

ROLE OF CBEC IN THE GST REGIME

Road to be taken by CBEC to play a lead role in GST without making comparison with state administration

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Executive Summary

The proposed dual GST model in India, with aim to achieve nationwide common market by re-engineering India's indirect tax system as an effective economic booster free of cascading and distortions, would require careful designing of institutional framework to succeed the challenges about administrative efficiency, cost effective revenue collection, enforcement, audit, compliance costs, centralised IT platform etc., which provides an opportunity to the CBEC for fostering leadership role. The possible pathways for CBEC business re-engineering in this context would include:

- CBEC should focus on its inherent strengths out of large dependable pool of domain experts in In-direct Tax area, accounting practice based audit mechanism in Central Excise and Service Tax, proven and effective intelligence gathering infrastructure, Risk based analysis & intervention (RMS) experience, Robust IT infrastructure and infrastructure for capacity building and training.
- Development of a qualitative back end process IT system for Central GST against which the systems offered by GSTN or employed by states can be benchmarked.
- GST training and Capacity Building lead role for Central and State GST administrations and other stakeholders through NACEN, its RTIs and the Centre of Excellence across the country.
- The CBEC having significant experience in successfully implementing Risk Management Systems (RMS) can not only develop a centralised GSTN data driven Audit Selection System based on Risk Profiling but can also offer the states the Risk Based Audit Screening Services (RBASS) to help avoid double audit selections and creating a co-ordinated operating environment, encouraging compliance and stakeholder facilitation.
- Common independent joint audit and enforcement agency drawing capacities from both central and state GST administrations which operate under a national directorate under GSTC, to subject the taxpayer with single authority for audit and enforcement instead of multiple exposures by different authorities.
- Analysing the options for uniform institutional framework for dispute resolution mechanism and creating appellate level integration at 1st appeal level, instead 2nd appeal stage integration at Tribunal level envisaged so far, based on independent ex-cadre Commissioner (Appeals) office, having bench comprising of one commissioner from CGST and SGST side and having region/ state wise jurisdiction, to hear appeals arising out of both SGST and CGST orders.
- A system to provide GST refund to foreign tourists.
- Creating a searchable central database registry for information sharing among CGST and participating SGST administrations about audit schedules, case status and findings where each office can enter or update data and be informed so that efforts are not duplicated and larger base is covered for audit scrutiny thus employing resources more efficiently at each level.
- Aspiring to create an All India State Cadre based GST or Integrated Revenue Service.

Key Words: India, GST, VAT, Indirect Tax, Tax Reforms, Audit, GST Council, GSTN

1. Introduction

With passage of the 122nd Constitutional Amendment Bill by Lok Sabha (currently pending before Rajya Sabha) the process to transform the prevailing indirect tax system in India into an efficient Dual GST has been accelerated, which would ultimately benefit the end consumer of goods and services with cheaper prices and the nation and the states with higher revenues and GDP growth under a common market and institutional structure.

GST is a value added tax (VAT), where each supplier in the supply chain of the goods or services pays tax to the government after availing the tax credit i.e. the difference between the tax they charge their downstream customer and the tax they paid for the input at each stage of transaction. The only entity that does not get this offset is the final consumer of the product or service, and for this reason GST is also called a consumer tax. The VAT (or GST) is, therefore, a broad based consumption tax levied at multiple stages of production and distribution (of goods and services) with - crucially - taxes on input credited against taxes on output (ITD¹, 2005).

Following the idea coined by the German Businessman Wilhelm Von Siemens (1920s) of putting tax on additional value creation at each stage of its creation, France was the first country to adopt VAT in 1954 and present day collects over 50% of its total tax revenue from this system. Since then, it has become the most popular tax among governments across the globe and more than 150 countries have implemented VAT on goods and services in some form or other. Except the USA, all Organization for Economic Co-operation and Development (OECD) countries has implemented VAT. In 2008 and VAT represented 18.7% of total tax revenue of OECD countries (Owen, Jeffrey et. al., 2011). VAT/ GST rates in these countries vary from a low of 5% in Japan to a high of 25% in Denmark. The latest entry to the elusive list is Malaysia.

The international experience indicates that a transparent tax system taxing every transaction in value chain with credit in subsequent stage until final consumption generating higher revenues; clear audit-trails; reduced cascading and distortions; zero rating of exports and business &

¹ *The International Tax Dialogue (ITD) is a joint initiative of the European Commission (EC), Inter-American Development Bank (IDB), International Monetary Fund (IMF), Organisation for Economic Co-operation and Development (OECD), World Bank Group and Inter-American Centre of Tax Administrations (CIAT).*

consumer friendliness are among the reasons. The OECD studies also indicate that VAT promotes economic growth and investment.

