflected in the GST collection as well, which scaled to INR 1,300bn in October 2021.

There is a reason for jubilation among the policymakers, who are acutely aware of the importance of the manufacturing sector if India is to bounce back quickly to the path of double-digit growth. As economic activities gain momentum, the industry is turning optimistic about performance. Various policy initiatives crafted by successive governments gave particular attention to the manufacturing sector which has not only the potential to grow as a global manufacturing hub but can also create sizable employment opportunities not just in the sector but allied areas including the services sector.

It is also important to create a suitable taxation policy framework to sustain the growth and propel the sector to a higher growth trajectory. The introduction of GST is touted as one such pathbreaking initiative, which has now started settling down. While the launch of the new system possessed the potential to unleash India's traditional strength in the global market, ironing-out rough edges continued.

The thrust and initial acceleration achieved thus far needs to be capitalised and converted into the motive power for the country to cruise to the destination, rather than resting on the laurels. The 'Cover Story' delves deep into critical GST reforms which seek attention from the policymakers. One of our Indirect Tax Partners also discusses the major challenge faced in the GST compliance framework in the section 'The Expert Speak'.

Manufacturing remains a critical force in development, meeting consumer demands, employment generation, creation of wealth, etc. For policymakers, supporting manufacturing industries and enabling them to compete globally ensures that the policy is grounded in a comprehensive understanding of the diverse industry segments. India's growth story for the first quarter of FY 21-22 shows that the manufacturing sector played a key role in blunting the impact of the second wave of COVID. The section 'In Tales' discusses the Indian manufacturing sector and the challenges faced by businesses operating in it.

The section 'Decoded' touches upon a recent, landmark judgment of the Apex Court which has sent shock waves. While this decision may appear to be a body-blow to the taxpayer community, sustenance can be drawn from the ratio contained in this decision to defend any tax disputes. Our regular section 'Global Trends' brings you news on VAT/GST from other jurisdictions.

We hope this edition of Tax Post is an interesting read for you.



**GUNJAN PRABHAKARAN**

Partner & Leader  
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# COVER STORY

## India's GST Story - Well begun is half done

### Background:

It is believed that if you get off to a good start in any endeavour, the chances of success are greatly improved. While the first half does not complete the job, the destination chartered out initially must be travelled to succeed.

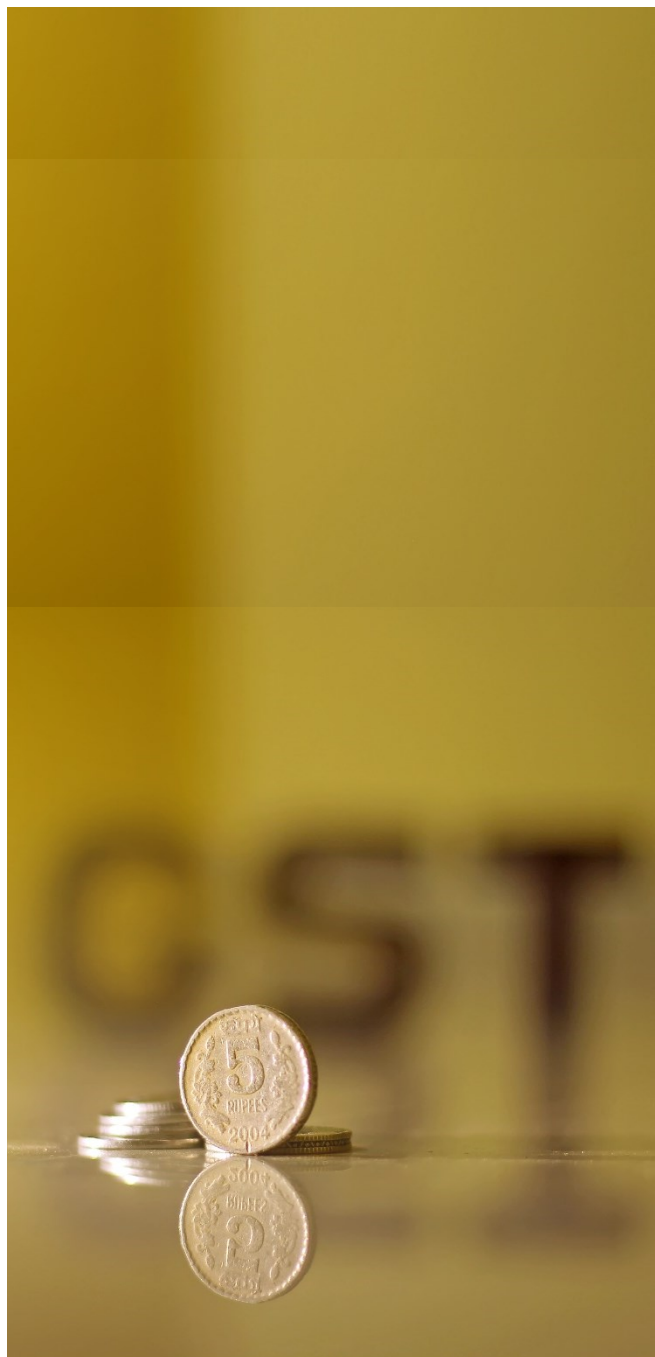
The introduction of GST in India was a path-breaking initiative to amalgamate several Central and State level taxes into a single tax, to mitigate the ill effects of cascading or double taxation and pave the way for a common national market with a uniform tax across the country. The assignment of simultaneous (or concurrent) jurisdiction to the Centre and the States for the levy of GST, required a unique institutional mechanism that would ensure that decisions about the structure, design and operation of GST are taken jointly by the two.

Upholding the spirit of co-operative federalism, the constitutional amendment bill was passed in both houses of the Parliament and the State legislative assemblies, to roll-out the GST regime in July 2017. This was the most decisive moment in India's GST journey and had the potential to catapult the country and the economy into the global arena and instil confidence to transact with the world without having to worry about an archaic tax system which left our businesses crippled in dealing with international competition.

While the launch of the new system had the potential to unleash India's traditional strength in the global market, the ironing-out of the rough edges continued for the next few years. The thrust and initial acceleration achieved should now be capitalised and converted into motive power to help the country cruise to the destination, rather than resting on the laurels.

### The Take-off:

The take-off stage of the GST regime had been fairly smooth, albeit the design constraints associated with the structure that we had opted-for caused some worry. Multiplicity of tax rates, exclusion of key sectors, continuation of exemptions, difficulty in adaptation, infrastructural bottlenecks, etc. followed as a natural consequence of the compulsions associated with hard-bargaining of stake holders and an expeditious roll-out. The



receptive welcome by businesses provided the requisite headwind to aid in gaining 'lift', despite the uncertainties and inadequate time.

The introduction of GST coupled with demonetisation and other global developments saw the economy huffing and puffing in its pursuit of growth. The GST revenue continued to remain below expectations in the initial phase of the take-off and showed wide fluctuations. In fact, except in FY 2019-20, the average monthly revenue continued to remain below INR 1,000bn. GDP growth fell from 6.8% (FY 2017) to 6.53% (FY 2018), though not entirely attributable to the GST introduction.

No transformation of this scale and complexity can be achieved without its share of hiccups and challenges. There has been clamour from industry and trade with regards to operational challenges associated with filing and tax remittance, refunds, removal of exemptions, etc. The government has been proactive in addressing some of the concerns expressed by the industry and trade. Many of the gains associated with the resolute manner in which this bold initiative was executed, was lost in the din and clamour of the operational challenges.

