
GOODS AND SERVICE TAX - HOW TO ORCHESTRATE GOVERNMENT AS WELL AS ASSESSES IN POST COVID EPOCH FOR ECONOMIC RESURGENCE

Vidya V Devan¹

ABSTRACT

Corona virus or (COVID-19) or SARS-CoV-2, the pandemic has changed world within a few days. It is an infectious disease caused by severe acute respiratory syndrome. It was said to be first reported in Wuhan city of China in December 2019. Within six months it had affected more than 8 million people around 188 countries and the death rates has reached about 4, 45,541. Very soon when the countries realized that only way to prevent the spread of this pandemic was to maintain distance and avoid contacts. The countries resorted to complete lockdown. But later countries realized that this disease cannot be controlled within a short span of time and if we are going for complete lockdown the economy will fall and so we must learn to live along with disease until a vaccine is invented. Slowly the strict restrictions were withdrawn and instead of that necessary regulations are followed. The impact of Covid-19 on lives has been unparalleled. The pandemic has brought most of our global economy to a standstill. India almost moving to the completion of 3 years after implementation of GST, still facing some of the problems to be sorted out for the smooth running of the system is now troubled with the pandemic. The Government has announced many reliefs to tackle the present problems. But there are many more to be done for the proper functioning of the indirect tax collection system so as to pave way to the economic development, safeguarding both the interest of Government as well as assesses. Here in this paper I am discussing about the problems faced by the taxpayers and the ultimate persons who bear the burden of taxation – the consumers and the measures to be taken in the future in the arena of indirect taxation.

KEYWORDS: - *Goods and Service Tax, COVID, Lockdown, Economic Development, Relief Measures*

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INTRODUCTION

At the end of December 2019, a Chinese doctor Li Wenliang warned his friends that seven patients from a local seafood market had been diagnosed with a SARS-like illness and quarantined in his hospital.² Li explained that, according to a test he had seen, the illness was due to corona virus a large family of viruses that includes severe acute respiratory syndrome (SARS) which led to 800 deaths in China and the world in 2003.³

Latter we came to know that was a new infectious respiratory disease which was very dangerous and was named by the World Health Organization as COVID-19 (corona virus disease 2019), new class of corona virus, known as SARS-CoV-2 (severe acute respiratory syndrome corona virus 2). According to the reports of World Health Organization it has affected more than 8 million people and almost 188 countries and the death raised above 4.5 lakhs, a pandemic which affected the world after second world war.

It spread around the world, posing enormous health, economic, environmental and social challenges to the entire human population. The corona virus outbreak is severely disrupting the global economy. All the nations are struggling to slow down the transmission of the disease⁴ and to control the impact of the pandemic on businesses.

CONCERNING THE PANDEMIC

The corona virus spread's mainly from person to person. This can happen between people who are in close contact with one another. Droplets that are produced when an infected person coughs or sneezes may land in the mouths or noses of people who are nearby, or possibly be inhaled into their lungs.⁵ The most risky matter about the COVID 19 is that till now no vaccine has been invented. The world is trying its best to invent one. So only thing what we can do is somehow prevent its transmission.

² *Chinese doctor who first warned about coronavirus outbreak dies*, The Economic Times, Feb 06, 2020, 11.22 PM https://economictimes.indiatimes.com/news/international/world-news/chinese-doctor-who-first-warned-about-coronavirus-outbreak-dies/articleshow/73992575.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

³ *Id*

HOW TO PREVENT THE SPREADING OF COVID 19

The following measures are recognized universally to prevent the spread of COVID-19 :-

- Avoid close contact with people who are affected by the disease or who have the symptoms or with the persons who had close contact with the patient.(Primary contacts)
- Avoid touching your eyes, nose, and mouth
- Stay home when you are sick
- Cover your cough or sneeze with a tissue, then throw the tissue in the trash.
- Wash your hands often with soap and water.⁶

To protect the nation from the clutches of the dangerous effect of corona virus the countries went for complete lockdown – a situation which we have never seen or heard in our life. In India a 14- hour voluntary public curfew on 22 March was followed by a series of regulations. Lockdown was declared by the Government from 25th March to 30th June through 5 phases.

