Concept Paper -

Goods & Services Tax in India & Role of Chartered Accountants

The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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&
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FOREWORD

With the advent of globalization in the early ninetees, India has made rapid economic progress. The rate of growth hovering around 8% per annum is expected to be maintained in the foreseeable future.

This rapid growth has significant consequences in the arena of direct and indirect taxes. So far as indirect taxes are concerned both the Central Government and the State Governments have power to levy different types of indirect taxes. The concept of CENVAT, intended to reduce the cascading effect on prices, has evolved over the past two and half decades. However, a uniform credit system covering both the Central and State jurisdiction is required to address the issue of cascading effect in a comprehensive manner and to achieve a seamless flow of goods and services throughout the country.

The Empowered Committee constituted by the Government of India has done a commendable job in arriving at a uniform thinking and acceptance towards this goal. There has been broad agreement among the States and the enactment of State VAT legislations is a right step in this direction. However, the issue of compensation for loss of revenue is critical.

In this emerging scenario, the Chartered Accountants are the more suited to contribute to the evolution, working and stabilization of this Goods and Services Tax edifice.

The Continuing Professional Education Committee has brought out a concept paper on Goods and Services Tax in India. The role of Chartered Accountants has also been highlighted in this publication.

I congratulate CA V. Murali, Chairman, Continuing Professional Education Committee and CA Madhukar Hiregange, Vice- Chairman, Indirect taxes Committee for this excellent initiative.

I am sure that this publication would help the members in understanding the conceptual issues in Goods and Services Tax.

CA Amarjit Chopra

President, ICAI

PREFACE

Goods and Services Tax has been in place in many countries across the world as GST as well as VAT. In India VAT was envisaged in 1978 and was legally enacted in 1986 in the form of proforma credit and in 1987 as Modvat. Later in 2002-04 Cenvat Credit scheme was put in place. In the States, VAT was first introduced in the year 2003 and has wide acceptance in 2005 with all the States joining in 2009.

The Chartered Accountants in employment as well as in practice may find that with the advent of GST probably from 1.4.2011, the impact on transactions would be substantial. The traders, manufacturers as well as service providers would be covered under the same law. The impact may be substantial as the rate is expected to be between 13- 18 % which translates into credits of about 5- 17%. This would have an impact on the price of goods sold/ stock transferred.

The GST legislation as well as the rules are expected to be in place by the year end. Believing in the maxim of - *forewarned is forearmed*, the Continuing Professional Education Committee felt that the awareness of the concepts of this Indirect Tax would be useful for Chartered Accountants who have been contemplating getting into the indirect taxes field.

This booklet examines in brief the background of GST, the present taxation structure which would in some ways be duplicated in the new law, the issues arising out of the discussion paper, the needs of the industry as well as the green field opportunity for the members at large.

I am happy to acknowledge the efforts of CA Madhukar Hiregange, Vice-Chairman, Indirect taxes Committee, CA N. R. Badrinath, CA Deepak Jain, CA Madhur Harlalka, CA Naveen Rajpurohit, CA Anand Nagaraj and CA Roopa Nayak.

I am sure that this publication will be extremely useful to the members in understanding the critical issues relating to Goods and Services tax.

CA V Murali

Chairman

Continuing Professional Education Committee

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Chapter 1

INTRODUCTION

1.1 India is at the threshold of implementing an indirect tax reform. Indian Goods and Service Tax (GST), as the new levy would get referred to in the future, is stated by many thought leaders to be by far the most radical reform which the Government of India is said to have ever implemented. Whether GST would be a re-formation of the Indian indirect tax system or not would be evident as the time unfolds.

1.2 GST, as the term refers to, is a composite tax on goods and services. Every transaction undertaken at every stage i.e. production, distribution, consumption or supply, when effected by one person to another or when effected, otherwise than by way of sale of goods or services, from one State to another, would be subjected to GST at a specified rate. The tax, commonly referred also as consumption tax, is levied on the value added at each stage. In an ideal GST, the credit of taxes paid on purchase of inputs, input services and capital goods are seamlessly allowed for set-off against the tax payable on subsequent sale of goods that are either sold as such or sold upon conversion, or in the context of services, are supplied.

1.3 The current taxation system in India is laced with complexity, multiplicity and ambiguity. The plague of cascading effect of taxes, was eradicated to some extent with the advent of Cenvat (was referred to previously as Modvat) in the year 1986 at the Central level and further with the introduction at the State level of a Value Added Tax (VAT) system for most part of the Country, in the year 2005. Considering multiple taxes levied by the Centre and the State and absence of the facility to offset the incidence of one tax with another in most cases, the effect of cascading gets built into the transaction cost.

Moreover no step has yet been taken to capture the value added chain in the distribution trade below the manufacturing level in the existing scheme of Cenvat. Further under the State level VAT scheme cenvat load by way of excise duty paid on goods is included in the value of goods to be taxed under State Vat which needs to be removed.

1.4 Inspite of lacunae the introduction of Value Added Tax at Central and State level has been considered as a major step in indirect taxes reforms in India. With VAT the problem of taxes on taxes which is called as the cascading effect of taxes is removed. Further since there is a provision to avail the credit only when duty is paid on previous purchase of inputs(in case of Central VAT) and on previous purchases in case of State VAT as set off against the liability at succeeding stages it also provides a check on the tax compliance at the central and state level. This results in better tax compliance.

1.5 No taxing system can completely eradicate the effect of cascading, but implementation of GST, will certainly minimize the effect. GST seeks to provide a simple structure to levy, collect and administer the taxes in the Country. GST also seeks to consolidate many and different taxing statutes at the Central and the State level into a comprehensive tax structure, enabling the exchequer to have a larger taxing base and consequently reducing the compliance cost of the assessee. The concurrence of all States would be must and inevitable to implement GST at a national level.

1.6 The commitment to implement GST in India was first made in Budget 2006 by the then Hon'ble Finance Minister Mr. P Chidambaram. He proposed to implement GST on April 01, 2010. Consequently, the empowered committee of State Finance Ministers and the Central Government joined hands to set the roadmap for its implementation. As a first initiative, the Empowered Committee in consultation with the Central Government, agreed to set up a Joint Working Group (JWG) to recommend a GST model for India based on the constitutional framework of India and study of GST models that have been implemented globally. The first discussion paper of the Empowered Committee of State Finance Ministers has been issued to the public on November 10, 2009. Pursuant to this, the National Council of Applied Economic Research and 13th Finance Commission have submitted their report on the GST system.