#### **The Climb & Cruise:**

With a reasonably good 'take-off', it is all but natural to focus on the 'climb' and the 'cruise', before the GST journey reaches its destination. Many of the stated objectives and purpose of the GST roll-out remain unrealised and seemingly far. The number of ticklish issues requiring critical decisions, which caused heartburn in the early days and were deferred, need to be relooked at now. The country cannot squander away the early advantages in the introduction of the new fiscal legislation and put them off for long.

What lies ahead and the anticipated actions at both the policy as well as the implementation level are captured below:

#### **Integration of excluded sectors:**

With a view of build consensus and reach convergence, the stake holders agreed to compromise on few key aspects of an ideal 'Value-Added Tax' (VAT) model. While the legislation sought to encompass 'goods' and 'services' across sectors within its framework, integrating most of the Central and State taxes the effort has been partly successful partly due to the exclusion of key sectors.

The Union and State governments have agreed to keep petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel (jointly called Petro-products) outside the scope of the GST levy. Petro-products continue to be subject to levy of Central Excise duty and VAT, a major source of revenue for both the governments. While there are isolated voices about bringing these products within the GST purview, very

little appears to have been done to build a consensus around this.

Petro-products are subjected to very high tax rates (Central Excise and VAT added together) that form a major cost component for domestic manufactures and service providers with very little opportunity to avail credit to the taxes suffered. This not only leads to an inflationary trend in the economy but also defeats the object and purpose of a seamless credit chain. Concessional 2% CST against Form-C, for inter-state procurement of the Petro-products too, has been curtailed in the Union Budget 2021.

Electricity continues to remain 'exempt' from GST, leaving no possibility of tax credit at the input level on capital goods, input, or input services. This leaves the domestic power sector in a major disadvantage and price rise and disincentive for capital formation.

#### **Recalibration/Integration of rate slabs:**

In an ideal VAT regime, there cannot be room for multiplicity of tax rates, while it may not be feasible in the traditional Indian mind-set especially taking into account the purchasing power disparity existing among general public. It was therefore (and rightly) decided to water-down on the important requirement of a single rate (a Revenue Neutral Rate or RNR) VAT.

This resulted in as many as 5-6 rates (0%, 0.5-3%, 5%, 12%, 18%, 28%) besides Cess. While this may be definitely an improvement from the turbulent past, demand for inclusion of their products into the lower bracket started cropping up again. Now that the GST system has emerged better and started settling down, the rates of taxes should converge to 2 or 3 and closer to the RNR. While this may bring-down prices of many commodities grouped under the high tax bracket assumed to be falling in the consumption basket of the rich, it would give rise to an increase in the price of mass consumption items. Levy of Cess, which is considered to be the tool to augment revenue for specific purpose, should be sparingly resorted to.

#### **Pruning of exemptions:**

Another key feature, which is essential to keep the tax rate equitable and low, is very few exemptions. A long list of exemptions give rise to higher tax rates as is evident from the long list of goods/services falling in the 18% and 28% category. Exemptions inevitably lead to increase in cost and the input level taxes would get parked as a 'cost' at different layers leading to disproportionate increase in prices. The clamour of pruning exemption and bucketing the product in a lower tax schedule has become more frequent.

While elimination of all exemptions may be infeasible in the Indian context, it is preferable to limit exemptions to necessities of mass consumption and basic agricultural produce.

### Effective Dispute Resolution Mechanism:

It is just over 4 years into the GST regime and there is plethora of court orders that have raised many eye-brows. Every settled position under the erstwhile indirect law is under fresh test before various forum.

While the scope of levy of tax stands widened with the taxable event being on 'supply', the input tax credit provision appears to be restrictive possibly the continuation of the mind-set of the past. The mechanism prescribed for monetisation of accumulated credit appears to be too restrictive or cumbersome, be it refund of tax on exports or due to the inversion of the tax rate.

The Advance Ruling Authority formulated under the GST law has failed to instil confidence in the industry and trade and is being viewed as an extension of an assessment mechanism with no reasonable expectation of a judicious approach. The appellate mechanism proposed for Advance Ruling or Tribunal for challenge of orders of adjudicating or lower appellate mechanism, is yet to take-off. The government has announced its intention to set-up authorities expeditiously and the business is awaiting resolution.

### Expeditious and Integrated Tech platform:

The single most and much maligned area of GST has been the inadequacy of the technology back-bone provided by the government, for filing returns and remitting taxes. Frequent disruptions have caused extension of statutory deadlines, tax remittance, reporting challenges and associated compliance hurdles for the counterparty.

There have been hold-ups and difficulties in availments of legacy tax credits and its utilisation, reporting of outward supply as well as input materials/services leading to challenges in timely remittance of tax and filings. Further challenges in credit matching, restriction in unmatched credits, denial of credit due to non-compliance by the supplier, etc. added to the list. The introduction of E-Way bill and E-Invoice midway necessitated frequent changes to the IT platforms of the taxpayer and the regular changes in compliance methodology.

There is a genuine expectation that a robust, reliable, automated, integrated, and user-friendly technology platform will be created for the taxpayer, tax authorities and other regulators to interact, basis real-time data without reconciliations and multiple reporting.

### Prevention of malpractices and GST frauds:

There has been genuine concern from the government about widespread malpractices and frauds perpetrated by certain elements as is being reported regularly. This calls for stringent provisions in the law as well as monitoring of tax reporting/remittance processes to weed-out revenue loss, unfortunately at the inconvenience of honest

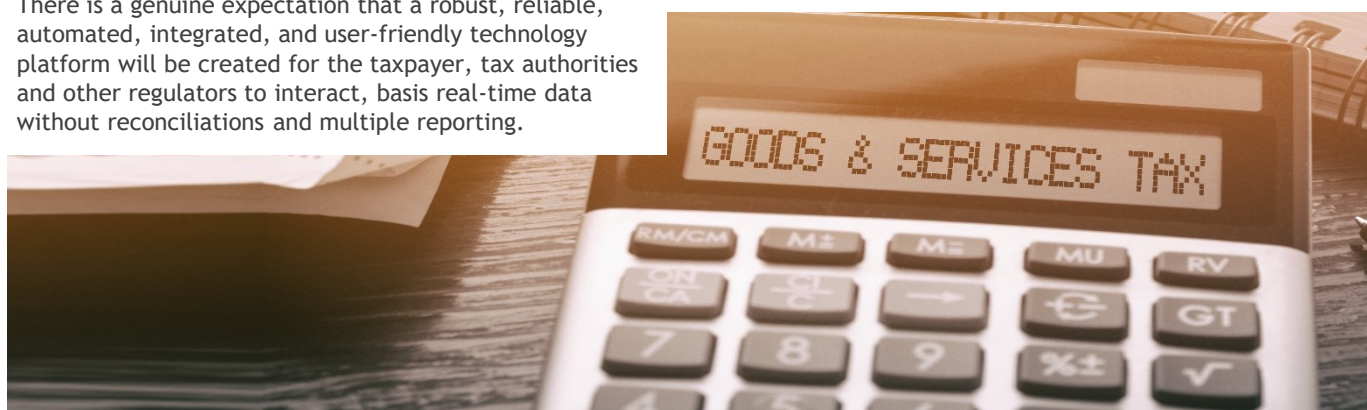
taxpayers. One may argue that law and process cannot be sculpt for anti-social elements but for the convenience of the genuine taxpayers. The ideal approach of protecting tax revenue and ease in compliance processes may be very difficult to achieve.

Various initiatives taken by the government in reporting, reconciliation of transactions, introduction of E-way bill and E-Invoice have shown steady improvement in the situation and tax revenue. The expeditious roll-out of an integrated reporting and tax administration mechanism is expected to fast track the objective of zero tolerance to tax leakages.

