Constitutional Amendment Bill receives unanimous approval to GST

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After several delays, the Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 was taken up for debate in the Upper House of the Indian Parliament (the Rajya Sabha) yesterday. We witnessed a detailed and interesting debate, before the Bill was unanimously passed, albeit with some key amendments.

The highlights of the various concerns and recommendations made by Members of Parliament in the course of the debate are summarised below:

- **Money Bill v. Financial Bill:** There was a demand that the GST Bill (which will be introduced after the Constitutional amendment comes into force) should be presented as a '*Financial Bill*' and not as a '*Money Bill*'. In the case of a Money Bill, the role of the Rajya Sabha is limited to making recommendations, whereas in the case of a Financial Bill, it has full powers to approve, modify or reject the Bill. However, no assurance was given by the Finance Minister in Parliament yesterday that the GST Bill would be presented as a Financial Bill.
- **Rate of tax:** A commitment was sought from the Government that the standard rate of GST would be kept at 18% with a lower band for necessities and higher band for demerit goods.
- **Exemptions:** More clarity on exemptions and subsidies were sought.
- **Dispute Resolution:** The need for a robust dispute resolution mechanism was emphasized. A separation between the executive and judicial powers was also sought.
- **Compensation to States and to local bodies:** A clear roadmap for providing compensation to states and to local municipal bodies was sought. There was a recommendation that a proper mechanism for devolution of funds to local bodies should be made, as routing them through States often led to delays.
- **Fiscal autonomy of States**: It is currently proposed that the Central Government would have veto powers in the GST Council. Concerns were expressed over this arrangement, and it was recommended that the weightage should

revised such that 3/4th of the voting power would be with the States and 1/4th with the Central Government.

- **Administrative compliance:** To bring about ease of compliance, it was suggested that taxpayers ought not to be subjected to dual scrutiny of both the Centre & State authorities.

What is interesting to note is that despite several issues and concerns raised in the course of the debate, the Bill was passed unanimously with following five amendments: (1) Removal of the provision of a 1% additional tax on inter-State trade, (2) Mandatory compensation to be provided by the Central Government for any losses to States for five years, (3) the GST council is mandated to establish a mechanism to adjudicate disputes between the Centre and the State or between the States inter se (4) A clarification that the States' share of Integrated Goods & Services Tax (IGST) will not be a part of Consolidated Fund of India, and (5) restating that Central Goods & Service Tax and Centre's share in IGST will form part of the States' devolution pool.

Next Steps

Since amendments have been made to the Constitutional Amendment Bill, the Bill will now go back to the Lower House (Lok Sabha) for its approval. The Government has already moved the amended Bill before the Lok Sabha today. Since the Bill has already been unanimously approved, an expedited approval is expected.

Thereafter, the Bill will be placed before the Legislative Assemblies of the States as and when they are in session. At least half of the States need to ratify the Bill, post which it will be put up for the assent of the President of India. Considering the political consensus on display in the Rajya Sabha yesterday, this process could proceed reasonably quickly.

Once Presidential assent is received, the GST Council with representatives from the Central Government and the States will have to be formed within 60 days. The Council has been entrusted with the task of deciding some key aspects such as rate of tax, the text of the GST bills, dispute resolution mechanisms etc. The GST Bills, as finalized by the Council will thereafter be taken up by Parliament. This is likely in the forthcoming winter session of Parliament. In parallel, the States will need to enact the State Goods & Services Tax (SGST) statutes.

Today, the Government outlined a road-map for GST targeting 1 April 2017 as the roll-out date. The focus areas of the Government are the legal framework, change management (appointment and training of officers) and roadmap for IT infrastructure, wherein the proposal is to launch the testing of software by January 2017.

The Government has further acknowledged that there are several other areas which need attention such as calculation of revenue base of Central Government & States, an acceptable rate structure, compensation to States, exemption list, threshold limit, dual control and consensus on Model GST law.

What should taxpayers do?

It is now certain that GST will be a reality and it is only a matter of time as to its implementation. Considering that the GST Bills might be taken up by Parliament in the winter session, the window available for taxpayers to identify and make representations on areas of concern is fairly narrow. Taxpayers will have to urgently analyze the impact of proposed GST law on their businesses as this could have a multi-faceted effect on product pricing, supply chain, cash flows, IT systems, operational strategies, long term contracts etc. Similarly, employees across levels will need to be trained on the day-to-day operational changes that the proposed law will entail.

It is currently proposed that the GST will come into force on 1 April 2017. Considering that the GST Bills will be taken up only in the Winter session for deliberation and discussion, this deadline is ambitious. In any event, there is always the possibility that GST could be brought into force in the course of the financial year 2017-18. Given these time frames, urgent preparation is the need of the hour.

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