1.7 The objective of this booklet is to give an insight into GST and prepare the members of the Institute of Chartered Accountants of India to favourably apprehend the legislative reform.

Chapter 2

PRESENT TAXATION STRUCTURE

Customs duties

2.1 Customs duties are levied by the Central Government under the Customs Act, 1962. The levy gets attracted on all specified goods imported into and exported from India, which are specified in the schedule to the Customs Tariff Act. The levy on goods exported is on select list of demerit goods, while the exemption on goods imported have been given only to select list of merit goods. The effective rate of customs duties may vary from product to product and is comprised of basic customs duty, countervailing duty (a duty equivalent to the excise duty leviable on like goods manufactured in India), special additional duty (a duty levied in lieu of sales tax/ VAT) and customs cess.

2.2 The customs duties are levied on assessable value and the total customs duty ordinarily would amount to an average of 24.42% (subject to cenvat credits) on the value of goods imported and this is illustrated by an example given below:

Particulars	Rate	Value
Assessable Value		100.00
Basic Customs Duty	10.00%	10.00
Sub-total		110.00
Countervailing Duty (CVD)	10.00%	11.00
Education Cess on CVD	3.00%	0.33
Sub-total		121. 33
Customs Education Cess	2.00%	0.42
Secondary & Higher Education Cess	1.00%	0.21
Sub-total		121.96
Special Additional Duty (SAD)	4.00%	4.87
Total Value (cum duty)		126.83
Total Duty		26.83

Effective duty (after cenvat credit)		
– as a manufacturer		10.63
– as a service provider		15.50

Central Excise

2.3 Central Excise Duty is levied by the Central Government under the Central Excise Act, 1944. The levy is on all goods manufactured and produced in India, which are specified in the schedule to the Central Excise Tariff Act subject to certain exemptions. The effective rate may vary from product to product though most goods are subject to excise duty at 10% (without education cess). As manufacturer, credit is allowed on excise duty and countervailing duty paid on inputs and capital goods and the service tax paid on input service. The credit is allowed as a set-off against the excise duty payable on the output. Cross credit utilisation between credit of service tax and excise duty has been enabled w.e.f.10.9.2004.

Service tax

2.4 Service tax is levied by the Central Government under Chapter V and Chapter VA of Finance Act, 1994. Service tax is levied on specified services, referred to as taxable services, when rendered by a service provider. Service tax is presently taxed at 10% (without education cess). Ordinarily, service tax is payable by the service provider, except in specified cases. As service provider, credit is allowed on excise duty and countervailing duty paid on inputs and capital goods and the service tax paid on input service. The credit is allowed as a set-off against the service tax payable on taxable services.

VAT & CST

2.5 Value Added Tax (VAT) is levied by the State Governments on transfer of property in goods from one person to another, when such transfer is for cash, deferred payment or other valuable consideration. VAT is also payable on certain transactions that are deemed to be sale such as transfer of right to use goods, hire purchase and sale by instalments, works contract and sale of food and drink as a part of rendering of any service.

2.6 Local VAT is payable when goods are sold within the State and Central Sales Tax (CST) is payable when sale occasions the movement of goods from one State to another. The rate of VAT may vary from State to State. However, most goods are subject to local VAT at 12.50%. Notified industrial inputs and capital goods, essential IT Products, etc., suffer VAT at 4% and precious metals suffer VAT at 1%. States such as Gujarat, Assam, Kerala, Uttar Pradesh, Rajasthan and Madhya Pradesh, have increased the effective rate of VAT either by imposing additional tax or by imposing cess on the VAT payable. It may be noted that many States have increased the VAT rates from the revenue neutral rate of 12.5% to 14%/15%.

2.7 The rate of CST is 2% against the declaration in Form C and in case the said declaration is not provided by the buyer, they are subject to tax at the rate specified in the local VAT law. Form C is allowed to be issued by the buyer when he purchases the goods for use in manufacture or for resale or for use in telecommunication network or in mining or in generation or distribution of power.

2.8 Under VAT, credit is allowed on local VAT paid on purchase of inputs and certain capital goods. The credit is allowed as a set-off against the VAT payable on subsequent sale of goods. In case the VAT paid on purchase of inputs and capital goods exceeds the tax payable on sale, the dealer is allowed refund of the excess.

Chapter 3

STEPS TAKEN TOWARDS INTRODUCTION OF GST

3.1 Excise duty was reduced to 14% w.e.f.1.3.2008. Later it was further brought down to 8% w.e.f.24.2.2009. Now in Finance Act 2010 it has been further increased to 10% w.e.f. 27.2.2010.

3.2 Service tax was reduced to 10.3% from 12.36% w.e.f.24.2.2009. This rate has been continued in 2010. This is to pave the way for same rate of taxes on goods and services under GST. CST has been reduced to 2% w.e.f.1.6.2008 and is on the way out. It would be abolished and IGST would be introduced under GST regime.

3.3 VAT mechanism is already put in place by the States. The State Governments would introduce VAT at State level on services under GST when and if enabled.

Proposed GST Structure

Q.1. What is GST?

Goods & Services Tax (GST) as the name suggests, is a tax on supply of goods or services. Any person, providing or supplying goods or services will be liable to charge GST. The person supplying the goods or services is allowed to take credit for taxes paid on purchases, consequent to which, GST becomes a tax on the value added by the supplier.

Presently, certain taxes are being levied only by the Central Government and certain taxes only by the State Government. However, GST would be levied by both the Central Government and State Government on the same transaction, making GST a dual transaction tax structure. The different transaction taxes presently levied by the State and the Centre are given in the table below:

Major indirect taxes	Levied by	Rate levied (range)	Nature of tax
• VAT	State	4% to 12.50%	On purchase & sale of goods

• Entry tax/ Octroi	State	1% to 12.50%	On entry on goods into local area
• Entertainment tax	State	15% to 45%	On entertainments & events
• Luxury tax	State	15% to 30%	On specified luxuries
• Electricity duty	State	5% to 20%	On supply of electricity
• Motor vehicles tax	State	5% to 25%	On motor vehicles
• Stamp duties	State	5% to 25%	On specified transactions
• Central Excise	Centre	10%	On manufacture of goods
• Customs	Centre	24%	On import or export of goods
• Service Tax	Centre	10%	On provision of taxable services

GST seeks to subsume all or many of the above levies into a dual transaction tax i.e. a tax levied by the State and the Centre on a covered transaction at a unified rate. GST seeks to increase the base by consolidating different transaction taxes into a single unified levy. Further the innovative concept of IGST(Integrated Goods and Services Tax) has been devised to tackle the problem of inter-state transactions.