The above may not be a comprehensive list of what the way ahead for GST in India, will look like. It requires continuous taxpayer-government interactions to escalate genuine difficulties and the potential solution - be those surrounding legal issues of GST levy, Input Service Distribution viz. a viz. cross charge within the company, dual GST on ocean freight, GST levy on betting/gambling which is under challenge in courts, RCM on intermediary services, feasibility of input service refund in inverted tax situations, disputes relating scope of Online Information & Database Access and Retrieval service, classification of goods and services, taxing of digital transactions, place of supply determination, etc.

The need of the hour is to transform the Indian GST regime into a world class model for levy of tax on Goods and Service; our model of levy of GST on inter-state supply has evoked interest in many jurisdictions. The journey thus far has been bumpy but firm resolution can drive immense satisfaction. We have travelled a fair distance since the take-off and climb. It is now time to cruise to the destination when there is strong tailwind aiding navigation and with the uncertainty of pandemic slowly blowing-over as the world has reconciled and adapted to live with it!

Well begun is half done! There is another half to travel!



# THE EXPERT SPEAK



**Abhishek Anand**  
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## RECONCILE TO RECONCILIATIONS

It's been over 4 years since the implementation of GST and still a lot of uncertainty prevails on the availment of valid input tax credit. Keeping apart the anomalies of the restricted and blocked credits as per Section 17 of the Central Goods and Services Tax Act, 2017 (CGST Act, 2017), the industry is still sceptical about availing the input tax credit in their GSTR-3B given the additional burden created by Rule 36(4) of the Central Goods Services Tax Rules, 2017 (CGST Rules, 2017).

The modalities originally prescribed for filing of GST returns were never fully implemented given the technical glitches. However, authorities continued introducing various new measures in piecemeal to exercise control over the compliances, prevent malpractices and ensure maximum revenue collection.

Talking about the input tax credit to be availed in GSTR-3B, the reconciliation of the same with supplier data is gaining importance day by day. Prior to 8 October 2019, the reconciliation of inward supplies was not perceived as a critical activity every month and was more of post facto follow-up activity with the suppliers to safeguard the already availed input tax credit.

However, with the introduction of Rule 36(4) of the CGST Rules, 2017 with effect from 8 October 2019, GSTR-2A reconciliation activity became a daily chore for the businesses as it restricted the input tax credit availment in Form GSTR-3B.

While the constitutional validity of the said sub-rule is challenged before various courts of law, it has created wide-spread unrest among the taxpayers as it restricted input tax credit to be availed in Form GSTR-3B only to the extent of invoices, the details of which are reflecting in GSTR-2A and a provisional input tax credit can be additionally availed only up to 5% (earlier 20% and 10%) of the matched eligible input tax credit.

The calculation and tracking of such provisional input tax credit of 20%, 10% or 5%, as existed at relevant points in time, is a complex exercise since such credit would be an absolute number and invites a lot of reconciliations in subsequent tax periods. There were also concerns among the taxpayers that on which date do they need to download the GSTR-2A, as the said report is dynamic in nature and undergoes change frequently.

For addressing the above, Circular No:123/42/2019 - GST dated 11 November 2019, was issued, which clarified that GSTR-2A as available on the due date of filing of GSTR-1 under sub-Section 37(1) of the CGST Act, 2017 needs to be considered for the purpose of Rule 36(4) of the CGST Rules, 2017. That means the GSTR-2A should be downloaded on the 11th of the succeeding month itself. It is not clear if a taxpayer failed to download it on 11th and is downloaded later say on 13th or 14th of the succeeding month? This remained unanswered for 10 months until the government introduced additional details in GSTR-2A including the date of GSTR-1 filing of the supplier from August 2020.

Additionally, for taxpayers who have opted for a Quarterly Return Filing and Monthly Payment (QRMP) scheme, their credit will also be not eligible as the due date for them to furnish details of outward supplies by filing Invoice Furnishing Facility is 13th of the succeeding month (for the relevant month) and GSTR-2A does not differentiate between monthly and quarterly filers. It implies that credit pertaining to inward supplies from suppliers availing QRMP scheme will be available in the subsequent month, creating further hardship.

Another gig on the input tax credit journey is introduction of GSTR-2B which was introduced with an intent to provide the amount of input tax credit to be availed and reversed in a particular month. The said report is generated on the due date of filing of GSTR-1 and is a static report i.e., even after a month, the report will be same for a particular tax period unlike GSTR-2A.

With GSTR-2B in place, the amount of input tax credit to be availed in Form GSTR-3B are auto populated basis the GSTR-2B for the relevant month, and any changes made to it while filing GSTR-3B are highlighted in red with an alert to the taxpayer that the change made exceeds 20%, 10% or 5% as applicable, of the value already reported.



While such auto population is only a facilitation measure, the question is whether these auto-populated figures are actually reliable? The answer may not be an affirmative one, given that if a particular supply was reported in the current month GSTR-1, it will reflect in GSTR-2B and eventually be auto-populated in GSTR-3B, although the said

supply may not have been received by the recipient. Accordingly, the recipient is not yet eligible to take the input tax credit in the current month as per Section 16 of the CGST Act, 2017. On similar lines there may be certain supplies which were reported in GSTR-1 of previous month but received in current month hence the input tax credit will be eligible to be availed in the current month as against the previous month. So, the taxpayer needs to maintain a plethora of reconciliations every month to correctly avail the input tax credit.

Additionally, the taxpayers have to also work-out the ineligible input tax credit which has to be manually identified and excluded from the input tax credit register/figures.

At this juncture, again the moot question remains unanswered as to which report should be relied upon for reconciling the inward supplies, GSTR-2A or GSTR-2B?

Simply put, the taxpayers have the following options in order to materialise its input tax credit for the relevant tax period:

- Refer to GSTR-2A (considering the date of filing of GSTR-1) and reconcile the same with their inward records; or
- Refer to GSTR-2B of current as well as previous tax periods and reconcile the same with their inward records.

The provisional credit criteria may also be extinct as another stringent provision is proposed by way of clause (aa) to Section 16(2) of the CGST Act, 2017 inserted vide Section 109 of Finance Act, 2021 applicability of which is yet to be notified. This clause mandates that input tax credit as such will be available only when the supplier has furnished the details in his GSTR-1. This amendment may end a lot of litigation around Rule 36(4) of the CGST Rules, 2017, though the provision may be very stringent and exert pressure on working capital.

In a nutshell, it can be stated that the reconciliation activity for the input tax credit will continue to haunt the taxpayers as these provisions do not seem to ease-out and the authorities will continue to issue notices for such mismatches/un-explained differences.



# IN-TALES

## India Manufacturing Sector - Aspiration to dominate!

### Global Scenario

Manufacturing remains a critical force in development, meeting consumer demands, employment generation, creation of wealth, etc. in advanced as well as developing economies. Globally, manufacturing continues to grow and constitute approximately 16% of global GDP and 14% of employment. But the manufacturing sector's relative size in an economy varies with its stage of development. It is assumed that when economies industrialise, manufacturing employment and output both rise rapidly, but once manufacturing's share of GDP reaches around 30-35%, it tends to fall as the spending on services out of a manufacturing sector wage, increases leading to growth of the allied sectors.