In India, the Central Government in year 2007-08 expressed the intent of implementing harmonized GST across the nation². The report of the EC³ (2009), the First Discussion paper (FDP) released by EC and recommendations of Thirteenth Finance Commission (2009) are the main guiding documents available in public domain highlighting the proposed GST framework in India. With the 122nd Constitutional amendment laid in parliament, now the ball has been set rolling again with target for implementing GST by 2016 (or 2017). Recently, the EC released reports of the Joint Committee on Business processes for GST for Registration Process, Payments, Returns and Refunds in public domain inviting comments. This dual GST model is expected to preserve continuity of the VAT chain, provide a common and wider base of goods and services (for both Centre and states); desirability for uniform rates, procedures and harmonized structure and to subsume a number of indirect taxes under central and state jurisdictions⁴. Further, a common GST Network (GSTN) is being created for registration, tax payment, returns filing through a single portal, in respect of both CGST and SGST.

However, it is important to keep in mind issues about administrative efficiency, cost effective revenue collections, lowered compliance costs, audits and enforcement, etc., so that the gains do not wither due to systemic deficiencies. This would undoubtedly require an enabling, fostering and proactive role playing on the part of CBEC during the entire inception and implementation process. We are looking at this aspect in a greater focus in this study by examining possible alternatives, integration points, and indicative pathways in the overall context.

² The Finance Minister of Union Government of India announced this intent during budget session in 2007-08, proposing April 2010 as date for GST implementation, which could not be adhered to in absence of final agreement between the Central and State Governments. Now, with 122nd Constitutional amendment laid before the Parliament, the Govt. of India has proposed an intended date of 1st April, 2016 for GST implementation.

³ Empowered Committee (EC) of State Finance Ministers, constituted by Government of India, is a registered body under the Societies Registration Act (XXI of 1860) since August 17, 2004.

⁴ The central duties and taxes to be subsumed in CGST include Central Excise Duty, Additional Excise Duties, Service Tax, Additional Custom Duty (CVD), Special Customs Duty (SAD), Central Sales Tax, Central Cess/ surcharges, and SGST will subsume State VAT/ Sales Tax, Luxury Tax, Entertainment tax (other than levied by local bodies), Taxes on Lottery, Gambling & advertisement, Purchase Tax, Entry tax/ Octroi, State Cess/ surcharges etc.

2. Role of CBEC under GST

Parameters of a Good GST System (E. Brill et. al., 2001) suggest for Simple, clear and stable law and procedures; Good taxpayer services; Reasonable audits; Effective enforcement with strict penalties; Good periodic review of the system; Stakeholder's trust levels and taxpayer's moral. To achieve the goal of common national market under Dual GST, the requirements would be harmonization, coordination; a self-assessment based self-monitoring credit type design and certain degree of integration among the two GST administrations, preferably through a single window interface for taxpayer services.

While the proposed dual GST model and design aspire to achieve the stated goals of a good GST, there are concerns being raised. According to Professor (Ms) R. Kavita Rao of the National Institute of Public Finance and Policy (NIPFP)⁵ compliance in the case of GST will be better because it involves both the Centre and the states. As there will be tallying between the two levels of the government, evasion would be more difficult than in the case of VAT, which was levied and collected only by the states. However, a major roadblock is the issue of how GST will be administered? "Generally people believe GST means one administration. But it means two – central and state. Firms, she notes, will file returns at one place – a portal (GSTN) – but after that there could be separate tracks going on in parallel. It is not a fair system." It, thus, hints the need to improve compliance culture and how to incentivize people to be compliant.

In this backdrop and with the dual GST model chosen, what would be the role of CBEC (pitted against 29 State administrations) in GST regime? Is it a dictum for downhill pathway or multitude of opportunities? Nevertheless, harping on opportunities, the key components to define and chart out a role for CBEC under GST relate to structural, functional, domain expertise strengths and organisational capacities inherent to it, and the CBEC, working in a co-ordinated and pragmatic way can strive for a lead foster role in GST implementation keeping in mind the nature of the cross cutting currents of uncertainties as the taxpayer is subjected to dual authorities under GST.

⁵ 'Firms may have to undergo dual audits under GST; it is not a fair system' by Seetha, Dt. Jan 27, 2015 in www.fastpost.com (accessed on 28.09.2015) based on interview with Prof. R. Kavita.Rao, NIPFP, New Delhi.