Q.2. How does GST work?

Under GST, every specified transaction (may be referred to as 'covered transaction') would be subject to tax.

Local supply

In case the supply of goods or services is done locally i.e. the place of consumption rules provide that local GST needs to be applied for the transaction, then the supplier would charge dual GST i.e. SGST and CGST at specified rates on the supply. This is illustrated with the help of the following example:

Basic value charged for supply of goods or services	10,000
Add: CGST @ 8%*	800

Add: SGST @ 8%*	800
Total price charged for local supply of goods or services	11,600

Note: In the above illustration, the rate of CGST and SGST is assumed to be 8% each

The CGST & SGST charged on the customer for supply of goods or services will be remitted by the seller into the appropriate account of the State/ Central Government.

Interstate supply

In case the supply of goods or services is done interstate i.e. the place of consumption rules provide that interstate GST (or integrated GST) needs to be applied for the transaction, then the supplier would charge IGST at specified rates on the supply. This is illustrated with the help of the following example:

Basic value charged for supply of goods or services	10,000
Add: IGST @ 16%*	1,600
Total price charged for interstate supply of goods or services	11,600

Note: In the above illustration, the rate of IGST is assumed to be 16% in all.

The IGST charged on the customer for supply of goods or services will be remitted by the seller into the appropriate account of the Central Government. The inter-state seller would pay IGST on value addition after adjusting available credit of IGST, CGST and SGST on his purchases. The exporting state would transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer would claim the credit of IGST while discharging his output tax liability in his own state. The Centre would transfer to the importing state the credit of IGST that is used in payment of SGST.

Exports

In case the supply of goods or services are exported out of India i.e. the place of consumption rules provide that regard the transaction as 'exported', then the transaction would be zero rate. In other words, the supplier will be allowed to export the goods or services without charging any tax. This is illustrated with the help of the following example:

Basic value charged for supply of goods or services	10,000
Add: GST @ 0%	Nil
Total price charged for export of goods or services	10,000

Input credit

The supplier of goods or services will be allowed credit of GST paid on purchases for set-off against the GST payable on sales. The credit scheme is explained in Q.18 & Q.19 given below. Accordingly, the GST paid by the supplier would be net of eligible input credit.

Q.3. How is GST different from the current system?

In the current system, there is plethora of taxes, while GST seeks to subsume all of them into a single legislation. Further, in the current system, the supplier is restricted on taking credit of the taxes so paid against the output tax payable by him. GST seeks to eliminate/ reduce the effect of cascading of tax by providing seamless credit through the entire supply chain.

The current scenario would be different in the context of manufacturer, trader and service provider. GST will allow seamless flow of credit eliminating or reducing the effect of cascading and seeks to do away with plethora of taxes in the supply chain.

Q.4. What are the aims in introduction of GST?

The principal objectives to be achieved by introduction of GST are as follows

- Procedural simplification for registering and filing of returns.
- Reduced record keeping.
- Improved tax administration.
- Single registration and identification for assessee both under central and state GST.
- Improved compliance by tax payers.
- Reduction in unethical practices.
- Improved legal redress system.
- Electronic filing of statutory forms and payments.

Q.5. What is the salient feature of GST?

The salient features of GST are given below:

- The basic principle would be that GST would be a consumption based levy. Destination principle would be applicable in normal course. Exceptions in service are bound to be there wherein other criterion such as performance or location maybe set out.
- India would implement a dual GST with the tax structure and powers split between the State and the Centre.
- GST would subsume all major indirect taxes levied by the Central Government i.e. central excise, customs and service tax and majority of the taxes levied by the State Government i.e. VAT, luxury tax, entertainment tax, etc. In this regard, tax on petroleum products and alcohol are intended to be kept either outside or tax additionally under GST.
- There would be multiple rates for goods but a single rate for services. HSN would form the basis of product classification for both CGST and SGST.
- GST would have a 4 rate structure with standard rate, concessional rate, special rate for bullion & jewellery and exempted/ nil rated. It is not clear whether services and goods will have the same rate or be subjected to tax at different rates. Further, the Government is yet to specify the rate of taxes proposed for each of these categories.
- GST will be levied on supply of goods and services and the supplier will be allowed credit for the GST paid on purchases. The credit would be seamless except that the credit of CGST paid will not be allowed for set-off against SGST payable and vice versa.
- If there is any excess credit of un-utilisable SGST or CGST it may not be refundable except in case of exports and supplies to SEZ.
- Local supplies would be subject to Central GST (CGST) and State GST (SGST) at specified rates, while interstate supplies would be subject to integrated or interstate GST (IGST). Export of goods and services would be zero rated.

- Both the Central Government and State Government will have the authority and control over the assessee. Accordingly, the assessee dealer would be required to pay GST into the specified account of the State/ Centre and file periodic returns separately with the State/ Central Government.

Q.6. What is Dual GST and why is it required?

Dual GST signifies that GST will be levied by both, the Central Government and the State, on supply of goods or services. Under the Constitution, presently the taxing powers are presently split between the State and the Centre. In case of certain transactions, the power to tax is vested with the Centre and while in certain others, the power is vested with the State. Under GST, the power to tax on supply of all goods and services will be vested in the hands of both, the State and the Centre. In certain cases, such as the interstate transactions, the power to tax will be vested with the Central Government, while the revenue will in some appropriate manner, get distributed to the States. Considering the dual taxation power to tax transactions under GST, the structure is referred to as Dual GST.

Considering the basic framework of the constitution and keeping its structure intact, Dual GST appears to be implementable solution for India scenario.

Q.7. Why would GST be required at the State Level?

The GST would be justifiable at the State level for the following reasons:

- Additional power to states to levy tax on services.
- System of setoff relief including setting off the cascading burden of cenvat credit and service tax at state level.
- Subsuming of several taxes in GST including VAT and luxury tax.
- Removal of CST.

