

## **Transition to Goods and Services Tax ('GST') regime**

India is moving towards GST regime, which would substantially transform the current Indirect Tax landscape in India.

GST is the biggest tax reform in the country since Independence and as you would be aware Government has made significant development in last few months which demonstrates the commitment to roll out GST with effect from 1<sup>st</sup> July 2017.

GST would bring about a radical change from the existing tax regime and it would change the way businesses are carried out today. GST will have an impact across business functions such as finance, IT, supply chain, accounting etc. Hence, it is important to analyze the impact of GST on all the business functions in order to be GST ready on the go-live date.

Hence, in order ensure that you're geared up for the aforesaid changes under GST, we have compiled the FAQ's outlining key aspects / action points relevant for your GST preparedness, prior to the go-live date –

### **Basic concepts of GST**

#### **1. What is Goods and Services Tax (GST)? Who is required to charge GST?**

GST is a comprehensive destination based 'consumption tax' levied on the supply of all goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff.

Any person making taxable supplies of goods and services would be required to charge Central GST ('CGST') & State GST ('SGST') on intra State supplies and Integrated GST ('IGST') on inter State supplies.

#### **2. Which of the existing taxes are proposed to be subsumed under GST?**

GST would replace several taxes levied by the Centre as well as States. These include –

- i. Taxes currently levied and collected by the Centre:
  - a. Central Excise duty
  - b. Duties of Excise (Medicinal and Toilet Preparations)
  - c. Additional Duties of Excise (Goods of Special Importance)
  - d. Additional Duties of Excise (Textiles and Textile Products)
  - e. Additional Duties of Customs (commonly known as CVD)
  - f. Special Additional Duty of Customs (SAD)
  - g. Service Tax
  - h. Central Surcharges and Cesses so far as they relate to supply of goods and services
- ii. State taxes that would be subsumed under the GST are:

- a. Value Added Tax ('VAT')
- b. Central Sales Tax ('CST')
- c. Luxury Tax
- d. Entry Tax
- e. Entertainment and Amusement Tax (except when levied by the local bodies)
- f. Taxes on advertisements
- g. Purchase Tax
- h. Taxes on lotteries, betting and gambling
- i. State Surcharges and Cesses so far as they relate to supply of goods and services

### **3. How will the goods and services be classified under GST regime?**

Harmonised System of Nomenclature ('HSN') code shall be used for classifying the goods under the GST regime. Services will be classified as per the Services Accounting Code (SAC).

### **4. What is the meaning of 'Goods' under GST?**

'Goods' have been defined to mean every kind of movable property other than money and securities but specifically include **actionable claim**.

### **5. What is the meaning of 'Services' under GST?**

'Services' have been defined to mean anything other than goods, money and securities. The definition also specifically includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

### **6. What commodities / products are proposed to be kept outside the purview of GST?**

As of now, alcoholic liquor for human consumption has been kept outside the purview of GST. Additionally, Petroleum Products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel, even though included under the GST regime, the same would be made taxable with effect from such date as the Government may notify based on the recommendations of the GST Council.

Till the time the said petroleum products are made taxable under the GST regime, the indirect taxes applicable under the current regime will continue to be applicable on the same.

## **Are you ready for the change?**

### **A. Registration under GST**

#### **7. Are you required to obtain registration under GST?**

Every person is required to obtain registration in the State(s) from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds INR 20 lakhs.

- However, the threshold is INR 10 lakhs for special category states (i.e. Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, Uttarakhand).

#### **8. Have you enrolled under GST?**

As a step towards GST implementation, the Government had rolled out GST migration process w.e.f. 8 November 2016 to give effect to the enrolment process. All existing taxpayers currently registered under any State or Central laws like Value Added Tax Act ('VAT'), Central Excise Act, Service Tax, Entry Tax, Luxury Tax, Entertainment Tax (except levied by the local bodies) are required to enroll under GST.

Please note that the window for GST migration is open till 15 June 2017. Accordingly, if you are not already enrolled under GST, please use this additional window provided by the Government to get yourself registered.