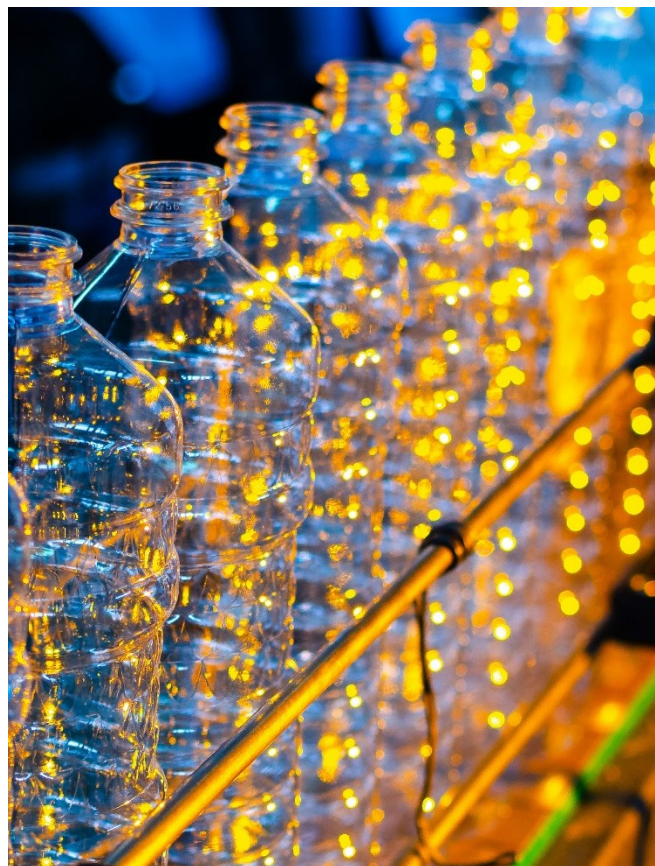
Service inputs (everything from logistics to advertising) make up an increasing amount of manufacturing activity leading to inadequacy of bucketing manufacturing and services separately for evaluation. In advanced countries, a unit of manufacture of an output requires 19% value of services. And in many manufacturing industries, more than half of all employees work in service roles.

For policy makers, in supporting manufacturing industries and competing globally ensures that the policy is grounded in a comprehensive understanding of the diverse industry segments in a national or regional economy, as well as the wider trends affecting them. Policy makers also recognise that their long-term goals for growth, innovation, and exports are best served by supporting critical enablers for manufacturers and by helping them forge the connections they will need to access rapidly growing emerging markets.

Owing to the pandemic, high uncertainty surrounded the global outlook, the effectiveness of policy support to provide a bridge to vaccine-powered normalisation, and the evolution of financial conditions. The global economy is climbing out from the depths to which it had plummeted during the lockdown period. However, with the COVID-19 pandemic continuing to persist, many countries have slowed re-opening, and some are reinstating partial lockdowns to protect susceptible populations.

### Indian context

India's growth story for the first quarter of this financial year shows that the manufacturing sector played a key role in blunting the impact of the second COVID-wave. Manufacturing which fell 36% in Q-2 last year has grown over 49% in Q-2 of the current year. There is reason for the jubilant mood among the policy makers, who are acutely



aware of the importance of the sector if India is to bounce back quickly to the path of double-digit growth. As economic activities gain momentum, industry players are turning optimistic about the performance of the manufacturing sector.

With the help of the 'Make in India' drive, India is on a path of becoming the hub for hi-tech manufacturing. Attracted by India's market of more than a billion consumers and an increasing purchasing power global giants such as GE, Siemens, HTC, Toshiba, and Boeing have either set up or are in process of setting up manufacturing plants in India. India has become one of the most attractive destinations for investment in the manufacturing sector.

The market size of the manufacturing sector continues to grow, though at a much lesser pace in the last few years. The sector's Gross Value Added (GVA) at current prices was

estimated at USD 348.53bn as per the second advanced estimates of FY21. The India Manufacturing Purchasing Managers Index (PMI) reached 48 in June 2021 from 51 in May 2021. The manufacturing GVA accounts for 19% of the country's real gross value added. The manufacturing component of Index of Industrial Production (IIP) stood at 117 between April 2020 and March 2021. According to the Ministry of Statistics & Programme Implementation, India's industrial output that is measured by IIP stood at 117 in May 2021 also.

A FICCI Manufacturing Survey for July-September 2021 showed that after experiencing subdued Q1 (April-June 2021-22), the outlook seems to have improved significantly in Q2. The survey assessed the sentiments of manufacturers for Q-2 (July - September 2021-22) for 11 major sectors namely automotive, capital goods, cement and ceramics, chemicals, fertilizers and pharmaceuticals, electronics and electricals, metal and metal products, paper products, textiles, textiles machinery, toys and miscellaneous.

A FICCI statement also says that the assessment is also reflective in order books as 72% of the respondents in July-September 2021-22 expected a higher number of orders in comparison to April-June 2021-22. The survey however revealed rising costs of doing business and production. The cost of production as a percentage of sales for manufacturers in the survey has increased for 80% respondents in Q-1 (2021-22). This is considerably higher than that reported in Q-4 (2020-21), where 72% respondents recorded an increase in their production costs.

The survey showed that the overall capacity utilisation in manufacturing was 72% in Q-2 (2021-22), which again reflects signs of recovery in manufacturing, even though it is far from a comfortable position. The future investment outlook, however, remains that of cautious optimism, as 32% respondents reported plans for capacity additions for the next 6 months. High raw material prices, high cost of finance, uncertainty in demand, shortage of skilled labour and working capital strains continue to plague the sector. Other factors such as high logistics cost, low domestic and global demand, excess capacities due to high volume of cheap imports into India, unstable market, high power tariff, are some of the major constraints affecting expansions.

#### Key Growth Drivers:

Drivers for the growth of the sector in India, includes the following:

- Potential to cater to global demand
- Outsourcing and contract manufacturing

- Growing working population, expanding middle class, larger house-hold disposable income
- Room for economies of scale to contain cost and stay competitive
- Upward moving, middle class aspirations - large domestic demand
- Shift towards cleaner environment and demand for electric and hybrid cars and National vehicle scrappage policy to spur demand
- Favourable government policies and conducive eco-system
- Availability of skill sets and focus on R&D
- Export opportunities
- Significant FDI inflow
- Lower of cost of production and availability of key resources

#### Government Policies

The Government of India has taken several initiatives to promote a healthy environment for the growth of the manufacturing sector in the country. The Union Budget 2021-22 is expected to enhance India's domestic growth in manufacturing, trade, and other sectors. Development of a robust infrastructure, logistics and utility environment for the manufacturing sector is a primary focus field.

Manufacturing has emerged as one of the high growth sectors in India. Various policy initiatives crafted by the successive government have given particular attention to the sector which has not only the potential to grow as a global manufacturing hub but can also create a sizable employment opportunity not just in the sector but allied areas including services sector.

To create a conducive ecosystem and to encourage capital formation in domestic manufacturing, the government has increased Foreign Direct Investment (FDI) in many sectors and in May 2020 the increased FDI in defence manufacturing under the automatic route from 49% to 74%. The Prime Minister of India, Mr. Narendra Modi, launched the 'Make in India' program to place India on the world map as a manufacturing hub and give global recognition to the Indian economy. The government aims to create an ambitious 100n new jobs in the sector by 2022.



The Union Finance Minister Smt. Nirmala Sitharaman, during the Union Budget 2021-22 announced an outlay of INR 1970bn for the Production Linked Incentive (PLI) Schemes across 13 key sectors, to create national manufacturing champions and generate employment opportunities for the country's youth. Follow-up actions have been initiated to set the ball rolling and it is expected that these initiatives will support the domestic manufacturers.

The introduction of GST, in place of the archaic, multiple indirect taxes at Central and State level, has been another step to invigorate the manufacturing sector, which has been reeling under the onslaught of various non-creditable indirect taxes.

#### Challenges:

While there are many advantages, they are insufficient to propel India's manufacturing value chains to global competitiveness. The value chains must be adequately developed further, for them to be recognised globally. While some mature businesses have grown by riding on a conducive ecosystem, the challenge is to further increase both exports and domestic sales. The Indian auto-auto components, pharma and chemicals sector fall in this category along with textiles, leather, gems & jewellery, etc.