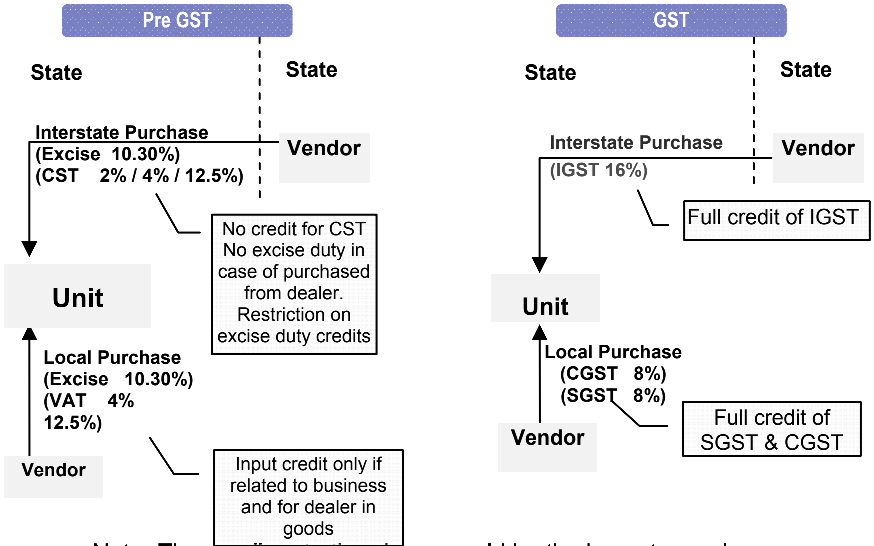
Q.8. How would imports be taxed under GST?

In the current scenario, imports are subject to basic customs duty, countervailing duty, customs cess and special additional duty. In the GST regime, imports would be subject to basic customs duty, CGST and SGST. This is illustrated in the table given below:

Pre-GST		GST	
Basic customs duty	10.00%	Basic customs duty	10.00%
Countervailing duty	8.24%	CGST (assumed rate)	8.00%
Customs cess	3.00%	SGST (assumed rate)	8.00%
Special additional duty	4.00%		
Total duty (Pre GST)	**24.42%**	**Total duty (GST)**	**27.60%**

Q.9. What would be the impact on purchase of goods under GST?

In the current scenario, purchase of goods would ordinarily be subject to VAT/ CST and in case the goods are purchased from a manufacturer, the purchase will also subject to excise duty. In the GST regime, interstate purchases would be subject to IGST and local purchases would be subject to CGST and SGST. This is illustrated in the table given below:

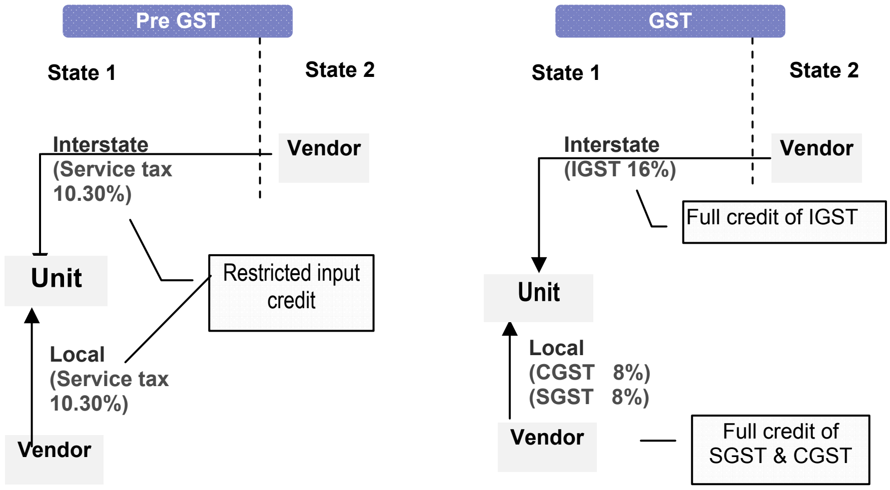


Note: The corollary to the above would be the impact on sales.

Q.10. What would be the impact on procurement of services under GST?

In the current scenario, procurement of taxable services would be subject to service tax. Considering that service tax is levied by the Central Government, the tax would be the same, whether procured locally or interstate. However, in the GST regime, services procured from outside the State would be subject to IGST and services procured from within the

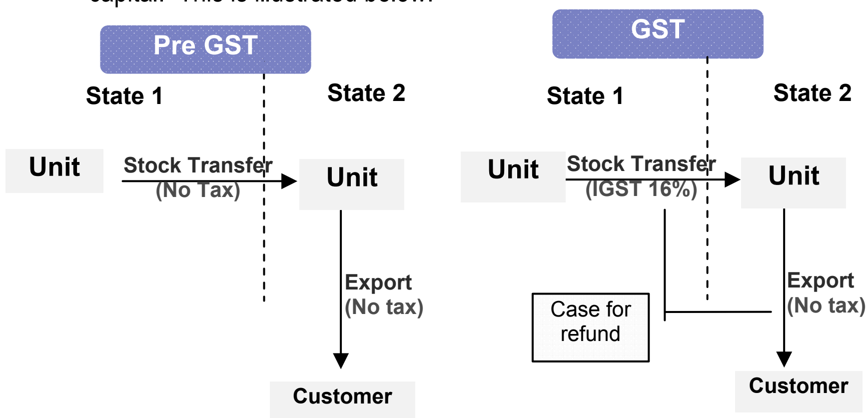
State, would be subject to CGST and SGST. This is illustrated in the table given below:



Note: The corollary to the above would be the impact on rendering of services.

Q.11. How would stock transfers be treated under GST?

In the current scenario, stock of goods or services is not subject to VAT/ CST or service tax. However, in the GST regime, stock transfers would become taxable. In case subsequent to stock transfer, the goods are exported out of India, this would lead to a case of blocking of working capital. This is illustrated below:



Q.12. How would exports be treated under GST?

Exports would be regarded as zero rated i.e. export of goods or services would be taxed at nil or zero rate. In this regard, the exporter will be entitled to avail input tax credit of the taxes paid on purchase of goods used in relation to the said export and the exporter would be allowed to use the credit so availed for set-off against the tax payable on other transactions. In such cases, if the input credit exceeds the tax payable, the exporter will be entitled to claim refund of the excess input credit.

Q.13. Which are the indirect taxes which would continue under GST?