- ▶ Phase 1 – 25th march to 14th April
- ▶ Phase 2 – 15th April to 3rd May
- ▶ Phase 3 – 4th May to 17th May
- ▶ Phase 4 – 18th May to 31st May
- ▶ Phase 5 – 1st June to 30th June.

Now we are going through the 5th phase. Movement of the people were completely prohibited Malls, shops, educational institutions, industries everything were closed. Our way of life was entirely altered. But later countries realized that this disease cannot be controlled within a short span of time and we must learn to live along with disease until a vaccine is invented. The complete lockdown will lead to the collapse of economic system. Slowly the strict restrictions were withdrawn and instead of that necessary regulations are followed.

⁶ *Id*

ECONOMIC CONDITION IN INDIA

India's growth in the fourth quarter of the fiscal year 2019- 2020 went down to 3.1% according to the Ministry of Statistics. This will perhaps be India's worst recession since independence.⁷ Supply chains have been put under stress with the lockdown restrictions. Major companies in India such as Larsen & Toubro, Bharat Forge, UltraTech Cement, Grasim Industries, Aditya Birla Group, and Tata Motors have temporarily suspended or significantly reduced operations.

Young startups have been impacted as funding has fallen.⁸ Fast-moving consumer goods companies in the country have significantly reduced operations and are focusing on essentials. Stock markets in India posted their worst loses in history on 23 March 2020.⁹ The business sector was profoundly affected by the lockdown. Apparel and footwear manufacturers in India said most of their factories shut due to the nationwide lockdown will take between three to six months to reach 30% to 50% of their capacity utilization, prolonging a recovery in the sector.¹⁰

Those selling non-essential items such as apparel, footwear, accessories and electronics have been in a bind as the shutdown of malls and markets, and curbs on manufacturing operations have severely dented business.¹¹ Another thing which made grave impact on the businessmen was that they went in to the lockdown with a lot of inventory they were preparing for the high season, April-May.¹² This crucial situation had a blow on the country's economic condition and it also adversely affected the tax collection in the country which was the main income of the government.

The major concern of the government is that they have to ensure the wellbeing of business sector and at the same time they could not compromise much on the tax collection because government is in a situation which is at its pinnacle of financial necessity for the covid treatment, preventing the spread of disease and also to ensure the safe life of the subjects.

⁷ Economic impact of the COVID-19 pandemic in India https://en.wikipedia.org/wiki/Economic_impact_of_the_COVID-19_pandemic_in_India

⁸ Young Indian startups hit as investors get cautious". *Outlook India*. IANS. 1 April 2020. Retrieved 1 April 2020.

⁹ Stock markets post worst losses in history; Sensex crashes 3,935 points amid coronavirus lockdown". *The Indian Express*. 23 March 2020. Retrieved 23 March 2020.

¹⁰ Suneera Tandon, Unsold inventory could prolong shutdown at factories, 22 Apr 2020, 11:22 PM IST <https://www.livemint.com/news/india/unsold-inventory-could-prolong-shutdown-at-factories-11587577399544.html>

¹¹ *Id*

¹² *Id*

GOODS AND SERVICE TAX

The impact of Covid-19 on lives has been unparalleled. The pandemic has brought most of our global economy to a standstill. India almost moving to the completion of 3 years after implementation of GST, still facing some of the problems to be sorted out for the smooth running of the system is now troubled with the pandemic. Goods and services tax (GST) collections fall drastically in April and May.

Central goods and services tax (CGST) collection stood at Rs 5,934 crore in April, a fall of 87 per cent compared with the Rs 46,848 crore collected in the same month last year, according to the official data.¹³ The Government at this juncture decided to announce some relief to manage the indirect tax regime to overcome the crisis of covid 19

GOVERNMENTS RELIEF MEASURES

The Central Board of Indirect Taxes and Customs immediately took actions to address the grievances of the tax payers.

By the notification on April 3rd Government issued certain relief measures.