The core of issues pertains to the CBEC's preparedness with robust IT (modified ACES or a new one from scratch?) and administrative (Central Excise and Service Tax capacities merges!) systems in respect of Central GST. Here, creating structures for CGST assessment, invoice matching, cross verification of credit, managing IGST and aligning existing structure of dispute resolution mechanism etc. would be core challenges to ensure a harmonised taxpayer service delivery and facilitation. Also, dealing with old baggage of pending cases (of Central Excise and Service Tax era) as well as dealing with existing CENVAT credits (Refund it or transfer as CGST credit?) would pose a considerable concern. On functions side, the concerns would be how best the data could be used for tax assessment; compliance verification & enforcement; audit; risk profiling, management and designing tools to capture the audit screening schedule through risk based selection and analysis and realigning audit and enforcement models accordingly and innovation should be core of it. Further, human resources deployment and capacity building is another important factor in GST implementation. Capacity building by training both State and Central GST officers as well as other stake holders need to be one of high priority area.

3. CBEC Business Re-engineering Pathways

Before we start drawing the business re-engineering map, it will be worthwhile to quickly look into strengths of the CBEC. These would include:

- CBEC boasts a large dependable pool of domain experts in In-direct Tax area
- Accounting practice based Audit mechanism in Central Excise and Service Tax
- Well laid, proven and effective intelligence gathering infrastructure
- Risk based analysis & intervention (RMS) experience
- Robust IT infrastructure, capacities and online service delivery experience, which includes design and delivery of transaction based real time systems like ICES and ACES
- The world class state of art Capacity Building and Training infrastructure under NACEN, its RTIs and the Centre of Excellence.
- Pan-India presence of formations under CBEC coupled with expertise, resources, infrastructure

The CBEC, indeed, need to focus and harp on its inherent strengths to be relevant and fostering umbrella organisation under GST and some of the pathways in this direction can be as under:

3.1 Realignment of DG System and Data Management:

The GST Network (GSTN), a pass-through IT enabler, is expected to facilitate registrations, , tax payments, filing of returns, grant of refunds (for exports and unutilised credits) and movement of goods by providing online information input at each check post eliminating the cumbersome procedure of entry permits/ way bills. The GST Network (GSTN) is expected to be a single point *front end* for services to various GST stakeholders. However, the respective GST administrations would need to have their own IT systems to manage the pass through data received from GSTN at the *back end* for compliance verification and enforcement. As of now more than 16 States have assigned the role to GSTN for their back-end process systems as well, while CBEC and remaining States are likely to have their own back end process systems.

A call need to be taken whether existing ACES system to be modified or a new system from scratch is created to arrive at Central GST system. Whatever be the choice in overall context of available resources and operating limitation, the focus should be on harping our organizational expertise of successful IT implementation history and expertise to deliver the most efficient IT

platform for GST process deliveries including audits and refunds.

A uniform GSTN procedure being desirable, CBEC can re-align DG Systems and Data Management in respect of Central GST system design and delivery in such a manner that any other back-end system (GSTN offered OR State owned) is benchmarked against the Central GST system (of CBEC) for standards, quality and deliveries as far as back end processes are concerned. A further bold initiative can be to *compete* with GSTN by offering back end services for GST to states on cafeteria model.

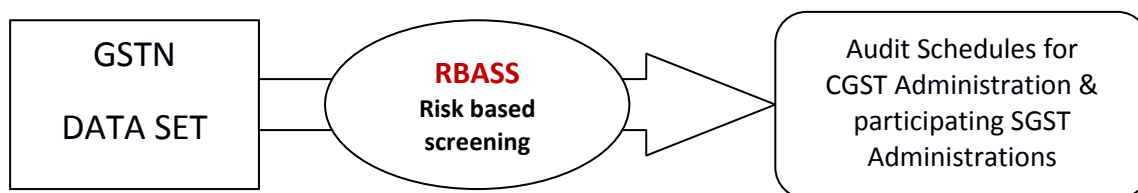
3.2 IGST – The Central Control on GST Credit Chain

The scope of IGST Model is that Centre would levy IGST, on interstate trade and imports to India, which would be CGST plus SGST on all inter-State transactions of taxable goods and services and transfer the credit of IGST used in payment of SGST to the importing State under a clearing house mechanism. Since IGST will be on ‘supply of goods’, IGST will be payable on stock transfers, branch transfers and even when goods are dispatched inter-state for job work and return, where off sets will be through the credit chain. In such a scenario, place of supply rules will play a crucial role in allocation of revenues to be negotiated and settled. This design would empower CBEC to gain an edge in GST eco-system, as on rough estimate around more than 60% transactions are likely to relate IGST and CGST falling in domain of central administration. This position need to be harped on for creating a fostering leader’s role for CBEC under GST.