The following indirect taxes would continue under GST:

Particulars	Levied by
Basic customs duty (component of customs duty)	Centre
Taxes other than stamp duties on transactions in stock exchanges	Centre
Rates of stamp duty in respect of bills of exchange, cheques, etc.	Centre
Taxes on lands and buildings	State
Taxes on mineral rights	State
Duty of excise on alcoholic liquors, opium, Indian hemp, etc.,	State
Taxes on the consumption or sale of electricity	State
Taxes on goods and passengers carried by road or on inland waterways	State
Tax on vehicles (subject to entry 35 of List III)	State
Tolls	State
Taxes on professions, trades, callings and employments	State
Stamp duty in respect of documents other than those specified in List I	State
Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty	Both, Centre and State

Q.14. Which are the taxes to be subsumed into GST?

The following indirect taxes would be subsumed under GST:

Particulars	Presently levied by
CVD & SAD (component of customs duties)	Centre
Duty of excise on manufacture	Centre
Taxes when sale or purchase takes place in the course of inter-State trade	Centre
Taxes on consignments that take place in the course of inter-State trade	Centre
Service tax	Centre
Taxes on the sale or purchase of goods (subject to entry 92A of List I)	State
Taxes on the entry of goods into a local area for consumption, use or sale therein (other than that in lieu of octroi).	State
Taxes on luxuries, entertainments, amusements, betting and gambling	State

Q.15. Which are the goods and services proposed to be kept out of GST?

- The taxes on alcoholic beverages and certain petroleum products such as crude, motor spirit including aviation turbine fuel and high speed diesel, have been kept outside the ambit of GST. Sales tax/Vat could continue to be levied on alcoholic beverages as per existing practices. Excise duty that is levied thereon by states may also not be affected.

- As regards tobacco products, the discussion paper recommends that such products would suffer GST with the facility to take input tax credit and be also subjected to excise duty without the benefit of input tax credit.

- The discussion paper mentions that though majority of the States consider that purchase tax should be subsumed, certain States feel that substantial revenue is generated and in the absence of continuing compensation, the tax be kept outside GST. Accordingly, the Discussion Paper has kept the inclusion of purchase tax in GST in abeyance until discussion on the matter with the Central Government.

- The discussion paper mentions that deliberations are still on for inclusion or exclusion of natural gas from the purview of GST.

Q.16. What would be the transaction base for levy of GST?

The white paper is silent on the transaction base. It is expected that GST will be levied on the transaction value i.e. price actually paid or payable for supply of goods and services. The GST for local supplies will be split into SGST and CGST. In this regard, SGST and CGST will be levied on the same base, which is illustrated below:

Basic value charged for supply of goods or services	10,000
Add: CGST @ 8%*	800
Add: SGST @ 8%*	800
Total price charged for local supply of goods or services	11,600

Q.17. What is the rate structure proposed in GST?

The discussion paper mentions that the empowered committee has decided to adopt the following SGST rate structure for taxing goods and services:

- Exempted goods : The current list under the State VAT law
- Special rate : Precious metals
- Concessional rate : Necessities and goods of basic importance
- Standard rate : For all other goods
- Specified rate : Services

Further, it recommends that CGST rates should also be framed on the same lines. The discussion paper does not specify the rate of taxes for each of these categories and does not also indicate the nature of goods or services to be covered in those categories. It has been recommended that the rate structure should be common for SGST & CGST, common for both goods and services and common across all States.

Q.18. Why should threshold exemption be provided under GST?

The threshold exemption is built into the tax regime to keep out the small traders out of tax net. The benefits of providing threshold exemptions would be as follows

- The cost of administration of small traders and service providers is much higher than the tax paid by them.
- The compliance cost in terms of filing returns, maintenance of records, procuring software for computations of tax, would also be saved for such traders and service providers.
- The proportion of benefit for such traders would also be higher as saving of even the smallest amount of tax by them could make a difference to their business due to smaller margins.

Q.19. What would the threshold exemption limit be under GST?

The discussion paper has recommend a uniform State GST threshold of INR 10 Lakhs for both goods and services and INR 150 Lakhs for Central GST threshold limit for goods. The discussion paper has not recommended the threshold amount for taxing CGST on services, though it has recommended to be kept appropriately high.

There is a discussion whether the lower limit of Rs. 10 Lakhs would be applicable to all to achieve uniformity.

Q.20. Would composition schemes continue under GST?

The discussion paper has recommended for upper ceiling of gross annual turnover of INR 50 Lakhs with a floor tax rate of 0.50% across the States for composition scheme. The scheme would also allow option for GST registration for dealers below the compounding cut-off.

Q.21. How would input tax credit on capital goods be treated under GST?

Full and immediate input credit would be allowed for tax paid both CGST and SGST on all purchases of capital goods in the year of acquisition of capital goods. Similarly any transfer of capital goods later would also attract GST liability like all other goods and services.

Q.22. How will input tax credit scheme work under GST?

The assessee dealer will be entitled to avail credit of GST paid on purchases. In this regard, the dealer may purchase the goods or services locally or interstate or as imported. The following taxes paid on purchases when made locally, interstate or imported, would be available as credit in the hands of the dealer:

Type of purchase	Local	Interstate	Imported
GST incidence on purchase (taxes payable)	CGST SGST	IGST	BCD CGST SGST
Credit entitled on (with respect to taxes paid)	CGST SGST	IGST	CGST SGST

The assessee is required to account for CGST, SGST and IGST separately.

Q.23. Will cross utilization of credits be allowed under GST?

The assessee dealer would have paid CGST, SGST or IGST on its purchases. Similarly, the assessee dealer would have liability of CGST and SGST on local sales and IGST on interstate sales. The following table provides as to how the credit of taxes paid on purchases can be utilized for taxes payable on sales:

Nature of tax paid on purchase	Can be utilized for payment of
CGST	CGST IGST
SGST	SGST IGST
IGST	CGST SGST IGST

To further elaborate with an example suppose an architect firm provides services to a software company that is located in Mumbai of Rs.10 Lakhs on which amount it charges Rs. 80000 CGST plus Rs. 80000 SGST to the basic amount of service. Then it would need to deposit the CGST component of GST into Central Government account whereas the SGST portion has to be deposited into the State Government account. Of course the amount need not be paid in cash since it can setoff this liability against the CGST or SGST that has been paid on purchase of its inputs and input services like stationary items, security services, interior decorators services etc. in doing so however it needs to be noted that for paying the CGST it would be allowed to utilise only the credit of CGST while for paying off SGST can utilise the credit of SGST alone.

Q.24. What would happen to exemptions?

The white paper recommends that upon introduction of GST, the tax incentives, exemptions, remissions, etc., would be converted into cash refund schemes. However, no specific deliberations have been provided. In this regard, the concessions that are provided to the unit may be the State or the Central Government. It would be possible that upon the introduction of GST, State Governments may restrict the refund only to SGST and Central Government may restrict to CGST. The industry would need to represent collectively to ensure that the scheme framed adequately compensates for the withdrawal of the benefit.