Some sectors have met the domestic demand capitalising on the protective policies of the government until a few decades back. They are required to innovate and deliver high value products in the international market. There are sectors such as semi-conductors, electronic goods, low-carbon technologies, etc. where domestic manufactures have to mark their presence. Currently, India relies on imports in these categories with domestic assembly facilities which have limited potential for local value additions.

Greater share of domestic market, import substitution, export growth, contract manufacturing for global customers, increase of Gross Value Add (GVA) output per employee to the international standards, policy reforms to improve infrastructure and logistics, etc. would take the sectors to the next level of growth in the coming times.

#### GST

It is also important to craft a suitable taxation policy framework to sustain the growth and propel the sector to a higher growth trajectory. While the introduction of GST is a significant step to increase the competitiveness of Indian manufactures, various follow-up actions (also read the Cover Story: India's GST Story - Well begun but is half done) would go long way in providing level playing field and provide impetus to the sector. The manufacturing sector is particularly affected by the following limitations in the GST law:

- GST rate rationalisation and convergence of rates to reduce number of slabs
- Restrictions in availment of Input Tax Credit
- Dual GST levy on ocean freight
- High rate of Cesses - for e.g., overall tax on the automobiles as high as 50%

- Restriction in goods return period and denial of refund of GST on returned goods
- Non-inclusion of petroleum products under GST leading to increase of manufacturing cost
- Challenges in claim of refund of accumulated input service credit, especially in inverted duty structure situation
- Mechanism to incentive exports, in the wake of removal of MEIS
- Classification disputes in goods and services
- Inefficient Advance Ruling mechanism, which is skewed in favour of revenue
- Denial of concessional CST of 2% on inter-state procurement adding-up costs
- Glitches in the common electronic portal and compliance challenges
- Frequent change of law and procedure requiring changes in inhouse IT infrastructure
- Other issues with respect to stabilisation of the GST law and procedures continue to pose challenges, be it uncertainty on the Input Service Distribution model viz a viz. cost recharge, increased compliance burden in credit matching, e-way bill, e-invoice, etc.

India wields considerable manufacturing clout in select sectors. The focus now shifts not only to consolidate gains achieved in its traditional sectors, but venture into the sectors which promise tremendous growth potential and high value addition. There are several strengths which can transform the country to claim its rightful place in the global market. A large pool of skilled and young work force at competitive costs well below international levels, significant domestic demand, favourable ecosystem, entrepreneurial spirit, etc. makes India ideally placed to conquer the emerging global prospects. If properly nurtured, India could be the global manufacturing hub in the days to come.



# DECODED

## Glitches in the GST Portal not justification for inaccurate self-assessed return - Apex Court

The system of tax assessment where the taxpayer himself reports all items of sales, income or turn over including deductions, credits, allowances, to work out how much tax is payable, is called 'self-assessment' of tax. This process is invariably followed by review of the 'self-assessed' returns by the tax authorities.

One disadvantage of self-assessment is that it demands high level of knowledge of the taxation system, skillsets, resources (subject matter expertise, infrastructure, IT systems, etc.), accurate and complete data, and arithmetical competence, all of which call for support of professional accountants. Self-assessment of tax is embraced across jurisdictions and India is no exception, be it Income tax, GST law, Central Excise or State VAT.

Indian GST law lays significant emphasis on self-assessment. Section 59 of the CGST Act postulates that every registered person shall 'self-assess' the taxes payable and furnish the return for each tax period. Section 2(117) of CGST Act defines a 'valid return' as a return furnished under Section 39 (1) of CGST Act on which 'self-assessed' tax has been paid in full. Section 41 of the CGST Act stipulates that every registered person shall be entitled to take the credit of eligible input tax, as 'self-assessed', in his return and such amount shall be credited on a provisional basis to his electronic credit ledger; it is also envisaged that such credit shall be utilised only for payment of 'self-assessed' output tax as per the return.

The Apex Court, in a recent judgment<sup>1</sup> of wide import, evaluated the onus and importance of self-assessment in the context of a Delhi High Court judgment. The Delhi High Court had, on a Writ petition filed by the taxpayer, permitted revision of monthly return in Form GSTR-3B for three months of July, August and September 2017, the initial months of introduction of GST. The taxpayer had pleaded that due to technical glitches in the GST Portal, they were prevented from working-out the accurate quantum of Input Tax Credit (ITC) in Form-GSTR2A, resulting in excess tax remittance of INR 9.23bn in cash. The taxpayer's appealed to permit them to revise the return in Form-GSTR-3B for the 3-month period was allowed by the High Court, with a direction to the tax authority to verify the revised return within two weeks and grant the consequential relief of suitable adjustments in the Electronic Credit Ledger and Electronic Cash Ledger. The Delhi High Court, while coming to the said conclusion observed that -

"The Respondents cannot defeat this statutory right of the Petitioner by putting in a fetter by way of the impugned circular. Since the Respondents could not operationalise the statutory forms envisaged under the Act, resulting in



depriving the Petitioner to accurately reconcile its input tax credit, the Respondents cannot today deprive the Petitioner of the benefits that would have accrued in favour of the Petitioner if such forms would have been enforced. The Petitioner, therefore, cannot be denied the benefit due to the fault of the Respondents."

Aggrieved by the above judgment of the Delhi High Court, the tax authority challenged it before the Hon. Supreme Court, which came to be decided on 28 October 2021. This judgment has sent shockwaves within the taxpayer community and apprehensions are expressed about the fall-out of this judgment, especially when compliance gaps are on account of the GST portal glitches.

In this article we are examining the contentions of rival parties, key observations of the Apex Court and the potential consequences of this judgment along with precautions/preparedness from a taxpayer perspective, so that the adverse effect of this judgement is not felt.

## Contentions of the litigants:

### Tax Authority:

Assailing the decision of the Delhi High Court, on behalf of the petitioner tax authority, it was submitted that -

- A statutory duty is fastened on GST registrants to pay Output tax liability (OTL), along with statutory right to avail/utilise ITC.
- It is imperative upon the GST registrants to maintain records regarding transactions between suppliers and recipients based on their agreements, invoices and books of accounts.
- These documents will reveal the eligibility to credit, which is within the exclusive domain of the supplier and the corresponding recipients.
- The GST registrant is obliged to self-assess and determine OTL by exercises of option to avail/utilise ITC and the authorities have no role to play in this, whatsoever, which was the situation during pre-GST periods too.
- The GST Portal is an enabler and a facilitator in bringing onboard all registered persons, which include suppliers, recipients and others.
- Efficacy or malfunctioning of electronic portal cannot extricate the taxpayer from the primary obligation of self-assessment as required under the GST law.
- Basis the records and account maintained by the registrant and basis data emanating from such records, he ought to have self-assessed his OTL and ITC.
- It is the registrant who excises the option to utilise the ITC or discharge liability in cash, while filing his return.
- The registrant cannot find fault with deficiencies in the electronic platform in order to extricate himself from his statutory obligation.
- The facility of auto population and credit matching are mere facilities made available to registrants.
- Summary of the monthly return in form-GSTR-3B, initially introduced as a stop-gap arrangement to address system glitches, is always treated as a valid GST return.
- Rectification of omission/error could be furnished in the month/quarter in which such omission/error is noticed; taking any other view would usher-in inconsistency and uncertainty not only to this registrant but to other recipients.
- The High Court has glossed-over the crucial aspect of the registrant's own volition of adjustment of ITC or payment of cash and the absence of the role of the tax authority in determination of tax liability or availment/utilization of ITC.
- The High Court was swayed solely by the argument of glitches in the electronic portal in the initial phase.
- To comply with self-assessment needs, the registrant is fully equipped with accounts and records maintained by him as required by the law, which is completely under

the control of taxpayer; he cannot be permitted to remit taxes basis estimates, especially when he is obliged to maintain records/documents to perform self-assessment.

