

*Date: July 24, 2015*

## Rajya Sabha Report on GST Constitutional Bill: Highlights

On July 22, 2015, Rajya Sabha Select Panel tabled its [Report \(119 Pages\)](#) on GST Constitutional Amendment Bill supporting almost all of the clauses therein.

### **KEY HIGHLIGHTS:**

#### **(i) Clause 12 (Constitution of GST Council & Article 279A):**

- Committee recommends State Governments to take adequate measures to ensure that revenues flow to the local bodies and their recourses are not adversely affected.
- Committee restrains from giving any advice, recommendation and guide to the State Govts. as to what they have to do w.r.t. interests of local bodies, as any encroachment into the State List would disturb the whole system and could strain the Centre – State relations. Concerns expressed by all its Members relating to protection & preservation of interest of local bodies and Municipalities not unwarranted.
- Committee suggests for the "band" rate to be defined in the Act itself. Band has been provided so that states can levy additional taxes within the band on specified goods and services to raise additional resources to meet local needs.
- In respect of Article 279A 4(e), Committee has also recommended defining of the word 'band' in GST laws. Accordingly, it has suggested the following definition - "*Band*" : *Range of GST rates over the floor rate within which Central Goods and Service Tax (CGST) or State Goods and Services Tax (SGST) may be levied on any specified goods or services or any specified class of goods or services by the Central or a particular State Government as the case may be.*
- However, it found no merit in disturbing the voting pattern proposed in the Bill, as the same has been worked out on a formula where no one is at a disadvantageous or dominating position, be it Centre or States. Accordingly, Committee has adopted the voting share of Centre at 1/3<sup>rd</sup> and that of States at 2/3<sup>rd</sup>.

- Further, Committee has adopted Article 279A(5) i.e. inclusion of petroleum products into GST on recommendation of GST Council, which can happen only with the consent of both Centre & States.

**(ii) Clause 17 (Amendment to Seventh Schedule):**

- Committee has endorsed the omission of Entry 92C in List I (Union List) which was introduced to empower Union to impose service tax on certain services r/w Article 268A, to ward of future doubts about GST.
- Further, Committee has adopted the view that electricity must form part of GST base and part of Electricity duty must be replaced by GST which shall be fully creditable to industrial / commercial users.
- Proposal to extend Union powers to tax sale or purchase of petroleum and tobacco too have been adopted.

**(iii) Clause 18 (Additional tax @ 1% on inter-state trade or commerce):**

- Committee was of the view that provision of 1% additional tax would likely lead to cascading of taxes. Therefore, it recommended insertion of explanation clarifying that “supply” would mean all forms of supply made for a consideration.

**(iv) Clause 19 (Compensation to State for revenue losses):**

- Having regard to the concerns expressed by the various States and some of the Members of the Committee, compensation to States for the loss of revenue arising on account of implementation of GST has been recommended for a period of 5 years.
- However, endorsing the view envisaged by Fourteen Finance Commission, the Committee opined that it would be wise to keep the GST Compensation Fund out of the purview of the Bill as has been done in the present case, because it is a temporary component and that too only for 5 years.

**(v) Other recommendations:**

- According to Committee, each and every State is being represented in the GST Council by their Revenue / Finance / Taxation Minister. Be it a small State or a big State, in the GST Council, all of them enjoy equal status and power to cast one vote. In the event of difference, it could be presumed that GST Council will try to evolve consensus on contentious issues before going for casting of votes. Thus, modality to resolve any

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differences internally should lie with the Council. If any Dispute Settlement Authority is created separately, it will certainly hamper the functioning of GST Council in general and Legislatures (Parliament and States) in particular. Thus, Committee has stated that it would be judicious not to have a separate and distinct authority having far reaching powers and which could pre-empt and supersede the powers of Parliament and State Legislatures in the long run.

- The Committee also felt that GSTN shall play a crucial role in implementation of GST as it shall provide the IT infrastructure for implementation of GST. However, it noted that Non-Govt shareholding of GSTN is dominated by private banks. This, according to the Committee would not be desirable for 2 reasons – (i) public sector banks have more than 70% share in total credit lending in the country; and (ii) GSTN’s work is of strategic importance to the country and the firm would be a repository of a lot of sensitive data on business entities across the country. In light of this, it has strongly recommended that Govt to take immediate steps to ensure Non Govt financial institution shareholding be limited to public sector banks or public sector financial institutions.
- Further, endorsing the views of SBI, Committee has felt that the best practices followed internationally may be followed and if possible banking services may be kept outside GST. But, if this is not possible, it has recommended non-taxation of interest, trading in securities and foreign currency and services to retail customers under GST and suitable provisions to avail CENVAT credit of input services taken to provide activities involved in such services. Further, single registration coupled with IGST provision should be made available to enable CENVAT credit for consumers of banking services. Also, Committee has recommended that to be internationally competitive, the GST rate for banking industry should be minimum, i.e. not above the existing service tax rate of 14%.
- Moreover, it is of the view that while fixing the GST rate, GST Council may opt for a broad base and moderate rate as it is an essential feature of a good tax system and as far as possible multiplicity of tax rates may be avoided.
- Additionally, Committee has recommended immediate implementation of comprehensive training programmes at all levels to allay the fears of consumers, stakeholders, organisations, etc. towards smooth implementation of GST.

To conclude, Committee states, “.....due consideration has been given by the Government of India to the aforesaid apprehensions raised by the States/UTs while coming forward with this comprehensive Constitutional Amendment Bill. The Committee feels that apprehensions cast over the introduction of goods and services taxes are early hiccups and with the introduction of it, the States/UTs would realise that they have many more options available to them to generate and augment their revenue source. Survival of the Union is on the States, the Committee close by saying that would the body (Centre) survive if arteries get choked, so vibrancy of the States comes first for the survival of the Centre.

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