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Review of New Indian Goods & Services Tax Law in Pakistan's Perspective

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A Model for Indirect Taxation

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Pakistan, India, Canada and Australia are those four countries, being Federation under their respective constitutions, which impose indirect taxes in principle on Value Added Tax mode on goods and services. Furthermore, there is a distribution of right of taxation between the Federation and the Provinces especially in the case of indirect taxation. For example, in Pakistan, the right of indirect taxes on goods lies with the Federation whereas the rights of indirect taxes on services are with the Provinces. In India, situation operates in reverse direction and goods fall within the ambit of Provinces whereas services fall within the purview of the Federation. Application of indirect taxation on VAT mode and separate / concurrent right of taxation between the Federation and the Provinces poses peculiar problems in proper and effective implementation of VAT. All these countries have adopted their own mechanism to tackle this issue. Nevertheless, as is apparent, for socio-economic and political reasons, it is not an easy task. All these countries faced such problem in respective era and a perfect system is still under evolution.

Pakistan's experience in this field is not unreasonable. In overall context, things are settling down and gestational issues are expected to be settled soon. In a larger context, as described above, this is not an unusual situation.

India has been struggling to implement VAT for over six to seven years and there had been non-consensus on major issues. In fact, Pakistan is ahead of India in the implementation of across the board VAT which we started effectively in 1996. In India, after a long discussion, a new law has been introduced to overcome the problems which may arise if there is a desire to completely enforce the VAT based indirect taxation, without hampering the Provincial rights and their share of collection.

The system envisaged, as briefly described below, may not be ideal; however, it provides a good work-paper for situations being faced in Pakistan. In the following paragraphs, salient features of the newly introduced Goods and Services Tax have been discussed together with an implied comparison with problems and laws as prevalent in Pakistan.

Comments in the following paragraphs are for information purposes and do not represent concurrence of provisions introduce; however, there are many innovative and practical solutions for the common issues involved in this sphere of taxation.

1) Constitutional Position

1.1) Under the present constitutional framework in India till so far, Central Government was levying / collecting sales tax on services, and States (Provinces) were collecting sales tax on goods. In Pakistan, the position is the same except that the order is different as identified above.

1.2) Broad Framework

Under the new GST system for which constitutional amendments have been approved by the Parliament, a special mechanism has been designed for GST. That system is effectively 'Three Integrated Tiered' as the Goods or services as identified in the law will be subject to simultaneous application of these three levies.

(a) Supply of goods / services within state (Province)	(i)	State GST **(SGST)** will be collected by State Government (input of SGST allowed against output of SGST).
	(ii)	Central GST **(CGST)** will also be collected by Central Government (input of CGST allowed against output of CGST).
	(iii)	Both (i) and (ii) will be concurrent levies, under the central and state GST laws.
(b) Supply of goods / services outside state (Province), including imports into India	(i)	Integrated GST **(IGST)** will apply, which will be collected by Central Government. Against the output of IGST, input suffered (if any) of SGST and CGST will be allowed. State will pay to Centre the input of SGST claimed against output IGST.
	(ii)	Goods / services (after suffering IGST) when further sold / supplied in the receiving state will be subject to SGST and CGST (as stated above).
	(iii)	Against SGST, 50% of IGST will be allowed as input, and against CGST, remaining 50% of IGST will be allowed as input.

This effectively means that supply (sales of goods or rendering of services) within the state will be taxed by the State and Centre separately at the rates to be specified.

Supply outside the State shall be subject to an additional tax called IGST against which input tax will be adjustable against a particular mechanism.

Practical operational analysis of the proposed system reveals that there be an input - output based SGST and CGST for transactions within the State (Province). In case of an inter-state transaction, IGST will become applicable, being in principle a tax on import into that state. On transaction within the importing state, importing state's SGST and CGST will apply with a corresponding input allowance of IGST paid when the goods were imported.

This effectively means that differentiation between goods and services has been done away with for the levy of taxes and a mode has been designed to compensate the right previously available.

This is a major departure from Pakistan law and present Indian law as now there has been an effective merger of right of taxation. Both Federal and Provincial Governments have acquired the concurrent right of taxation of both goods and services. This is a step in a right direction as in the modern world it is almost impossible to distinguish between goods and services and to make a case of disallowance of input tax on goods against services and vice versa.

1.3) Distribution of Taxes Collected

IGST collected by Central Government will be distributed between Centre and States, in the light of recommendation of GST council (to be formed under the Constitution). CGST will be distributed between Centre and States on the basis of rules to be framed by Parliament, for determining place and time of supply of goods / services.