- There is no mechanism available under law for the adjustment of ITC for past periods and to refund tax paid in cash and if this is permitted even once, it would result in chaotic situation and collapse of the tax administration of Union, States and Union Territories.

Countering the above arguments advanced on behalf of the tax authority, the taxpayer relied his defence on the following grounds:

### Taxpayer:

- Supporting the order passed by the Delhi High Court, on behalf of the taxpayer, it was argued that -
- GSTR-3B is a stop-gap arrangement to overcome technical glitches in the common portal and non-operability of the statutory forms enabling auto-population of entries.
- The fact of technical glitches has been acknowledged by the authorities and GSTR-3B is a testimony to this.
- Thus, it is not open to authorities to deny taxpayer of their dues, especially their right to revise return and avail ITC.
- Taxpayer realised that huge amounts are paid in cash, despite existence of sufficient balance in ITC, only after Form - GSTR-2A was operationalised in September 2018.
- Interaction between the supplier and recipient through the common portal framework was a statutory necessity for availing credit and paying taxes.
- GSTR-3B is nothing but a summary return, which does not contain invoice details; recipient had no access to supplier returns to validate the correctness of ITC availed.
- The tax authority cannot take advantage of his own failure to operationalize statutory returns in GSTR-2 and GSTR-3, which is unfair and inequitable.
- Industry and trade have been contemplating an automated return process, as announced from year 2015.
- The requirement of amendment of return in the month in which the errors occurred, as contemplated in Para-4 of circular no:26/26/2017-GST dated 29 December 2017, is contradictory to statutory provision.
- The High Court had correctly read-down Para-4 of the above circular since it was obviously an inequitable arrangement and not opposed to any provisions of the GST Acts or Rules.
- The High Court direction would enable them to avail ITC from the surplus shown in his account of electronic credit ledger and the excess amount paid in cash would correspondingly be reinstated in electronic cash ledger.

### Supreme Court Decision:

After hearing rival contentions and analysing statutory provisions, amendments to law and the circular dated 29 December 2017 under challenge, the Supreme Court decided the matter in favour of the tax authorities. The Apex Court observed that -

- The Delhi High Court did not enquire into the cardinal question as to whether the taxpayer was required to be fully or wholly dependent on auto-generated information in the electronic platform for discharge of its obligations.
- The Court observed that the answer to the above question is an emphatic 'no'. The taxpayer was under legal obligation to maintain books of accounts/records as per the GST law. They were maintaining them, even though no auto-populatable electronic portal was in vogue, even in the past.
- As per the GST law, the taxpayer is obligated to self-assess ITC and calculate OTL after adjustment of ITC, basis his own records - the primary source, which could be possible even without support of the electronic portal - a mere facilitator.
- Every assessee is under obligation to self-assess his ITC under Section 16(1) and 16(2) of CGST Act and credit the same in the electronic credit ledger, post which only Section-59 steps-in to self-assess the tax liability and remit tax.
- The fact remains that for furnishing returns, preparatory work has to be done by the assessee himself and is not fully or wholly dependent on the electronic portal.
- Even few weeks before the introduction of GST, the taxpayer had been following this process and is also expected to continue doing it.
- It is a feeble excuse given by the taxpayer to assail the condition specified in circular dated 29 December 2017 regarding rectification of return submitted manually for the period July to September 2017 to seek adjustment of tax liability against ITC.
- Para-4 of the impugned circular need not be read-down, as done by the High Court, since it does not conflict with the express provisions of GST law.
- If there is no provision in law to refund surplus ITC lying in the electronic credit ledger, it follows that the assessee concerned who has discharged OTL by paying cash (which is free to pay in cash in spite of surplus ITC), cannot later ask refund of tax paid in cash.
- Remittance of tax by way of cash or credit is an option available to the taxpayer, which having been exercised by him, cannot seek adjustment or refund, later.
- The edifice of taxpayer grievance is founded on non-operability of GSTR-2A, which is rejected as untenable and flimsy.

- It is not a case of denial of availment of ITC as such; it is only a postponement of availment of ITC, which remains intact in the electronic credit ledger and can be utilised for subsequent returns.
- The Court also agreed with the plea made by the tax authority that indulgence contradictory to the statutory provision would not only lead to illegality but in reality, would lead to chaotic situations and collapse of tax administration of Union, State and Union Territories.
- The taxpayer cannot be permitted to unilaterally carry-out rectification of return in Form GSTR-3B filed by him.

### Pre-cautions/Preparedness to be exercised:

This is an important judgment, which has far-reaching implications especially emphasising the need of accurate and periodic filing and other statutory compliances. This decision underscores the imperative of high preparedness by all stakeholders to sculpt requisite IT infrastructure and implementation of robust internal control processes to conform to legal mandates to rule-out gaps resulting in improper filings. While this decision may apparently appear to be a body-blow to the taxpayer community, sustenance can be drawn from the ratio contained in this decision to defend any tax disputes, where the taxpayer is able to demonstrate conformity with self-assessment processes and adequate disclosures in periodic returns.

It would be interesting to see how this judgment would be considered by Courts, Tribunals, and the field formation in the coming days. The following points may be relevant as the days progress:

- Glitches in the common electronic portal cannot be the fundamental plank on which the taxpayers can defend denial of credit or in non-payment or delay in accurate tax remittance.
- Onus would be shifted to taxpayer systems, disclosures, records, internal control processes, etc., especially when challenges are on credit availment/utilisation or tax payments.
- No room for leniency at the taxpayer end, especially when litigation reaches Courts or appellate mechanism, if the GST registrant hasn't diligently or meticulously filed the return
- Unmatched credits or discrepancy in credits between the common portal and the taxpayer records can be argued to be proper if the taxpayer can demonstrate due diligence and lay emphasis on his internal documents/records to prove correctness
- The taxpayer may be required to re-evaluate internal tax administration processes including internal controls, IT systems and matching/reconciling returns and books
- Courts may continue to take lenient views on portal glitches; the onus would shift to the taxpayer
- Proper reports have to be generated from IT systems for accurate filing of returns and disclosure needs.

# GLOBAL TRENDS

## VAT/GST News:

### International:



#### UK's Sunak considers cutting VAT on household energy bills- FT

The UK government officials briefed that the finance ministry had looked at reducing the 5% VAT on household energy bills, but no decisions had been taken yet.

(Source : <https://www.reuters.com/world/uk/uks-sunak-considers-cutting-vat-household-energy-bills-ft-2021-10-17/>)



#### Algeria to introduce VAT tax on sugar to cut imports

Algeria imports around 2mn tonnes of sugar per year. It is ranked among the largest importers.

Algeria will impose a 9% VAT on white and raw sugar from early next year to reduce imports and address health issues. OPEC member Algeria has been trying to cut spending on imports of food and other goods in a bid to narrow budget and trade deficits.

(Source: <https://www.reuters.com/article/idUSL1N2S40IU>)



#### Philippines lower house approves VAT for big tech firms

The Philippines' lower house of Congress has approved a bill imposing taxes on tech giants like Facebook (FB.O), Alphabet's (GOOGL.O) Google and YouTube, and Netflix (NFLX.O).

The bill aims to raise 29mn Pesos (USD 579Mn) to help fund government measures to fight the coronavirus. The new measure follows similar moves by other Southeast Asian countries to generate revenues from popular digital services.

(Source: <https://www.reuters.com/world/asia-pacific/philippines-lower-house-approves-vat-big-tech-firms-2021-09-22/>)



#### Indonesia passes major tax overhaul bill, VAT to rise next year

Indonesia's parliament approved a law for one of the country's most ambitious tax overhauls, including raising VAT next year, a new carbon levy and cancelling a planned corporate tax cut.