- ▶ The registered GST taxpayers with aggregate annual turnover less than Rs 5 crore can pay taxes and file GSTR-3B due in March, April, and May by the last week of June 2020.¹⁴
- ▶ For such taxpayers, no interest, late fee, and penalty were to be charged.
- ▶ Those with annual turnover more than Rs 5 crore can pay taxes till May 5 for March without any interest cost.¹⁵
- ▶ But if it is paid after this date and by June 30, an additional 9 per cent interest rate will be levied. This interest rate is half of the current rate of 18 per cent a year.¹⁶

¹³ Indivjal Dhasmana Covid-19 crisis: Central GST collection falls 87% in April amid lockdown

Last Updated at May 31, 2020 00:56 IST https://www.business-standard.com/article/economy-policy/central-gst-collections-fell-by-87-in-april-as-lockdown-hurts-economy-120053000439_1.html

¹⁴ Circular No. 136/06/2020-GST ,CBEC-20/06/04-2020 -GST Government of India Ministry of Finance Department of Revenue Central Board of Indirect Taxes and Customs GST Policy Wing New Delhi, dated the 3rd April, 2020

¹⁵ *Id*

¹⁶ *Id*

SUPREME COURTS INITIATIVE

The Supreme Court has taken *Suo Motu* cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).¹⁷

This power is exercised under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities. Thus the time limit for filing of appeal, furnishing of return, or any other compliance under the GST Act has been extended as per the Ordinance issued.¹⁸

STATES GST DURING COVID

With GST collections drained as a result of the lockdown, and the Covid-19 pandemic burdening their responsibilities and stretching financial capacities, the condition of the States is desperate.¹⁹ The state governments are requesting for more amount to sustain during this period. They are also having outstanding GST compensations. Even during the crisis period Rajasthan Government has announced reimbursement of state GST to hotels and tour operators for a specified period²⁰.

Covid has practically hardened the business and economy of the country. There are many matters which caused grievances to the businessmen, manufacturer, wholesaler and retailer. Here I am indicating only one matter which was the direct impact of the lockdown -obsolete inventory lying in factory/stores and the perishable goods.

Obsolete inventory lying in factory/stores

Due to the unexpected declaration of lockdown almost all the manufacturers and wholesalers and retailers have to face the problem that the stocks were stuck as all of them were holding a huge amount of stock for the coming summer/ vacation season. They had to face a huge

¹⁷ *Suo Motu Writ Petition (Civil) No(S).3/2020, Sub: Cognizance For Extension Of Limitation, 23 march 2020*

¹⁸ <https://www.indialegallive.com/top-news-of-the-day/news/supreme-court-extends-limitation-period-due-difficulties-faced-lawyers-account-covid-19-virus>

¹⁹ Kabir S Ghosh, Erosion On Of Fiscal Federalism In The Times Of Covid-19, 2020 Published On May 25, 2020, <https://www.thehindubusinessline.com/opinion/erosion-of-fiscal-federalism-in-the-times-of-covid-19/article31670568.ece>

²⁰ Government Of Rajasthan Finance Department (Tax Division) Order No. F.12(46)Fd/Tax/2017-Ptn-146

loss. The government has to amicably consider their matter. Obsolete inventory is a term that refers to inventory that is at the end of its product life cycle. This inventory has not been sold or used for a long period of time and is not expected to be sold in the future.²¹ This type of inventory has to be written down and can cause large losses for a company.

Inventory may become obsolete: in the following ways.

- a) Due to continuous lying in factory /stores
- b) Certain goods like chemicals, perfumes etc. extinguished due to reactions
- c) Perishable / food products being destroyed by insects, rats etc.

The actual practice in these circumstances was according to Section 17(5) (h) of CGST Act, ITC(input tax credit) is not available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.²² And also taxpayer is required to reverse the ITC since the relevant goods have been lost /destroyed or written off.²³

If the goods are sold for offers such as “Buy 1 get 1 free” which we are often familiar of, then both goods can either be valued at 50% or 1 product at full value and the other at zero value. In the second case, it has been clarified vide Circular no. 92/11/2019- GST dated 07 March 2019 that although it seems that one item is provided free of cost, in case of offers like ‘Buy One, Get One Free’. In fact, there is no supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.