3.3 Risk Based Audit Screening (RBAS)

For an efficient revenue system to be in place, the Risk profiling parameter design and selection is most desirable to ‘catch the big fish’ and to optimise compliance and enforcement functions. This is very important as the size of base and number of assesses will increase manifolds under GST to be managed within limited resources and capacities of GST administrations. Another, point of worry expressed by many stakeholders is about fear of *double audit jeopardy* in dual GST model. Thus, the bare minimum must have is - a Centralised GSTN data driven Audit Selection System based on Risk Profiling and Management. The CBEC having significant experience in successfully implementing Risk Management Systems (RMS) can not only develop such a system but can also offer the states the *Risk Based Audit Screening Services*

(RBASS) out of this system to help avoid double audit selections and creating a co-ordinated operating environment, encouraging compliance and stakeholder facilitation.



The conceptual design here banks on the fact that every CGST data set has a corresponding SGST or IGST-SGST data pair with a common taxpayer base at large and a risk based audit schedule generated at random, in terms of selection rules, can thus eliminate duplications. Therefore, besides creating audit schedule for CGST, it can further generate unique schedules for participating states. Advantage of such a screening system, besides avoidance of duplicity, would include best use of limited resources and manpower with GST administrations, greater reach of audit, more efficient compliance enforcement and revenue recovery.

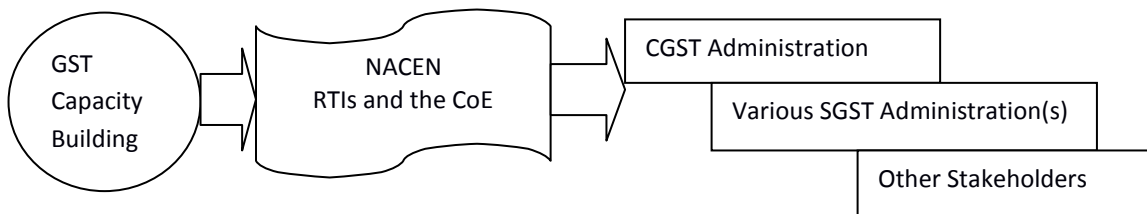
3.4 NACEN as leader in GST training

National Academy of Customs Excise & Narcotics or NACEN is not only the apex institute of Government of India for capacity building in the field of indirect taxation but also Regional Training Centre (RTC) for Asia Pacific of World Customs Organisation (WCO) and collaboration centre for United Nations Environment Program (UNEP) United Nations Office on Drugs & Crime (UNODC). The Government of India has further entrusted NACEN the role of knowledge exchange, experience sharing and training with various countries of the world.

Over the years, NACEN has been successfully conducting profession training of the officers of Indian Revenue Service (Customs & Central Excise) besides imparting in-service training to the officers of Government of India across several departments in the field of Customs, Central Excise, Service Tax, Audit and enforcement, Drug Laws, Money laundering, Weapons of Mass Destruction, Fake Indian Currency Notes, Ozone Depleting substances and like. It has also initiated training program in GST area.

NACEN, with state of art infrastructure spread over 12 Regional Institutes (RTI) across the states in the country, has the capability of capacity building in a uniform fashion. Such a setup can

certainly be utilized for capacity building for GST implementation at both Centre and State levels. If we earnestly examine, there is no institution other than NACEN in the country equipped so well to take such a challenging task, which is probably as equally important as robust IT system for successful dual GST rollout, yet out of due focus so far. As GST will have two components i.e. a state and national the corresponding tax administrators at both levels will have to work in a coordinated manner based on trust and information/ data symmetries.



To elaborate further, in case of general administration, LBSNAA caters to the initial foundation and mid-career trainings of IAS officers at national level and once posted in their respective states, they further undergo training in their respective State Administrative Academy. However, there remain various coordination issues with respect to uniform training deliveries among these state academies and moreover LBSNAA also does not act as the Nodal academy for these state academies. As opposed to this, the NACEN (with headquarters at Faridabad acting as nodal body) and its RTIs along with its Centre for Excellence in New Delhi are well gelled and coordinated training delivery system having uniform knowledge delivery modules for all levels i.e. senior, middle and basic management and operative levels along with domain expertise backed by more than three decades of experience in capacity building and evaluation through national and international interfaces.

In the above backdrop, when the GST is about to be rolled out, NACEN can emerge as the leader for training the officers who will handle GST at central and state levels. Successfully grabbing this opportunity will not only make CBEC the leader in GST capacity building throughout the country but also showcase the capability of uniform, efficient and effective training deliveries besides developing trust based rapport with various State GST administrations.

