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## ASSESSMENTS, DISPUTES RESOLUTION

Under the existing scheme of Indirect taxation, 'self assessment' model is followed both at Centre and State level. A manufacturer/dealer/service provider is required to deal with the Central Excise Department and/or Service Tax Department for registration, filing returns, payment of duties/taxes. For Customs purposes, an importer is required to deal with the Customs Authorities and authorities under the Foreign Trade Policy. In respect of appeals, there are Commissioner (Appeals) and the CESTAT (Tribunal). On the other hand, under the VAT/CST Legislation, a dealer is required to deal with VAT/CST Authorities of respective State(s) where the business is located, for undertaking all nature of compliances. With respect to appeals, there are the bodies of Commissioner (Appeals) and VAT Tribunal.

As we move towards a GST regime, besides tax implications and consequences, compliances including assessment, adjudication and dispute resolution will be an area for much reform and streamlining vis-a-vis the present mechanism. Even today, registration is with reference to PAN issued by the I.T. Department. It is therefore proposed that under the GST regime, each tax payer would be allotted a PAN linked tax payer identification number with a total of 13/15 digits. This would bring GST PAN-linked system in line with the prevailing PAN-based system for income tax, facilitating data exchange between various authorities, and taxpayer compliance.

In the GST regime, some aspects of administration, adjudication and appeals are:

- **Jurisdiction of Officers**

The subsuming of State level and Centre level taxes and the dual nature of GST regime will make it interesting to see how roles and functions of the Tax Authorities will be re-defined under the new regime.

- **Role of Large Taxpayer Units ('LTU')**

LTUs were setup with specific objectives. In the proposed GST regime, many inherent concerns on fungibility of credit are unlikely to remain, yet, a single window interface with Revenue Authorities will be beneficial to retain in the GST regime.

- **Multiple Registrations**

The manufacturers, service providers and traders will, now, be required to obtain registration with States as well as the Centre. Therefore, the dual system under the new regime will impact traders as it will require them to register and comply with the Central laws, as well. On the other hand, the service providers will be required to abide by the legislation and compliance requirements of the respective States.

- **Adjudication and Appellate Mechanism**

There is no clear sight of the structure of the revenue administration that will be adopted in the GST regime. Hitherto, the levies imposed by the respective Governments were enforced and collected by them, with the assistance of the respective field formations. In the GST regime, which seeks to reinforce the common economic market concept across India, it is important that a robust, efficient tax administration and dispute settlement mechanism is set up, so as to win the trust and confidence of assesseees.

It will be a marked improvement over the present administrative system if the assesseees interface with one tax administrative office, only. However, it is expected that dual compliances will be in place for CGST and SGST, though these will be in line with the model GST rules, describing the procedures and formats in respect of GST compliances.

For purposes of adjudication and assessment, undoubtedly, a singular authority which will deal with all matters of GST, whether at the level of CGST, SGST or IGST, is most desirable. This is for the reason that assesseees will henceforth be required to pay these taxes and duties in respect of a singular transaction.

Under State laws, the concept of assessments has continued, besides filing an audit report, certified by a Chartered Accountant. It is hoped that under the GST regime, the concept of risk based audit will be introduced, following international best practices and thereby dispensing with multiple audits and assessments.

The provisions for returns, registrations, adjudication and appeals are presently unclear. Clarity and certainty on all these issues will benefit trade and industry, besides minimizing tax administration costs. Businesses are exposed to various audits under the State VAT Legislations, Business Audits, and under Central legislations, audits / investigations in the form of EA-2000 Audit, CERA Audit, DRI investigation, etc. These concepts and methodologies will have to be streamlined, so as to make doing business in India easier.

Given the fact that India will see a dual levy GST, the administration function may continue to be segregated between Centre and State. It is expected that sharing of information and coordinated efforts will be adopted by the various Revenue Departments, so that there is no tax escapement, but at the same time, there is no added burden for compliance.

- **Pre-deposits in Appellate Stream**

Recently, in case of Central levies, a system of statutory pre-deposit was introduced. Some States in their VAT laws have incorporated such a concept for some time now, which are far greater in percentage terms than that adopted by the Central levies. A unified and neutral approach in respect of appeals and disputes is the need of the hour and the Government should pay heed to the concerns raised, in recent times, with respect to this model.

- **Advance Ruling & Settlement Mechanism**

Under the present laws, a mechanism to achieve clarity in the form of Advance Ruling/Determination of Disputed Questions is available, both, in Central and State enactments. A unified institution to provide Advance Rulings will be most useful in the GST regime as well, since it will bring about certainty in tax issues and reduce tax litigation. In much the same way, a settlement mechanism, which is absent in State legislations, may be considered to be introduced in the GST regime, especially in the early days of GST.

- **Pending Litigation**

In so far as pending litigation in the present regime which has arisen or may arise in the run up to GST, businesses will have to institute an efficient monitoring system to ensure such disputes are resolved favourably, as far as possible. In this regard, a Remote, Probable and Possible analysis ('RPP') will be a handy tool in the hands of businesses.

## **Conclusion**

The backbone of a successful GST will be a strong IT framework, with the aid of which one hopes that compliances will be online, easier, standardised and that there will be greater sharing of / exchange of information between the various Revenue Departments.