#### **9. In case you have offices / branches in various States, with the same PAN, can you operate with a single Registration?**

No. every person is required to obtain registration in all the States from where the goods / services have been supplied.

Also, existing taxpayers seeking enrolment under the GST need to apply on the GST Portal. Enrolment under the GST is common for both CGST and the SGST. There will be common registration (State wise) for CGST, SGST and IGST.

#### **10. Will you be required to obtain registration even though your aggregate turnover in less than INR 20 Lakhs?**

In case you are engaged in any of the operations / transactions outlined below, you shall be required to be registered compulsorily irrespective of the threshold limit:

- making any inter-State taxable supply;
- required to pay tax under reverse charge mechanism;
- required to deduct tax;
- making taxable supply of goods or services or both on behalf of another taxable persons whether as an agent or otherwise;
- Input Service Distribution;
- supplying goods or services or both through electronic commerce operator
- where you are an Electronic commerce operator;

- supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person.

*This aspect is very critical from a buyer's business continuity perspective. Further, in case of procurement of goods or services from an unregistered supplier of goods and / or services, an additional burden has been placed on the buyer wherein the buyer is required to discharge the GST liability, raise a tax invoice and a payment voucher. In order to reduce the above additional burden, we would prefer to deal with the registered suppliers.*

*Also once registered, request you to provide your provisional GSTIN (for each State from where the goods are supplied to us so that we can update the same in our vendor master.*

## **B. Tax Invoice, Debit and Credit Notes**

### **11. When should a tax invoice be issued by a supplier?**

The tax invoice for supply of taxable services is required to be issued before or after the provision of service but within a period of thirty days from the date of provision of service.

### **12. Is there any manner specified for issuance of invoices?**

In case of supply of services, the invoice shall be prepared in duplicate as follows:

- the original copy being marked as ORIGINAL FOR RECIPIENT;
- the duplicate copy being marked as DUPLICATE FOR SUPPLIER.

### **13. What are the contents of a tax invoice?**

A tax invoice to be issued by a registered taxable person should contain the following details:

- name, address and GSTIN of the supplier;
- a consecutive serial number not exceeding 16 characters containing only alphabets and/or numerals, unique for a financial year;
- date of its issue;
- name, address and GSTIN/ Unique ID Number, if registered, of the recipient;
- name and address of the recipient and the address of delivery, along with the name of State and its code no. if such recipient is unregistered and where the taxable value of supply is INR 50 thousand or more;
- HSN code of goods or Accounting Code of services;
- description of goods or services;
- quantity in case of goods and unit or Unique Quantity Code thereof;
- total value of goods or services;
- taxable value of goods or services taking into account discount or abatement, if any;
- rate of tax (CGST, SGST or IGST);
- amount of tax charged in respect of taxable goods or services (CGST, SGST or IGST);

- place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- place of delivery where the same is different from the place of supply;
- whether the tax is payable on reverse charge;
- the word “Revised Invoice” or “Supplementary Invoice”, as the case may be, indicated prominently, where applicable along with the date and invoice number of the original invoice; and
- signature or digital signature of the supplier or his authorized representative.

*Issuance of invoice containing all the information mentioned above is very critical as the same would impact input credit eligibility. Input credit on purchases could be denied and a penalty of Rs. 10,000 could be levied due to non-issuance of an invoice or for not capturing the complete information on an invoice (i.e. invoice not containing requisite information).*

*Further, all information including full name and address of the Company as per the Purchase Order issued by us should be mentioned on the invoices issued by you.*

*You are requested to make suitable changes to your IT systems so that the invoices issued contain the requisite information, as prescribed under the GST law.*

### **C. GST Returns**

#### **14. What are the various types of GST returns that you are required to file what are and corresponding due dates?**