To begin with NACEN should immediately take initiative by way of inviting senior IAS/ Senior Management level officers involved in VAT administration in various states, or otherwise, for training in GST area. The lectures/ modules should be well crafted and standardized and even

enabled for online delivery. Once this is done, NACEN can effectively use Information Technology for further dissemination of information by way of Video Lectures, E-books, video conferencing etc. to train thousands of officers and stake holders at various levels thus augmenting GST transition awareness throughout the country in shortest possible time.

For this, the infrastructure of NACEN would need to be improved so that various RTI's are connected through WAN facilitating real time delivery of lecture or training module from one centre to all other centres of NACEN or otherwise at designated state centres. Once this initiative is taken up by NACEN, then states may start requesting NACEN to partner for their GST capacity building requirements in same manner as they are seeking GSTN to be partner in back end GST system. Hence, this is a notable area of opportunities under GST for CBEC.

3.5 Audit and Enforcement mechanism

Due to adoption of Dual GST model, there exists a possibility that the taxpayers are subjected to multiple audits under different tax authorities at different levels. It seems that the audit of a taxpayer would fall before central authority for CGST / IGST and state authority for SGST as of now. This will force the taxpayer to double-jeopardy and escalated compliance costs. Hence, a considered uniform approach for dispute resolution needs to be instituted in GST regime. Few of the options are discussed further:

3.5.1 The status quo approach

If status quo i.e. independent jurisdictions of states and centre for audit & enforcement are considered, the rules of the audit and enforcement in terms of how, where, who, when etc. should be clearly laid in harmonised GST legislation. Provisions in law must be then made to avoid a possible overlap between the two tax administrations. Otherwise, the intelligence based inquests running independently would not only create conflicting interest and goals between the different government tax authorities but would also subject the taxpayer to greater harassment coupled with higher transaction and compliance costs. Therefore, it would be worthwhile to ensure that if one agency had started audit/ enforcement action, other agency should only seek outcome information and not duplicate audit or enforcement efforts. The key in such a set up would be earnest information sharing between multiple authorities, which in itself would be a challenge. Possibly, if such intelligence and information sharing can also be integrated and coordinated developing specific GSTN module, it may be helpful to some extent.

3.5.2 Threshold Approach

On the basis of per employee revenue collection of Rs. 39.98 crore (based on year 2008-09) the Central board of Customs and Excise (CBEC) is found more 10 to 20 times more efficient than the state tax administrations (Praveen Kishore, 2012). In such a scenario the organisational capacities would also differ. Therefore, one option is to consider France like system, where the National Directorate of Verification looks into transactions above 300 million Francs and all transactions below this limit are verified by Regional Directorates (Purohit, 2010). In such case, States may be given the power to audit and investigate (for both CGST and SGST) up to a prescribed turnover limit (say Rs. 10 crore or 10 times the composition threshold) and beyond this limit the Centre may conduct audits and investigations. The findings can be shared between the governments to initiate independent action as per respective laws. In this kind of transaction threshold limit based Audit scheme the taxpayer is subjected to single audit agency (an incentive), until found guilty when he may need to answer both authorities separately (a disincentive for non-compliance). However, states may object the preposition and perceive it as Central supremacy and intrusion to their fiscal autonomy.

3.5.3 Joint Audit and Enforcement mechanism

The other, and perhaps better, option in Indian federal context may be a '*Joint Audit and Enforcement model*', wherein both Centre and State GST tax administrations participate in a joint setup using central agency infrastructure. The CBEC has recently (2014) created 'Audit Commissionerates' under cadre restructuring and capacity building exercise. These can be remodelled as the 'Nodal Single Window Joint Agency for Audit and Enforcement' under GST.

In proposed dual GST under federal setup of India, where a taxpayer exhausted under multiple interfaces can turn non-compliant, such joint mechanism may perhaps prove as an effective compliance promoting tool. These Independent Joint Audit and Enforcement Offices, drawing officers from both central and state GST tax administrations on fix tenor deputation may be called 'Regional GST Audit and Enforcement Offices'. These units, headed by a Joint Secretary level officer from the professional IRS pool, should be kept independent of executive field functions of respective tax administrations. The officers from both CGST and SGST being on board, the statutory and jurisdictional conflicts would generally be avoided and the taxpayer will

face only one (joint) interface.