Finance Minister Sri Mulyani Indrawati said the new fiscal measures will increase next year's tax revenue by around 139.3tn Rupiah (USD 9.80bn), taking the tax ratio of Southeast Asia's biggest economy to 9.22% of GDP, from 8.44% without the new law. The law calls for the VAT rate for sales of nearly all goods and services to be raised from 10% now to 11% next April and to 12% by 2025.

(Source : <https://www.reuters.com/world/asia-pacific/indonesian-parliament-vote-major-tax-overhaul-2021-10-06/>)



#### Poland started piloting the EU VAT Cross-Border Ruling project

The EU VAT Cross-Border Ruling project is an initiative aimed at preventing administrative bodies of the EU Member States from making different interpretations of the same factual or legal status related to the transaction made by the taxpayers. The CBR pilot has been set up through the EU VAT Forum and is currently implemented by 18 EU Member States (Poland, Belgium, Denmark, Ireland, Estonia, Spain, France, Italy, Cyprus, Latvia, Lithuania, Malta, Hungary, the Netherlands, Portugal, Slovenia, Finland, and Sweden).

(Source: <https://www.globalvatcompliance.com/poland-started-piloting-the-eu-vat-cross-border-ruling-project/>)



#### Poland's e-invoicing system KSeF comes into force from 01 January 2022.

On 01 October 2021, the Polish Sejm adopted an amendment to the VAT act, implementing the National

System of e-Invoices (KSeF) which will enter into force on 01 January 2022. Starting from 2022, the taxpayers who issue electronic invoices through KSeF will receive a VAT refund in 40 days instead of 60 days only if they meet the required conditions.

KSeF enables issuing and sharing structured invoices. In the initial period, structured invoices will function in business transactions as one of the accepted forms of documenting transactions, in addition to paper (physical) invoices and electronic invoices currently used in business transactions. E-invoices are therefore voluntary but not yet compulsory.

(Source: <https://www.globalvatcompliance.com/poland-implements-ksef-1january2022/> )



**UGANDA:** From November 2021, non-resident companies can register and file VAT on electronic services from a special portal.

The non-resident companies providing electronic services to consumers in Uganda need to register for VAT in Uganda. A special portal for non-resident electronic service providers to register and file VAT goes live in November 2021. The threshold of sales in Uganda totalling to 150mn UGX in a twelve-month period does apply.

Section 16(2)(d) of the VAT Act provides that a supply of services shall take place in Uganda if the recipient of the supply is not a taxable person, and the services are electronic services delivered to a person in Uganda at the time of supply.

(Source: <https://www.globalvatcompliance.com/uganda-a-special-portal-for-non-resident-companies-to-register-and-file-vat-on-electronic-services-goes-live-from-november-2021/>)



**Bahrain increases VAT from 5% to 10% effective January 1, 2022.**

Bahrain's Council of Representatives has approved the double VAT increase from 5% to 10% effective 1 January 2022. The draft bill is reportedly referred to the legislative branch (Parliament) within the coming days for review. It seeks to stabilize the Fiscal Balance Programme which was impacted by COVID-19.

Bahrain is the smallest country within the six-member GCC economic bloc (Saudi Arabia, UAE, Oman, Qatar, and Kuwait are the remainder). The National Bureau for Revenue (NBR) of Bahrain is yet to make an official announcement.

(Source: <https://www.globalvatcompliance.com/bahrain-doubles-vat-rate-to10percent/>)



**French Tax Unification Update: Automatic Reverse Charge of Import VAT from January 2022**

The DGFIP (Direction Générale des Finances Publiques, or the Treasury Department of the French State) has announced that it will drop administrative requirements of businesses who has reverse charge import VAT accounting from 1 January 2022. This means that the import VAT will have to be self-accounted (i.e., reverse charged) through the periodic French VAT returns.

Currently, French VAT-registered companies need to request specific authorisations issued by the DGDDI (The General Directorate of Customs and Indirect Taxes) to reverse charge the import VAT.

The simplification presents a cashflow advantage for businesses and will save on shipping costs related to the import VAT payments.

(Source: <https://www.globalvatcompliance.com/france-reverse-charge-becomes-automatic-jan2022/>)







### Saudi Arabia is enforcing E-invoicing (Fatoora) Phase One from December 4, 2021.

The enforcement of Saudi Arabia's e-Invoicing program, locally known as Fatoora, is on 4 December 2021, at phase 1. The generation and storing of electronic invoices and electronic notes will be mandatory to local taxpayers as well as to companies issuing tax invoices on behalf of suppliers for VAT purposes.

The new regulation is an integral part of the VAT Implementing Regulation issued by the Board of Directors of the local tax authorities.

(Source: <https://www.globalvatcompliance.com/saudi-arabia-fatoora-phase-one/>)



### Norway VAT exemption drives electric vehicle boom

Nearly 80% of total car sales in Norway in September 2021 were electric vehicles. The surge is driven, in part, by a VAT exemption on electric cars. The Norwegian Road Federation says that 77.5% of new cars sold in the month of September were battery electric vehicles. The figure represents a steady upward trend. Electric vehicles comprised 61.5% of sales in September 2020.

(Source: <https://www.vatglobal.com/norway-vat-exemption-drives-electric-vehicle-boom/>)



### Vietnam VAT relief for tourism and hospitality sectors

Vietnam is providing VAT relief for the hospitality sector to provide economic relief in the wake of the COVID pandemic. Vietnamese VAT relief also extends to other hard-hit sectors, including publishing, film, and sports.

Vietnamese authorities are lowering VAT in the specified sectors by 30%. Vietnam's standard rate of VAT is 10%. As part of broader COVID relief measures, Vietnam is also reducing CIT by 30%.

(Source: <https://www.vatglobal.com/vietnam-vat-relief-for-tourism-and-hospitality-sectors/>)



### Malawi imposes VAT on banking transactions, but questions persist

Malawi is imposing VAT on certain banking transactions. However, stakeholders remain confused about precisely how authorities will implement the new VAT rules. Following an amendment to the VAT Act, authorities are charging VAT of 16.5% on specified transactions.

Initial reports suggested that VAT could apply to ATM transactions, transfers to other bank accounts, cash transfers to mobile wallets, among certain other transactions.

(Source: <https://www.vatglobal.com/malawi-imposes-vat-on-banking-transactions-but-questions-persist/>)

## India

### Finance Ministry releases INR 444 Tn GST compensation to boost growth

The Union Finance Ministry released INR 444tn back-to-back loans to states - the final instalment of INR 1.59tn estimated GST revenue shortfall for 2021-22 - with an aim to front-load public expenditure and boost growth.

After GST collections fell sharply due to the impact of the Covid-19 pandemic and the 68-day nationwide lockdown from 25 March last year, the Union government in 2020 devised a back-to-back borrowing mechanism to make up for the states' revenue losses.

(Source: <https://www.hindustantimes.com/india-news/finance-ministry-releases-44-000-crore-gst-compensation-to-boost-growth-101635508493122.html>)

### GST revenue for October 2021 at over INR 1.3tn, 2nd highest-ever: Centre

The Union ministry of finance announced that the gross GST revenue collection for the month of October 2021 stood at more than INR 1.3tn, adding that this was the second-highest GST revenue ever collected, second only to that from April this year.

(Source: <https://www.hindustantimes.com/business/gst-revenue-for-october-2021-at-over-rs-130-lakh-crore-2nd-highest-ever-ministry-of-finance-101635754765103.html>)

### Zomato, Swiggy to pay GST on restaurants' behalf. Will your online food ordering bill rise?

From next year, food delivery apps such as Zomato and Swiggy would have to pay GST to the government on behalf

of the restaurants that supply food through the platforms. While experts are divided on whether the actual outgo will rise for consumers ordering food online, some said that the e-commerce players would have to invest in building systems to ensure compliance.