In Pakistan, sales tax on goods is a major revenue earner for the Federal Government unlike India where this sum has originally been devolved to the Provinces. In Pakistan, as well as in India the rate allocation between SGST, CGST and IGST will have to be done on an economic analysis basis.

2) GST Council

GST council will be the formed under the Constitution to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits.

The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken by a majority of not less than three-fourths of the weighted votes of the members present and voting in accordance with the following principles:—

(a) the vote of the Central Government shall have a weightage of one-third of the total votes cast, and

(b) the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.

Lack of any such authority in Pakistan is the cause of major problems which are being faced in Pakistan such as disallowance of input tax.

3) Transitional Provisions

3.1) Levy of an additional tax on supply of goods, not exceeding one per cent, in the course of inter-State trade or commerce to be collected by the Government of India for a period of two years, and assigned to the States from where the supply originates (This additional tax was proposed but not approved by the Parliament).

3.2) Compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period which may extend to five years.

4) Principle of Taxation

GST is based on destination principle, and not on origin-basis. For that reason, Centre proposed to impose additional 1% tax on intra-state supplies to compensate loss to State where supply originates. (This 1% additional tax has been removed in the final amendment bill passed by the Parliament). At present, in principle and practice, both sales tax on goods and services in Pakistan are charged on 'origin' principle. In the new Indian law, tax shall be paid / collected by the supplier on supplies made from the purchaser being the place and person of destination.

5) Timelines

5.1) Constitutional amendment bill has been passed by Upper House (Rajya Sabha) on August 3, 2016 and National Assembly-Lower House (Lok Sabha) on August 8, 2016. At least half of the States will need to ratify the Constitution Amendment Bill with Two-Third majorities, before the President will give assent. It is anticipated that new GST law will be implemented across Centre and State by April 2017.

5.2) Once GST is applied, following levies will be subsumed:

Ref.	Tax	Levy by	Nature (Levied on)	Can be set-off against	Covered by GST
1	Central Excise	Centre	Manufacture	1,2	Yes
2	Services Tax	Centre	Providing Services	1,2	Yes
3	Customs	Centre	Import	-	Yes
4	CVD* under Customs	Centre	Additional Import Duty (compensating Excise)	1,2	Yes
5	SAD* under Customs	Centre	Additional Import Duty (Compensating Sales Tax)	1,2	Yes
6	CST	Centre	Inter-State Sales	-	Yes
7	VAT	Centre	Sales within a state	7	Yes

*(*CVD – CounterVailing Duty; SAD – Special Additional Duty)*

- *The GST shall subsume all the above taxes, except the Basic Customs Duty that will continue to be charged even after the introduction of GST.*
- *India shall adopt a Dual GST mode, meaning that the GST would be administered both by the Central and the State Governments.*

6) Standard Laws and Rules

6.1) As of this date, there is no agreement on rate.

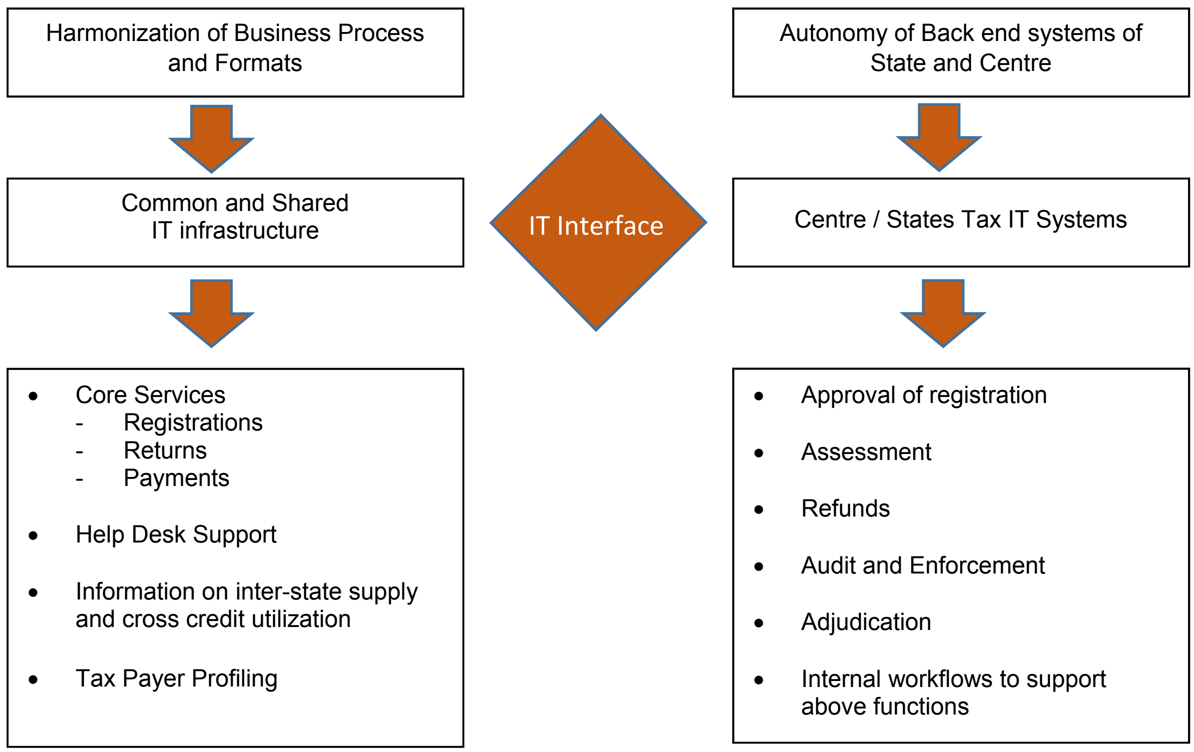
6.2) Standard GST law has already been which will be approved by Centre and States after the Constitutional Amendment.