While, the executive wing of respective tax administrations may look after routine registration, tax payment, return filing, input credit and refund settlements, the Joint Audit and Enforcement Office role should be limited to audit and intelligence based investigations relating to non-compliance for both CGST and SGST and their findings, communicated to respective field jurisdictions, should culminate in formal adjudication and realisation of tax demands, interest and penalties by the respective statutory executive field offices. The whole process can be managed through a specific GSTN module having interfaces for the joint audit and enforcement office, the jurisdictional executive field offices and the taxpayer in question, as illustrated:

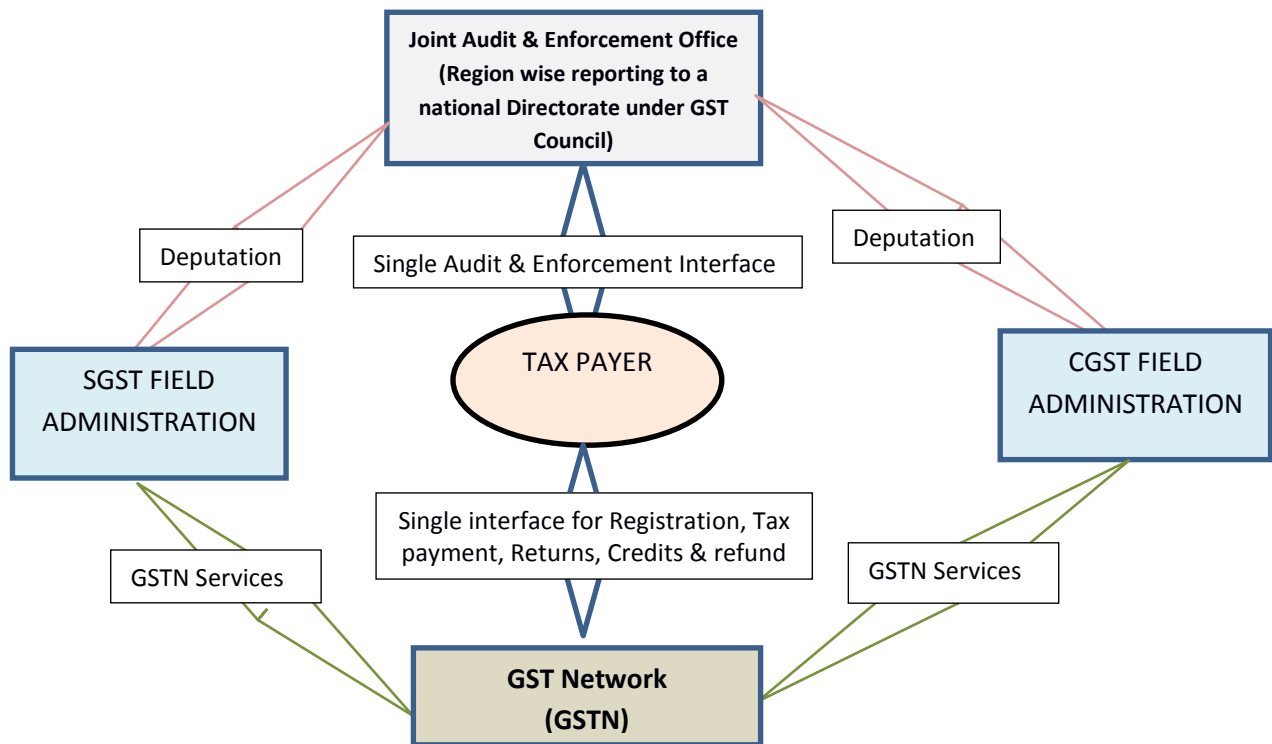


Illustration: The Integration points under Joint Audit and Enforcement Model

The organisational structure of this set up can be built as a Directorate at national level under GST Council, represented by both the centre and states.

3.6 Dispute resolution

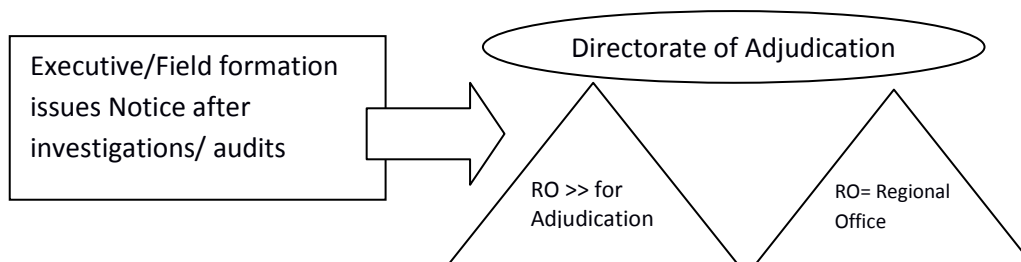
Two types of disputes are likely to arise, first between States and the Centre and second between the taxpayers and GST tax administrations at central and state levels. While in first Case

modalities are to be decided by GST Council, it is the second domain where CBEC has potential to showcase lead initiatives. Undoubtedly, certain degree of harmonisation and uniformity is essential for reduced lingering litigation and saving the taxpayer from double jeopardy in GST regime. There are two areas related to this – first, the original adjudication stage under respective GST authorities and secondly the appellate mechanism consisting of 1st appeal agency and Tribunals, the 2nd appeal forum.