<b>Return</b>	<b>Particulars</b>	<b>Due Date</b>
GSTR-1	Furnishing details pertaining to Outward supplies made by taxpayer (other than compounding taxpayer and ISD)	10th of the next month
GSTR-1A (auto generated)	Details of outward supplies as added, corrected or deleted by the recipient	
GSTR-2	Furnishing details pertaining to Inward supplies received by a taxpayer (other than a compounding taxpayer and ISD)	15th of the next month
GSTR-2A (auto generated)	Details of inward supplies made available to the recipient on the basis of FORM GSTR-1 furnished by the supplier	
GSTR-3	Monthly return after finalization of outward supplies and inward supplies (other than compounding taxpayer and ISD)	20th of the next month
GSTR-6	Return to be furnished by Input Service Distributor	15th of the next month

GSTR-7	Return to be furnished by persons liable to deduct tax at source	10th of next month
GSTR-8	Return to be furnished by persons liable to collect tax at source	10th the next month
GSTR-9	Annual Return	31st December of subsequent year

**15. What are the details to be disclosed while you furnish the details of outward supply in GSTR-1?**

The details of all the invoices, debit notes, credit notes and revised / supplementary invoices issued for making outward supplies during a particular month are required to be disclosed in GSTR-1.

**16. On verification of GSTR-2A, if a recipient finds that certain procurements made by him are not reflected; can he add the details of such inward supplies? What are the action points for you in this regard?**

If a recipient finds that certain inward supplies made to him during the tax period are not reflected in the Form GSTR-2A (generated automatically on GSTN), the recipient can manually add the details of such supplies in Form GSTR-2.

Such additions will be communicated to the supplier in Form GSTR-1A. The supplier shall be required to either accept or reject such modifications before 17th of the succeeding period, upon which, Form GSTR-1 filed by the supplier would stand amended.

*Due to the introduction of matching concept under GST, the availability of credit for a recipient would be based on the timely compliances done by the supplier. We request you adhere to the timelines while filing returns under GST and also upload invoice level details on the GSTN so that credit is available to us. Also the payment of taxes should be made on time. In case of non-compliances in this regard, we will hold back the payment towards taxes till the acknowledgement of filing of return and payment of taxes has been provided to us.*

*Further, request you to identify at least one person who will co-ordinate with us in order to finalize the changes made by us in GSTR 2A.*

*You are also requested to make suitable changes to your IT systems so that the transaction level data (including HSN, SAC etc.) are available for uploading on GSTN.*

**D. GST compliance rating**

## **17. What is GST compliance rating?**

The government shall assign a GST compliance rating score to every registered person based on his record of compliance with the provisions of this Act.

*In case you are non-compliant, the same would impact your compliance rating and repeated offences may lead to credit denial and blacklisting as well.*

*We would not be in a position to deal with blacklisted suppliers as the reputation of the Company would be at stake. Accordingly, you are expected to maintain a good compliance rating.*

## **E. Levy of GST and key concepts**

### **18. What is the taxable event under GST?**

GST would be applicable on **supply** of goods and services

Supply includes all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal, for a consideration by any person in the course or furtherance of business. It also includes Import of services.

### **19. When does the liability to pay tax on supply of services arise?**

The liability to pay tax on supply of services shall arise at the time of supply of services, which is determined as follows:

#### **(a) Where the invoice is issued within thirty days from the date of provision of service**

- Date of issue of invoice; or
- Date on which the supplier receives the payment

Whichever is earlier

#### **(b) Where the invoice is not issued within thirty days from the date of provision of service**

- Date of provision of service; or
- Date on which the supplier receives the payment

Whichever is earlier

### **20. When does the liability to pay tax on supply of services arise under reverse charge mechanism?**

The liability to pay tax on supply of services under reverse charge mechanism shall arise at the time of supply of services, which is earlier of:

- i. Date of payment as per the books of accounts or date on which payment is debited in the bank account, whichever is earlier
- ii. Date immediately following 60 days from the date of invoice
- iii. Date of entry in the books of account of the recipient, if the same could not be determined as per i. and 11. above

**21. Where the supplier of service is an associated enterprise located outside India, when does the liability to pay tax under reverse charge arise?**

Where the associated enterprises are located outside India, the liability to pay tax under reverse charge shall arise at the time of supply of services, which is earlier of:

- i. Date of entry in the books of accounts of the recipient
- ii. Date of payment

**22. Can the supply made by you be construed as ‘continuous supply of services’?**

‘Continuous supply of services’ has been defined to mean a supply of services which is provided continuously or on a recurrent basis. Further, the same shall be **under a contract**, for a period exceeding three months with periodic payment obligations.