Q.25. Will burden of tax increase with GST?

GST seeks to consolidate different transaction taxes into a single legislation. The effective tax burden may increase for industries in certain segments, while reduce for industries in certain others. An example has been taken to illustrate the impact:

Current scenario

Let's assume that manufacturer of a tooth paste sells goods to a distributor and distributor inturn sells this to resellers. In the current scheme, the manufacturer would charge the distributor a tax of 8.24% as excise duty and 12.50% as VAT for local sales and 2% for interstate sales. The cumulative effect of tax on the distributor is 21.77% for local sales and 10.40% on interstate sales (considering VAT/ CST are levied on value inclusive of excise duty). To the dealer, while VAT is available as credit, the excise duty and CST becomes a cost. Accordingly, the effective tax cost in the hands of the dealer would be 8.24% for local purchase and 10.40% for interstate transaction.

GST scenario

Under GST, it is assumed that in the above scenario the CGST and SGST rates would be 8% each. In such a case, the manufacturer would charge the distributor CGST of 8% and SGST of 8% for local sales and 16% IGST for interstate sales. The cumulative effect of tax on the distributor is 16% for both local and interstate sales. To the dealer, full credit of GST paid on purchases would be available as a credit, therefore the effective tax cost in the hands of the dealer would be Nil for both local and interstate purchase.

From the above, it can be seen that given the context, the effective tax burden would be dependant on stage of the goods or services in the supply chain, the ability of the customer to take credit, etc.

However, on an overall basis, in case the GST rate is taxed at Revenue Neutral Rate (RNR), there would be no increase in the effective tax burden on the consumer and the exchequer would also get the same revenue under GST as it would have earned otherwise. No Government, while implementing a new legislation, would want to take a chance to implement the rate at the RNR. Ordinarily, the rate would be a percentage or two basis points higher, to offset the risk of fall in the revenue. Considering that GST will be implemented at a rate higher than the RNR, on an overall basis, the effective burden to the consumer would be higher to that extent. However though, certain sectors may gain, while certain others may lose.

Q.26. Will GST lead to increase in prices?

Under GST, input credit in the supply chain would be made seamless and cascading effect of taxes would be eliminated/ reduced. Consequently, this should result in the reduction in the price. However, the Government would want to earn the same or higher revenue from GST. Hence, to compensate its loss by providing full input tax credit, the Government would attempt to increase the effective rate of GST. Any increase in the effective rate of tax under GST would contribute to increase in the prices, as the supplier of goods and services would pass on the burden of tax to its customer. It would also be the endeavour of the Government to ensure that increase in the effective tax rate is kept marginal so as to ensure that implementation of GST does not lead to a fall in the Government revenue. Accordingly, it is perceived that GST may lead to a marginal increase in price immediately and on a long term basis, be controlled with suitable adjustments in the effective rate.

Q.27. Will GST benefit the industry and trade?

GST would be beneficial to the larger interest of industry and trade by providing a more comprehensive and wider coverage of input tax credits and by subsuming majority of the indirect taxes within its ambit.

Consequent to elimination or reduction in the cascading effect of taxes, the system would become more transparent and self-policing. Further, to the exchequer, it will widen their tax base, provide better tax compliance and lead to reduction in the tax burden on an dealers at large in the industry and trade.

Q.28. Will introduction of GST require constitutional amendment?

Presently, under the Constitution, the power to tax is split between the Centre and State. While the Centre is empowered to tax services, activity amounting to manufacture and imports, the States have the power to tax sale of goods. Under GST, the State and the Centre will have powers to levy tax on supply of both goods and services. Accordingly, it would be essential to have Constitutional amendments to empower the Centre and the State to levy tax on supply of goods and services. It would be appropriate that the constitutional amendments incorporate suitable riders that ensure harmonious structure and uniform implementation of GST.

Q.29. Who will administer GST?

India would implement dual GST. With a dual structure in place, the SGST will be administered by the State and CGST will be administered by the Centre. Consequent to the dual structure, the benefit of Large Tax Payer's Unit (LTU) and centralized registration under service tax may be lost. In this regard, it is recommended that for units having multiple jurisdictional presence, the legislature may considering continuing the LTU/ centralized registration concept for CGST.

Q.30. What would be the legal framework to impose GST?

The discussion paper mentions that Joint Working Group has been entrusted with the task of preparing draft legislation for CGST, a suitable Model Legislation for SGST and the Rules & Procedures for administration of CGST and SGST. Further, it also mentions that simultaneous steps have also been initiated for drafting of legislation for IGST and the Rules & Procedures for administering the same and suitable Rules & Procedures for dispute resolution and advance ruling.

Chapter 4

ISSUES AND CONCERNS

The framework contemplated for GST has raised certain key issues and concerns which the industry may have and those which may arise consequent to the introduction of GST. The intention to raise these issues is to cause reasonable debate on these issues and concerns and thereby provide an implementable solution.

4.1 The objective of GST is to create one common market for business and trade in India. Government should seek implementing National GST with revenue sharing or distribution between the Centre and various states. In case of dual GST, it could give rise to multiple tax rates, multiple compliances for the assessee, bureaucracy, unhealthy competition among states by giving industrial exemptions.

4.2 There should be no distinction between goods and services under the GST regime. Distinction between goods and services could lead to overlapping of taxes. The entire purpose of GST is defeated since such a differentiation would not be materially different from the current indirect tax regime prevalent in the country. Further, increasingly, lot of business transactions are executed by way of bundled contracts where there is supply of goods and rendering of services as part of the same transaction which makes the distinction between goods and services rather blurred.

4.3 Government should ensure that a basic framework of GST law be common for all States. Barring minor differences, the definitions such as goods, dealer, business, sale, turnover, total turnover, service, supply, etc., should be same for all states. This will facilitate consistent implementation of GST across the country.

4.4 The taxable event should be clearly defined. Under the current excise and service tax laws, there is considerable litigation on basic issues such as taxable event. Under the GST regime, it is very important that taxable event like "supply of goods", "rendering of services" are defined in an unambiguous manner.

4.5 The standard rate of GST is yet to be announced. It is recommended that the GST rates for both centre and state should not be more than 16%, which will sufficient to compensate the exchequer for its current tax collections.