3.6.1 Directorate of Adjudication

In dual GST system, first stage of original adjudication would be vested in Central GST i.e. CBEC and State GST administrations, who will be passing original orders under their respective statutes. However, every CGST or SGST issue under adjudication would automatically and essentially invoke the other component. The issues thus arise that an order of CGST administration will invoke SGST demand (and visa-versa) and how consistency and uniformity of orders with respect to common issues can be ensured. Still another concern would be the time bound disposal of old baggage (i.e. the old cases of central excise and service tax) post GST implementation. Also, the transfer of existing CENVAT credit to CGST account and its modalities would be still another area of concern

CBEC can take a lead position in this aspect by creating an institutional setup which can be a model for other GST administrations as well. The idea of a *Adjudication Directorate* (may be with its Regional offices across geographic jurisdictions) may sound worthy here, which is solely responsible to adjudicate the Notices issued by the executive field formations with respect to CGST and old Central Excise and Service Tax cases.



This system will have advantage of a fair examination of charges against taxpayer by another neutral trial authority which is other than the investigating one. It will also result in faster adjudication in more consistent manner for common and create a separate vertical for quasi-

judicial trails bringing in more transparent and efficient system. Such units headed by Commissioner level officers may be model for state administrations for creating similar institutional arrangements.

3.6.2 Integration at first and second appeal levels

There is a general consensus about integration of appeals at 2nd appeal level i.e. the Tribunal. However, keeping the 1st Appeal level (which is first opportunity for any aggrieved party) not integrated brings in the fear of prolonged and lingering litigations, given the multitude of GST administrations and thus orders passed, until resolved at Tribunal level. As against this if an initiative is taken by the Centre to offer an integrated 1st appeal level in GST a significant number of litigation could be reduced, which would otherwise add up at Tribunals level.

The CBEC presently has an institutional arrangement of Office of the Commissioner (Appeals), which is fairly independent of its executive wing in functions and operations, even though it depends on CBEC formations for infrastructural requirements. These offices can be remodelled for creation of a *common Ex-cadre Commissioner (Appeals) office* under GST for 1st appeal stage, which is though managed and funded by centre is independent of CGST or SGST administrations in respect of functional and operative areas with capacities evolved out of officers on term based deputations from both sides i.e. CGST and SGST administrations. Such an institutional arrangement can prove as a great milestone in facilitating the taxpayers, streamlining the appellate mechanism towards efficiency, consistency and uniformity in legal interpretation of GST law.

The above arrangement, along with merger of the State and Central Tribunals as *National Customs and GST Tribunal (NCGSTT)* at 2nd appeal stage and utilising the additional capacity to fast track disposals, will certainly help in reducing the litigations before higher appellate forums i.e. the Tribunals and High Courts.

3.7 CLMS - a central repository of all litigations

Presently a large number of litigations are pending before various judicial/ quasi-judicial authorities and huge amount of revenue locked up in these cases. In times to come, the central GST administration would have to deal with its old baggage of cases (of previous Central Excise and Service Tax era) as well as larger number of fresh cases under broad based GST. Only an IT

based solution to monitor the pending litigation can help in systematic disposal in a time bound manner with the help of updated information thus reducing information asymmetry, which is most of time is the greatest limitation. Such a system in form of a centralised registry database can be called as *Central Litigation Monitoring System (CLMS)*. The basic idea behind CLMS is to create a central repository of all litigations to enhance the efficiency of CBEC in dealing and timely response to the pending litigation. The designated officers of department should be able to enter, update, search and view this central repository. Once the GST is implemented the services of this repository function can be extended to willing and participating State GST administrations thus creating National GST litigation Repository or CLMS, which will keep the GST administrations alerted, aware and updated with respect to the ongoing tax disputes, trends, disposals and outcomes. This repository can also have a module for audit schedules and audit findings as well.