**23. Can the supply made by you be construed as ‘Composite Supply’ and how is it going to be taxed under GST?**

‘Composite supply’ means any supply comprising of two or more goods or services or any combination thereof, which are naturally bundled in the ordinary course of business and one of the components is the principle supply (i.e. main supply) and other supplies are ancillary to such main supply.

This composite supply shall be treated as supply of principal supply and the same shall be taxable at the rate applicable to such principle supply.

**24. Can the supply made by you be construed as ‘Mixed Supply’ and how is it going to be taxed under GST?**

A supply involving two or more supplies of goods or services or any combination thereof where such supply is made for a single price (i.e. not naturally bundled or there is no one principal supply).

Mixed supply shall be treated as supply of a particular product which attracts highest rate of GST and the same shall be taxable at said rate.

**25. What is the relevance of ‘Place of supply’ under GST?**



Place of supply play a vital role for determination exact nature of transaction (i.e. interstate, intrastate, export etc.) and levy of CGST & SGST or IGST thereof

## 26. How to determine the place of supply for supply of services under GST?

The place of supply of services shall be determined as under:

- Where the service recipient is a registered person - the location of such recipient
- Where the service recipient is any person other than a registered person:
  - Location of the recipient (where the address on record exists); and
  - Location of supplier of services in any other cases

Specific provisions have also been prescribed for various other specific services:

Nature of services	Place of Provision
Services in relation to an immovable property	- Location where the immovable property is situated
Restaurant and catering services, personal grooming, fitness, beauty treatment, health services	- Location where the services are actually performed
Training or performance appraisal services	- Location of service recipient (where the recipient is a registered person) - location where the services are actually performed, in any other case
<b>Admission</b> to cultural, artistic, sporting, scientific, educational, entertainment event or amusement park	- Place where the event / park is actually held / located
<b>Organisation</b> of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events  OR  Services ancillary to the aforementioned events or assigning sponsorship to such events	- Location of service recipient (where the recipient is a registered person) - Place where the event is actually held (where the recipient is a person other than registered person)  - Where the event is held outside India - Location of service recipient
Transportation of goods service	- Location of service recipient (where the recipient is a registered person) - Location at which goods are handed over for transportation (where the recipient is a person other than registered person)
Passenger transportation service	- Location of service recipient (where the recipient is a registered person) - Place where the passenger starts the journey (where the recipient is a person other than registered person)
Services on board a conveyance	- Location of the first scheduled point of

	departure of that conveyance
Telecommunication services including data transfer, broadcasting, cable and direct to home television services provided by way of fixed tele-communication line, leased circuits, internet leased circuit, cable or dish antenna	- Location where these are installed
Mobile connection for telecommunication and internet services provided on post-paid basis	- Location of billing address of recipient on record of the supplier
Mobile connection for telecommunication, internet service and direct to home television services provided on pre-payment basis through a voucher or any other means	- Through a selling agent or re-seller or a distributor of subscriber identity module card or re-charge voucher - Address of selling agent or re-seller or distributor as per the record of the supplier - by any person to the final subscriber - Location where such prepayment is received or such vouchers are sold
Banking and other financial services	- Location of the recipient of services on the records of the supplier of service
Insurance services	- Location of service recipient (where the recipient is a registered person) - Location of recipient of services on the records of supplier (where the recipient is a person other than registered person)

*It would be relevant to determine the nature and place of supply in order to assess the applicability of GST on various transactions undertaken with your customers.*

*Also, please note that the input tax credit availed by the customers would be denied in case the supplier does not deposit the tax. Hence it would be important to determine the time of supply so that taxes could be computed and paid at the end of the tax period before the due date.*

## **F. Valuation / Discounts**

### **27. What is the value on which GST is required to be discharged?**

Typically, the value of supply of services shall be the transaction value, where the supplier and recipient are not related.