7) Single Registration / Collection Agency

7.1) On the IT front, all stakeholders had agreed for a common Permanent Account Number (**PAN**)-based taxpayer ID, a common return, and a common challan for tax payment and therefore, a common portal providing three core services (registration, returns and payments) would ease compliance.

7.2) In India, an Empowered Group on IT Infrastructure for GST **(EG-IT)** was formed in 2010 comprising of members of the Central Board of Excise and Customs **(CBEC)**, members of the State Finance Ministers, Commissioner of State commercial tax department etc. EG-IT was formed to establish requisite IT infrastructure for facilitating roll out of proposed GST. The EG-IT made recommendations on appropriate structure and roadmap for creating a Special Purpose Vehicle **(SPV)** and recommended the feasibility of incubating the SPV in National Securities Depository Limited **(NSDL)**. Based on the endorsements of EG-IT recommendations by Empowered Committee and Union Finance Minister, NSDL was assigned a pilot project for GST implementation and developing and managing the GST Portal comprising of activities such as 'As-Is' Study of Centre and States/Union Territories, setting up of common GST Pilot Portal with core services of registration, tax payments and returns filing, verification of dealer's PAN details, preparation for dealer data migration etc.. During the pilot phase, NSDL conducted workshops for dealers as well as for officials of the Commercial Tax Department of identified States & Centre.

Snapshot of IT Strategy



7.3) Union Cabinet approved a proposal to set-up the SPV, namely GSTN, as an exclusive nodal agency for enabling IT infrastructure for smooth introduction of GST 2016. GSTN was incorporated on March 28, 2013 under Section 25 of the Companies Act, 1956 (as a non-Government, not-for-profit, private limited Company) promoted jointly by Central and State governments. GTSN has a self-sustaining revenue model that is based on levy of user charges on taxpayers and tax authorities availing its services.

7.4) GSTN has been set-up with the following objectives to act as a pass through interface for dealers:

- Integrating the common GST Portal with the existing tax administration systems of the Central/State governments and other stakeholders.
- Facilitating, implementing and setting standards for providing services to the taxpayer through common GST portal State Governments and other stake holders;
- Building efficient and convenient interfaces between with tax payers to increase tax compliance;
- Carrying out research, study best practices and provide training to the stakeholders;

7.5) GSTN has been entrusted with the responsibility to develop, operate and maintain a common GST portal which would provide a common and shared IT infrastructure between Central and State Governments, Banks, CBEC, Reserve Bank of India etc. For the purpose of simplicity for taxpayers and uniformity of tax administration, it is proposed to have digitization of all documents and automation of related processes such as common PAN-based registration; common standardized return for all taxes (with different account heads for CGST, SGST, IGST); common standardized challan for all taxes (with different account heads for CGST, SGST, IGST) etc. Each tax authority will have full flexibility in using this data for in-house automation, integration, and enforcement.

Indian model provides a food for thought for tax policy framework in the Pakistan as the constitutional issues, tax culture and problems in implementation have many similarities.