The GST Council, the apex body that decided indirect tax on goods and services, said that e-commerce operators will be made liable to pay the tax instead of the restaurants, but no new tax will be levied.

(Source: <https://economictimes.indiatimes.com/small-biz/gst/zomato-swiggy-to-pay-gst-on-restaurants-behalf-will-your-online-food-ordering-bill-rise/articleshow/86312519.cms>)

#### Same GST slab for ice-cream sold anywhere: Finance ministry

The government said that ice cream is the same whether it is sold inside an ice-cream parlour or outside and should attract the same rate of GST.

The government said a GST of 18% should be levied on ice cream even when they are sold inside a parlour. Earlier, ice creams attracted 5% tax when sold inside parlours and 18% outside.

(Source: <https://economictimes.indiatimes.com/small-biz/gst/same-gst-slab-for-ice-cream-sold-anywhere-finance-ministry/articleshow/86838302.cms>)

#### Toy manufacturers to see higher GST liability following AAR ruling

Toys manufacturers are set to see higher tax liabilities after a ruling said that toys that have any form of light or sound should be treated as electronic toys and taxed at 18% under GST.

While electronic toys such as expensive robots and kids' tablets attracted 18% GST earlier, other toys such as tricycles and bicycles were taxed at 12%.

(Source: <https://economictimes.indiatimes.com/small-biz/gst/toy-manufacturers-to-see-higher-gst-liability-following-aar-ruling/articleshow/87332030.cms>)

#### Canteen services for employees out of GST net

Canteen charges collected from employees will now be outside the gamut of GST following a tax ruling that offers some relief to several large industrial and manufacturing units.

In a recent ruling, the Gujarat Authority for Advance Ruling (AAR) said that GST is not applicable on the amount collected from the employees towards canteen charges, which is paid to the canteen service provider.

(Source: <https://economictimes.indiatimes.com/small-biz/gst/canteen-services-for-employees-out-of-gst-net/articleshow/87150230.cms>)

#### Customs News:

##### International:

#### Tunisian Customs develop their Next Generation Network (NGN) to fight corruption

Following the inaugural conference of the Next Generation Network (NGN) of Tunisian Customs last March, the WCO Anti-Corruption and Integrity Promotion (A-CIP) Programme conducted a workshop from 25 to 28 October to support and develop this initiative. The A-CIP Programme supports Tunisia, a beneficiary administration since 2019, in its fight against corruption through the implementation of this cross-cutting and innovative component.

(Source:

<http://www.wcoomd.org/en/media/newsroom/2021/november/tunisian-customs-develop-their-next-generation-network-to-fight-corruption.aspx>)

#### The WCO TEG-NII discusses how to enhance the Customs control efficiency

The WCO Technical Experts Group on Non-Intrusive Inspection (TEG-NII) held its 8th Meeting on 4 and 5 November 2021 as the first meeting of a WCO working body to be held in a hybrid format since the beginning of the COVID-19 pandemic in March 2020. The Meeting gathered, both online and at the WCO headquarters in Brussels, more than 140 participants from 68 Member Customs administrations and 5 NII vendors, which is a record number for the TEG-NII.

The TEG-NII discussions centred around two main topics - the Unified File Format (UFF) Development Programme and other NII-related matters.

(Source:

<http://www.wcoomd.org/en/media/newsroom/2021/november/the-wco-teg-nii-discusses-how-to-enhance-the-customs-control-efficiency.aspx>)

#### EAC and WCO furthering cooperation in core areas of Customs work

From 25 to 29 October 2021, the East African Community (EAC) convened a meeting of its Sectoral Committee on Customs to discuss a wide range of issues related to Customs and trade policies.

Senior officials from the EAC Customs administrations gathered to examine technical aspects of the issues included in the agenda. Of particular importance, were discussions related to the preparation of the new version of the Common External Tariff (CET), digitalisation projects such as an electronic tariff platform and a duty remission scheme management system, as well as implementation of advance ruling programmes, capacity building activities and other modernization initiatives. Outcomes of the meeting were subsequently presented to Commissioners General of Customs who convened during the last two days to examine and approve the report by the senior officials.

(Source:

<http://www.wcoomd.org/en/media/newsroom/2021/november/eac-and-wco-furthering-cooperation-in-core-areas-of-customs-work.aspx>)

## India

### CBIC instructs field units to free up shipping containers amid global shortage, industry demands

The Central Board of Indirect Taxes and Customs (CBIC) has asked field units to expeditiously dispose of unclaimed or confiscated goods and move import cargo pending inquiry to warehouses, in order to free up shipping containers.

The Board has also asked field units to give monthly updates on containers that have been held up by intelligence agencies or stuck in court cases and have been subsequently freed up.

(Source:

<https://economictimes.indiatimes.com/news/economy/policy/cbic-instructs-field-units-to-free-up-shipping-containers-amid-global-shortage-industry-demands/articleshow/86118512.cms>)

### Over 1,700 consignments of seized hazardous goods disposed from Customs areas in Jan-Oct

The Customs department has disposed of 1,700 consignments of seized hazardous goods between January and October 2021. The ministry in a statement said Finance Minister Nirmala Sitharaman has directed that the process of disposal continues to be monitored and expedited.

Further, those Customs field formations also engage with relevant departments, including of the state governments, and ensure that all pending hazardous material is disposed of within a period of 90 days.

(Source:

<https://economictimes.indiatimes.com/news/india/over-1700-consignments-of-seized-hazardous-goods-disposed-from-customs-areas-in-jan-oct/articleshow/87589731.cms>)

### Retain uniform basic customs duty of 10% on agrichemicals in upcoming budget: CropLife India

Industry body CropLife India requests the government to retain a uniform basic customs duty of 10% for both agrichemicals-technical and formulations, as well as reduce GST to 12% on them in the upcoming Budget. The industrial body urged the Indian government to implement a science-based, progressive and predictive regulatory regime for the sector to achieve its true potential.

(Source:

<https://economictimes.indiatimes.com/industry/indl-goods/svs/chem-/-fertilisers/retain-uniform-basic-customs-duty-of-10-on-agraceuticals-in-upcoming-budget-croplife-india/articleshow/87340515.cms>)

### CBIC reduces Compliance Burden for Registration of Authorised Couriers under Customs

CBIC has notified a reduction in compliance burden regarding registration of Authorised Couriers. As part of reducing the compliance burden on stakeholders, the CBIC has taken measures to simplify the registration requirements of Authorised Couriers.

These amendments provide lifetime validity to registration, in place of the existing system of validity periods and renewals. They also provide for voluntary surrender of registration. While enabling a deemed invalidity of registration in case the Authorised Courier is inactive for a continuous period of 1 year, at a time, these also empower the Principal Commissioner or Commissioner to renew such a registration.

(Source: <https://www.taxscan.in/cbic-reduces-compliance-burden-for-registration-of-authorized-couriers-under-customs/137987/>)



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### Delhi NCR - Office 1

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### Hyderabad

1101/B, Manjeera Trinity Corporate  
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### Mumbai - Office 1

The Ruby, Level 9, North West Wing  
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Tel: +91 22 6277 1600

### Pune - Office 2

Floor 2 & 4, Mantri Sterling, Deep  
Bungalow Chowk, Model Colony,  
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### Bengaluru

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80 Feet Road, 6<sup>th</sup> Block, Koramangala  
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### Delhi NCR - Office 2

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Plot No: A-1, Floor 2  
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### Kochi

XL/215 A, Krishna Kripa  
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