However, separate valuation rules have been introduced for valuation of supplies between related parties and certain specified supplies

### **28. Are discounts liable to GST**

Discounts can be classified into two:

- Discount given before or at the time of Supply – Such discount shall not be included in the value of supply provided the same is recorded on the face of invoice
- Post sale discount – Shall not be included in the value of supply only if such discount is provided in terms of an agreement entered between the parties prior to or at the time of supply and the same can be specifically linked to the relevant invoices.

*You are requested to mention the discounts on the face of an invoice in order to avoid any litigation in future. Also relevant to specifically mention such discounts in our agreement.*

## **G. Input Tax Credit**

### **29. Whether there are any restrictions imposed on availing Input tax credit on inward supplies?**

A registered taxable person shall not be entitled to avail input tax credit in respect of the GST paid on following input services:

- motor vehicles and other conveyances
- food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery
- membership of a club, health and fitness centre
- rent-a-cab, life insurance and health insurance
- travel benefits extended to employees on vacation such as leave or home travel concession;
- works contract services for construction of an immovable property
- goods or services or both received for construction of an immovable property on his own account
- used for personal consumption
- goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample

### **30. When can a registered taxable person avail credit of the taxes paid on inward supplies of goods or services?**

A registered taxable person shall be entitled to avail credit of any input tax in respect of any supply of goods of services or both, provided all the four conditions are satisfied:

- He is in possession of a tax invoice or debit note issued by a supplier registered under GST or such other tax paying documents as may be prescribed;
- He has received the goods or services or both.
- The tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- he has furnished the return as prescribed under the GST Act

**31. Can a registered taxable person avail credit of the taxes paid on inward supplies of goods or services, where the supplier of goods or services has not paid the taxes?**

A registered taxable person shall be entitled to avail credit of any input tax in respect of any supply of goods or services or both, provided the tax charged in respect of such supply has been actually paid to Government.

**Therefore, where the supplier of such goods or services has not deposited the taxes with the Government, the recipient would not be able to avail the credit of such taxes.**

*Apart from the services mentioned above, a registered person shall be eligible to avail input tax credit of all the input services, inputs, capital goods etc. used for furtherance of his business. Also, taxes paid on various goods and services which become cost today (as the same are not creditable – such as CST) would be available as credit under GST. This would lead to additional savings from all the suppliers. Accordingly, the cost of procurement would reduce due to removal of cascading effect*

**H. Anti-profiteering provision**

**32. Whether you are required to pass on the benefits accruing on account of lower rates of taxes or availability of input tax credits under GST?**

The GST law clearly provides that the supplier of goods or services should pass on the benefits accruing on account of following, to their recipients by way of proportionate reduction in the selling price.

- reduction in rate of tax on supply of goods or services or
- due to the benefits of additional input tax credits under GST,

*We will be reaching out to you in order to obtain details of your procurements and assist you to analyse the impact of such savings which would accrue to your business, so that we can collectively comply with this provision under the GST regime.*

**I. Tax Deduction at Source (TDS)**

**33. Are we required to deduct Tax on payment to be made to you?**

Tax deduction at source ('TDS') is a mechanism wherein certain recipients of goods or services (as may be notified by the Government) would be required to deduct tax, out of the amount payable to the supplier and deposit the same to the account of the Government within the time prescribed. Such deduction would be made at a percentage of value of supply.

However, such deduction is required only in respect of intra State transactions.

**34. What is the rate of TDS and the threshold limit for tax deduction at source?**

The rate of TDS prescribed under GST law published in the public domain is 1% of the value of supply. However, such tax would only be deducted in respect of contracts where the value (excluding taxes) exceeds INR 2.5 Lakhs.

**35. Can you avail credit of such tax deducted at source?**

Tax deducted at source would be available as credit to you in your electronic cash ledger

*As per the statutory requirement, we shall deduct and deposit TDS / TCS, wherever applicable, in order to be compliant under the GST law.*