

“Impact of GST on Importers and Exporters”

GST is been postponed by our Hon’ble Finance Minister, however it is still a constant matter of worry for importers and exporters in Indian continent. Through this article, I try to analyze and present before you a analysis on impact of GST on our imports and exports.

IMPORT

The GST could be levied on imports only after necessary Constitutional Amendments as currently power to levy GST on imported goods is non-existent in Constitution of India. International imports should be subject to both CGST and SGST at the time of importation irrespective of whether or not the imported goods are produced domestically. The incidence of tax will follow the destination principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the CGST and SGST paid on imported goods and services.

India has also entered into a large number of free trade agreements under which it will, in general, not be possible for India to use customs duty as a means to providing protection/level playing field. Efforts are made to treat foreign goods on the same footing, as they are domestic goods. Earlier benefits of lower or no custom duties were given to importers who use such imported goods in manufacture of export goods, such benefits may not be continued in new legislature of GST and GST would continue to be same even though goods are imported for re exportation. The ‘flawless’ GST will ensure this by subjecting the imports to both CGST and SGST. This will provide a level playing field to the domestic industry and, in particular, the manufacturing sector vis-à-vis imports.

GST legislature would be drafted on destination based principle thereby:

1. SGST on Business to Business imports should be collected and remitted to the state (i.e. place of destination) in which the imports is located regardless of the fact from where the goods entered the country. However, the place of destination may be defined to mean the address of the importer on the import invoice; and
2. SGST on Business to Consumer imports should be collected and remitted to the state in which the place of residence of the person importing the goods is located regardless of the fact from where the goods entered the country.

Import taxes that would carry on

Even after introduction of GST following duties may not be subsumed under GST regime and they may continue to be levied as usual. These duties are:

1. Basic Customs Duty
2. Anti-Dumping Duty
3. Safeguard Duties

After the introduction of full and complete GST major import gaining sectors include leather and leather products; furniture and fixtures; agricultural sectors; coal and lignite; agricultural machinery; industrial machinery; other machinery; iron and steel; railway transport equipment; printing and publishing; and tobacco products. The moderate gainers include metal products; non-ferrous metals; and transport equipment other than railways. Imports are expected to decline in textiles and readymade garments; minerals other than coal, crude petroleum, gas and iron ore; and beverages.

EXPORT

GST would be structured on the destination principle; as a result, exports would be relieved of the burden of GST by zero rating. Zero-rating of exports means that when goods are exported, no VAT is charged on the goods . At the same time, VAT paid on the inputs is also refunded. So the goods exported are shorn of all taxes. The countries, which have, VAT usually resort to zero-rating of exports.

Export taxes that would carry on

Even after introduction of GST, Export duty might not be subsumed under GST regime

SEZ

GST is designed to ensure that all producers and distributors are treated as complete pass-through and exports are zero-rated, thereby no direct exemption may be allowed to the developers of, or units in, the SEZ. However, the purposes of setting up of SEZ was to encourage production of goods which are to be exported out of India, thereby even after withdrawing this direct benefit, units in SEZ would continue to enjoy exemption in respect of goods or services exported by it. Any sale by SEZ to Domestic Tariff Area (i.e. within India) would be taxable, as other goods and services are taxed in India. Present law with regard to exemption of SEZ is almost similar, only change would be that technical jargons and complexities are removed.

Foreign trade policy

Presently in India, exemption schemes are available under the Foreign Trade Policy 2009-2014 and also under the relevant central excise and customs legislation. Though, there is some discussion in the government prepared documents (with respect to GST) on exemption currently available under the excise and custom legislation. However the doom of the exemption schemes currently under the Foreign Trade Policy has not been discussed at all in these documents. It will be interesting to ascertain the continued relevance of various schemes (under the Foreign Trade Policy) under the proposed GST.

The current incentives can be classified into

- (a) Pre-export schemes (e.g. advance authorization, EPCG etc);
- (b) Post-export schemes (for example DEPB, SFIS, etc); and
- (c) Industry specific schemes (for example EOU, STP, etc.).

The incentives under these schemes are mostly by way of exemptions with parallel notifications under relevant legislations (customs and excise). It is most likely expected that no such notifications would be imported into GST legislation. Applying this logic to

the export schemes, it will not be erroneous to assume that its validity under GST may get limited to the extent of basic customs duty only.