3.8 GST Tourist Refund

India must come up with a full proof GST refund mechanism for the inbound foreign tourists to provide them with an experience, which would be enriching and worth revisiting. This would not only go a long way in building up the image of Indian Customs and GST, but would also give immense confidence to the implementation of GST as a larger reforms measure. Any good GST implementing country has a well laid out process and procedure for providing an opportunity to each visitor/tourist an opportunity to claim and obtain refund on the purchases made in the country during their stay in the country. Be it Australia, New Zealand, South Korea, Singapore and even Malaysia, which is the latest entrant to the list of elusive countries to implement GST/VAT. The process of GST Tourist Refund can be as illustrated below:



Thus, the process of filing and claiming of refund of taxes paid in the purchase of any goods and services in the country to which any non-resident tourist visits and avail of the service. The only requirement for putting in place such a system of refunds is to have an IT system which captures the details of the purchase and passport details of the non-resident tourist at point of sale (PoS) and calculates the GST amount to be refunded at the last point exit from the country. The second important ingredient is the trade, which has to raise and issue tax-paid invoice without fail to the

each non-resident tourist on demand, a barcoded e-invoice enabling ‘GST Refund’(similar to e-TRS advice in Singapore) which can be electronically authenticated along with passport at a refund kiosk at the port of exit for grant of due GST refund. This may be one small but effective step in creating goodwill and confidence on the implementation of GST in India, and to begin with the refund of CGST amount can be piloted and later scaled up to include SGST as well.

3.8 Administrative Structure and Service Cadre

Under dual GST model proposed, creating harmonised synergies among a varied set of administrations (Central and State GST departments) in itself is a big challenge. It is noteworthy that the second Administrative Reform Commission had expressed need for functional specialization of different branches of ‘services,’ advocating ‘domain’ specialization. Further, the Tax Administration Reform Commission (TARC, 2014) has recommended for abolition of the post of Secretary (Revenue) and merging of the two boards, CBDT and CBEC, to form Central Board of Direct and Indirect Taxes (CBDIT).

In this backdrop of new reform thinking, the possibility of instituting of an integrated *All India GST or Revenue Service* based on state cadre principle to create a senior management pool with domain expertise in tax matters gains currency and can generate the desired synergies and efficiencies in GST administration to have a consistent and uniform organisational setup based on domain expertise across the country. Such an All India cadre based service can be structured under the Union and State Finance Ministries, in the same way as is under Ministries of Home for Indian Police Service (IPS) and Ministries of Forest for Indian Forest Service (IFS). Such integration will imbibe professional work culture and result in increased administrative efficiency to manage the GST in a diligent and professional way. The state to centre deputation cadre officers can handle the remaining central functions including Customs and apex taxation policy areas, while existing state tax administration setup would get appropriately ingested with in such a service structure.

4. Recommendations

The indirect tax reform by implementing modern GST is inevitable and overdue in Indian context. The journey of implementing GST may be arduous and long, yet the mission can be accomplished if questions on administrative efficiency, cost effective revenue collections, enforcement, audit and compliance costs etc. are addressed well beforehand. The inherent strengths, capacities, infrastructure and in-house expertise should enable us to develop a GST system at central level under CBEC which should be reliable model for others to follow. The major recommendations out of discussions above in this context are highlighted below:

- I. CBEC should focus on its inherent strengths out of large dependable pool of domain experts in In-direct Tax area, accounting practice based audit mechanism in Central Excise and Service Tax, proven and effective intelligence gathering infrastructure, Risk based analysis & intervention (RMS) experience, Robust IT infrastructure and infrastructure for capacity building and training.
- II. Development of a qualitative back end process IT system for Central GST against which the systems offered by GSTN or employed by states can be benchmarked.
- III. GST training and Capacity Building lead role for Central and State GST administrations and other stakeholders through NACEN, its RTIs and the CoE, across the country.
- IV. The CBEC having significant experience in successfully implementing Risk Management Systems (RMS) can not only develop a centralised GSTN data driven Audit Selection System based on Risk Profiling but can also offer the states the Risk Based Audit Screening Services (RBASS) to help avoid double audit selections and creating a co-ordinated operating environment, encouraging compliance and stakeholder facilitation.
- V. Common independent joint audit and enforcement agency drawing capacities from both central and state GST administrations which operate under a National Directorate under GSTC, to subject the taxpayer with single authority for audit and enforcement instead of multiple exposures by different authorities.
- VI. Analysing the options for uniform institutional framework for dispute resolution mechanism and creating appellate level integration at 1st appeal level (instead 2nd appeal stage integration at Tribunal level envisaged so far) based on independent ex-cadre Commissioner (Appeals) office, having bench comprising of one commissioner from

CGST and SGST side and having region/ state wise jurisdiction, to hear appeals arising out of both SGST and CGST orders.

- VII. An electronic system to provide GST refund to foreign tourists, involving Point of Sales and refund kiosks at exit ports.
- VIII. Creating a searchable central database registry for information sharing among CGST and participating SGST administrations about audit schedules, case status and findings where each office can enter or update data and be informed so that efforts are not duplicated and larger base is covered for audit scrutiny thus employing resources more efficiently at each level.
- IX. Aspiring to create an All India State Cadre based GST or Integrated Revenue Service.

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