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Dear Professional Colleague,

9th GST Council inks breakthrough on dual control over tax payers, rollout deferred to July 1, 2017

In an attempt to try and bridge differences on the contentious issues such as administrative control over taxpayers under the Goods and Services Tax ("**GST**"), the all-powerful GST Council headed by the Hon'ble Finance Minister, Mr. Arun Jaitley met for the ninth time in a row to clear all gathered clouds over the GST and brightening its prospects of implementation soon.

With the conclusion of the 9th GST Council meet on January 16, 2017, the gist of the key takeaways from the meeting of the GST Council are as under:

- **Likely rollout of GST deferred to a "realistic timeline" of July 1, 2017:**

The GST Council deferred the target for GST roll-out to July 1, 2017 instead of previously planned April 1, 2017. The Hon'ble Finance Minister, Mr. Arun Jaitley after the GST Council meet said that *"I am trying my best (on deadline of April 1). There was a broad view that July 1 appears to be a more realistic date for the implementation."*

- **Consensus emerged on contentious issue of dual control:**

A consensus was reached that tax payers will be split between the Centre and States for the purpose of scrutiny and audit in the following manner:

- (a) The States will have the power to assess and administer 90% of the tax payers with less than Rs 1.5 crore annual turnover while the remaining would be controlled by the Centre.
- (b) For tax payers with more than Rs 1.5 crore annual turnover, the States and the Centre will control and administer them in a 50:50 ratio.

However, intelligence based enforcement power will be with both the Centre and States.

Further, the Hon'ble Finance Minister said that each assessee would be assessed only by one authority. He also said that *"You won't have to jump from authority to authority, that's the advantage of GST Once you evolve numerically a lot more will come from state to the centre, because the percentage is 50:50 in higher category and 90:10 in lower category. The computer programming would be done in a manner so that there is no discretion."*

- **Tax on economic activity in territorial waters:**

The GST Council has resolved the issue of tax on high seas. The States will be empowered to tax any economic activity in territorial waters up to 12 nautical miles. In this regard, Hon'ble Finance Minister said that, *"As far as the area of 12 nautical miles into the territorial waters is concerned, it's part of the Union government's territory but as per the convention, states*

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will be empowered to collect tax on any economic activity. This decision has been taken after very wide consultation."

- **Power to levy and collect IGST to be with the Centre but by a special provision in law, the States will also be cross empowered:**

The Centre, while iterating that the power to levy and collect the Integrated Goods and Services Tax ("IGST") will be vested with it solely, agreed to make a special provision in law by which the States will also be cross empowered.

- **Contentious issues between the conflicting States to be taken up by the Centre**

The Hon'ble Finance Minister said that in exercise of IGST, where there are contentious issues between conflicting States with regard to place of supply etc., then those assessment would take place by the Centre.

As the discussions made in the 9th GST Council meet would have an impact on the IGST Law, Compensation Law and correspondingly, on the Central Goods and Services Tax/State Goods and Services Tax Law, accordingly the Draft of IGST Law and other supporting legislations including Rules will be tabled again in the next meeting of the GST Council scheduled on February 18, 2017.

Finally, the ninth GST Council meet saw a way forward for the Centre and the States reaching consensus on sharing powers for control over tax payers under GST and it is expected that the subsequent follow up meeting on February 18, 2017 will see remaining concerns getting streamlined.

Thanks & Best Regards,

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