4.6 An ideal GST should subsume most of the indirect taxes. The proposed GST model does not subsume all taxes and commodities such as petroleum products, liquor, stamp duty, property tax, toll tax, passenger tax, various commodity cesses, motor vehicle tax, airport tax, electricity duty, royalty on mining, pollution cess, petroleum products including natural gas, etc. All the above taxes should be necessarily subsumed in the GST regime to avoid multiple tax levies. One of the foundations of an effective GST implementation is that, the GST should be simple and the tax structure should be transparent without any hidden levies or duty impact.

4.7 For effective implementation of GST on an all India basis, the initial threshold exemptions, provisions relating to composition, general exemptions, rules, regulations, procedures and compliances should be consistent across all the states as far as practicable.

4.8 In the case of goods it is easier to track the inter-state movement of goods. Further, it is also comparatively easy to fix the situs of sale based on location of the goods. However, services being intangible, it will be difficult to identify the state in which the service is rendered or consumed. Therefore, it is imperative that clear and unambiguous guidelines are laid down through the Place of supply Rules for inter-state transactions.

4.9 Currently, there is substantial confusion whether services such as rent, construction, etc are services or not. Also, whether sale of immovable property attracts State VAT or no has been a matter of substantial litigation under works contracts category. Further, there are registration and stamp duties applicable on sale of immovable property. In this background, taxability of real estate transactions should be clearly spelt out and the availability of input credits should be clearly spelt out to avoid litigation.

4.10 The current export refund mechanism is subject to lot of interpretational issues. Further, there are a plethora of export refund schemes. This has resulted in huge refund backlogs for tax authorities and blockage of funds for businesses. To add to the problem, the administrative difficulties and bureaucracy has defeated the very purpose of export refund mechanism in a large number of cases. Under the GST, it is imperative to avoid multiple refund schemes, give little scope for interpretation, introduce accountability by the tax authorities for delay in grant of tax refunds. This will ensure timely disposal of refund applications.

4.11 There is considerable debate regarding the scope of input and input services under the Cenvat Credit Rules, 2004. Further, the newly introduced formula for availing credit when common inputs are used for taxable and exempt transactions is highly cumbersome and litigation prone. The anomalies in the current Cenvat Credit Rules, 2004 should be avoided by clearly defining the eligible inputs and also the quantum.

4.12 Treatment of taxation for transactions such as Works contract, lease and financial services should be clearly spelt out including for inter state transactions.

4.13 The current service tax and VAT laws do not specifically address e-commerce transactions such as online merchandising, all India telecommunication services, IT services, download of software, content services, etc. Some of these transactions could also be carried out on an all India basis or cross-border basis. Correct treatment for online transactions is a must to avoid double levy and litigation.

4.14 There should be clear provision for stock transfer for inter-state transactions including valuation mechanism.

4.15 There should be clear guidelines for utilizing the transitional credit for various indirect taxes as on the date of introduction to GST.

4.16 All States should implement GST together. In the absence of which it would create confusion in the minds of trade and industry, differences in costs, uncommon market, higher incidence of tax burden and cause general hardship to industry and trade at large.

Chapter 5

INDUSTRY WISH LIST

5.1 This industry wish list has been outlined keeping in mind the First Discussion Paper on Goods and Service Tax in India prepared by the Empowered Committee of State Finance Ministers dated 10.11.2009. At the outset, it is expected that a draft legislation both CGST, SGST and IGST with draft rules, if any and also draft amendments to the Constitution of India be prepared at the earliest and should be made open to the public/people so that the people's and other stakeholders views and suggestions is taken by the Government much before GST is implemented.

5.2 In India the most of the States have moved to VAT w.e.f.1.4.2005 and by end of March 2008, all the States have completely switched over to VAT regime. One of the justifications of moving towards VAT is to avoid "rate-war" in the commodity classification and the sales tax rate structure among various States. Though this has taken care in majority of the cases, but the "rate-war" among the States and the disparity in commodity classification among various States is still persisting even today under the VAT laws. It is therefore important that while implementing GST, this crucial aspect needs to be taken care by the Committee or other implementing agency and the "rate-war" should be completely eliminated.

5.3 The Empowered Committee has stated that dual GST model would be implemented through multiple statutes i.e. one for CGST and SGST statute for every State. It is felt that all the State Finance Ministers of the State should have a consensus on many matters such as commodity classification, rate structure, the method of granting set-off, exemption limits, etc. Whatever may be the type of GST viz., consumption based, income based or production based, the Government might adopt, but the least which the industry expects is that, irrespective of the type of GST, there must be uniformity, simplicity, harmonious and assessee friendly laws, practice and administration. In addition, even CGST and SGST Statutes should also have a similar parity in various aspects. It should be the endeavor of the Empowered Committee or other agency to ensure that not only the intra-State statutes but also between CGST and SGST there should be absolute harmony, coherence and commonality.

5.4 In its First Discussion Paper dated 10.11.2009 the Empowered Committee has stated that certain items such as Alcohol, few of the petroleum products, etc have to be kept outside GST. This is again appears to be no rationale behind excluding any of the items from GST as it would go against the whole purpose of moving towards GST as tried to be justified in paragraph-1.13 and 1.14 of the First Discussion Paper of the Empowered Committee. Further, it is also felt that all the above items should be brought under the net of GST or alternatively, even if these items are kept outside the GST net, but the Government should ensure that whatever taxes paid on these items should be allowed as credit and be set-off against. For instance, for Aviation industry, petroleum products is one of the crucial consumable and even for most of the industry including small industries, petroleum products are critical for generation of power, steam, etc. Presently, no credit is given in respect of HSD, LDO and petrol, which is one of the major factors of cascading effect of tax. There is no proper justification for not given credit of duties paid on the above items. This lacuna in the present CENVAT and State VAT system should be avoided and there is no point in continuing with same logic under the GST regime as non-giving of credit set-off on any items would lead to cascading effect of taxes, which the Government intends to avoid.

5.5 The Empowered Committee has stated that tobacco products would be subjected to GST with input tax credit but the Centre may be allowed to levy excise duty on tobacco products over and above GST without ITC. It is felt that these kinds of special treatments to certain products is unwarranted for proper GST implementation and the entire object and justification meted out by the Government to usher in GST is meaningless with these kind of special treatments to any product or service.

5.6 As on this date, there is an opinion among few of the stakeholders that stamp duty would be subsumed under GST. If the above opinion were to be true, this again appears to be no rationale. First of all, the Empowered Committee should make it clear and should also ensure that there is a proper distinction between 'movable property' and 'immovable property' besides having a clear-cut policy that transactions relating to 'immovable property' is not subjected to GST, which is basically an indirect tax on goods and services. Also, there needs to clear cut definition of "inputs", "capital goods" and "services" as these concepts are posing lot of difficulties and leading to avoidable court litigation in the present system of VAT.

5.7 In the First Discussion Paper, it is stated that GST will be levied on imports. It is felt that in the present dispensation the duty on both imports as well as on exports is levied and collected under the Customs Act, 1962 and presently the additional duty of customs (i.e. CVD) as well as Special CVD (i.e. additional duty of customs under section 3(5) of the Customs Tariff Act, 1975) are given as credit in the case of manufacturers and insofar as service provider, no credit is given of special CVD of 4%. It is felt that GST on imports should be levied and it is hoped that the present system of levy and collection of customs duties including export duties under the Customs Act, 1962 should be continued except that credit of customs duties levied shall be given both to the manufacturers as well as service providers including traders and other dealers. At any rate, the State Governments should not be given power to levy SGST on import of goods. Otherwise this would lead to total chaos.

5.8 Tax administration is one of the crucial aspects which must be kept in mind. As per the First Discussion Paper, there would be two parallel authorities for administering CGST and SGST. It is expected that the both the parallel authorities administer the law in an assessee-friendly manner and avoid any kind of controversies as it is presently being seen particularly in the area of information technology, telecommunication, etc where the both Central and State VAT authorities are divided in many aspects of taxation leading to double taxation.

Chapter 6

ROLE OF PROFESSIONALS

6.1 The role of chartered accountants in the world's economies has been very important. Financial decisions which affect nations, businesses and individuals alike are being made every second of every day - and world leaders and the general public need knowledge and guidance based on the highest technical and ethical standards.

6.2 Members of the Institute of Chartered Accountants of India provide this better than anyone. They challenge people and organisations to think - and act - differently, to provide clarity and rigour and so help sustain and create the awareness in general to the public and industry at large. Thus, in today's knowledge world, creativity is more important than ever, but most of us unwittingly employ practices that kill it. In the present world which is getting smaller with the passing of everyday, thanks to Information Technology and communication, it is imperative that we innovate or fall behind.

6.3 The role of chartered accountant is required in the management of taxation. We need to create opportunities in the existing systems rather than express difficulties. We need to grow the business rather than avoid taxes. We need to see the big picture of becoming global players rather than concentrate on reducing tax payments. We need to see the loss of business opportunities and non generation of profits (which unfortunately cannot be easily valued) rather than the taxes we save.

6.4 Today's tax consultants' focus is to be on compliance procedures which is an industry norm. It is in this scenario that it is time for us to convert ourselves into business consultants rather than being a mere tax consultant. We need to look at how to maximize profits, wealth or the intrinsic value of the business houses rather than prioritize and focus on tax reductions / tax saving measures.

6.5 Thus, the role of a tax consultant today can no longer be the traditional tax / accounting / representation / audit practices etc. Global lending institutions have been urging India to streamline their tax laws to usher in simplicity and transparency. Towards this end, the Union Government has been striving to convince States to adopt a Goods and Service Tax.

6.6 In this scenario, we would like to impress upon each one of the fellow member that the onus of proper understanding of the GST law and giving it a proper direction to a large extent lies on our fraternity.

6.7 The law should be interpreted in its widest amplitude to ensure that its objective end is met. The principle of utres magis valeat quampareat, meaning "it is better for a thing to have effect than to make it void", needs to be observed in the interpretation and construction of various provisions. Not to mention, but the tax consultants should ensure independence, objectivity, quality of work and observance of professional codes.

6.8 Chartered Accountant have a key role to play in proper implementation of GST:

1. Record Keeping – GST requires detailed record keeping and accounting. Systematic records of input credit and its proper utlisation is necessary for the success of GST. The members must be well equipped to perform such tasks;

2. Tax Advise/ Planning – In order to establish an efficient plan for purchases and sales, shifting of business / branch location from one place to another etc., a careful study of GST is required. Members are competent to analyse the impact of various alternatives and choose the most optimum method of purchases and sales in order to minimize the tax impact;

3. Departmental Audit – There will be an audit wing in department and certain percentage of dealers will be taken up for audit every year. The members can ensure proper record keeping so as to satisfy the departmental auditors and can also assist the dealers in replying the queries as raised by the departmental auditors. A pre audit on behalf of the management would provide some comfort to the entity.

4. External audit of VAT records – Under GST system, trust has been reposed on tax payers as there will be no regular assessment of all GST returns but only few returns will be scrutinized. Thus, a check on compliance becomes necessary and the GST law may prescribe mandatory audit of books of accounts by the external

auditors. The members can act as an external auditor under the GST law.

5. System audit – Initial stage of GST implementation, the members must also equipped themselves to conduct the system audit;

6. Certifications for tax credits and Special audits, if any;

7. Assisting the Government both Central and State if proper implementation of GST law across India. Here joining them for creating awareness within the fraternity as well as in general public. Conduct of training courses, seminars and works\hops would go a long way in serving the various stakeholders.

6.9 It is however important to understand that under the GST regime it is expected to check and put an end to various modes through which taxes are currently being evaded / avoided which needs no elaboration now. It is very important that all the members must address this issue and curb such practices and issues. Some of the pertinent issues involving evasion relating to GST law are:

- Incorrect usage of invoices
- Use of fake bills to counter purchases made from unregistered dealers or dealers under the composition scheme
- Inflation of purchase invoices
- Bogus bills
- Classification of goods to identify exempt vis-à-vis taxable goods
- Under pricing of goods sold

6.10 In the GST regime, we can expect more of procedural compliances of the GST law which will be outsourced to professionals. A chartered accountant who is a tax consultant is the right person who has both accounting as well as a legal background. His knowledge of the business is probably also unmatched among any professional group.

Particulars	Link
GST first discussion paper	http://finmin.nic.in/GST/Empowered%20Committee%20of%20SFM%20%20First%20Discussion%20paper.pdf
Comments of Department of Revenue on First Discussion paper of GST	http://finmin.nic.in/GST/index.html In the link click on **Comments of Department of Revenue on 1st Discussion Paper on GST**
Report of the 13th Finance Commission report - Chapter 5 related to GST	http://finmin.nic.in/TFC/Chapter5.pdf