It can be treated as supplying two goods for the price of one. Hence, the treatment of the same shall depend upon whether the same is composite supply or mixed supply and the rate of tax shall be determined as per the provisions of Section 8 of the CGST Act. Generally in such cases the supply is mixed supply and there is no reversal required as consideration is charged for both the items.²⁴

²¹ ALICIA TUOVILA, Obsolete Inventory, Updated May 24, 2019, <https://www.investopedia.com/terms/o/obsoleteinventory.asp#:~:text=Obsolete%20inventory%20is%20a%20term,large%20losses%20for%20a%20company.>

²² Kapil Mahani, Sachin Jain, GST Impact on Possible Business Scenarios Due to COVID-19 and its Solutions- Part I May 14,2020 <http://gstsutra.com/experts/column?sid=673>

²³ *Id*

²⁴ *Id*

If the goods are sold for scrap value whatever be the price then in such situation there is no need for the reversal of credit as some consideration has been attributed towards the same and such case may not be covered under the circumstances which are mentioned in section 17(5) (h) of the CGST Act like goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples, for the reversal of the credit.²⁵

Suggestion to overcome the crisis of covid period is that: Suitable relief should be provided by Govt. wherein credit in such cases can be allowed partially or can be allowed on a % basis depending upon the quantum of such goods contained in the final product or sales turnover.²⁶

MEASURES TAKEN BY OTHER COUNTRIES IN THE INDIRECT TAX REGIME

All the countries immediately resorted to the relief measures in the area of tax payment by extending the date of filing the return, by reducing the percentage of tax and by withdrawing the fine or penal interest in case of delay for safeguarding the interests of their assesses and for enabling the tax payers to overcome the crisis without much hardship.

CANADA

On 20th May - the federal government has provided for a delay on all GST/HST payments, including other import taxes, until June. (GST) and Harmonized Sales Tax (HST) returns and payments are postponed for March, April and May until 30 June 2020 for monthly filers.²⁷ The Canadian Revenue Agency had already announced that it will suspend any ongoing investigations, assessments or audits with taxpayers and their agents. The CRA has allowed for certain tax payment holidays, but these do not so far apply to federal Goods and Services Tax.²⁸ The provinces are planning their own measures for local sales tax.

GERMANY

Germany is the country to announce the maximum relaxation to the tax payers. Germany has announced a €130billion COVID-19 stimulus package including a cut in the standard Value Added Tax rate from 19% to 16% from 1 July to 31 December 2020. The reduced VAT rat

²⁵ *Id*

²⁶ *Id*

²⁷ Richard Asquith, Canada *GST and Provincial Sales Tax COVID-19 measures*, May 20, 2020 <https://www.avalara.com/vatlive/en/vat-news/canada-puts-gst-investigations-on-hold-due-to-coronavirus-crisis.html>

²⁸ *Id*

(or the low level) of 7% will also be cut to 5%.²⁹ Germany has already agreed to cut the VAT rate on restaurant and catering services between 1 July 2020 and 30 June 2021.³⁰

ITALY

Italy has withdrawn a planned increase in its standard VAT from 22% to 25% on 1 January 2021.³¹ The Italian Revenue Agency also announced the suspension of all formal audits of tax returns and other audit, assessment, inspection, collection and litigation actions if these actions involve no imminent deadlines (or has already been suspended by law).³²

NEW ZEALAND

The New Zealand tax office has given the power to change GST reporting periods, filing deadlines, payment deadlines or audits on request. The new policy will be in effect until 30 September 2020.³³ New Zealand has put forward tax easement measures to help businesses during the COVID-19 outbreak. Penalties and fines for late filings are suspended for the time being.³⁴

SUGGESTIONS

Commensurate policies are necessary to revive the economy. A combination of fiscal, monetary and trade policy measures is, required to revive the economy and trade in these uncertain times.³⁵

- ▶ It is imperative for the businesses to re-orient their protocols, practices, and operate in an efficient manner for sailing through this difficult time. For aiding them the area that needs some re-engineering is GST.
- ▶ The centre has to provide some more extensions and reduction in the rate of GST.

²⁹ Richard Asquith, Germany cuts VAT from 19% to 16% until 31 Dec 2020, June 4, 2020, <https://www.avalara.com/vatlive/en/vat-news/germany-cuts-vat-from-19--to-16--until-dec-2020.html>

³⁰ *Id*

³¹ Richard Asquith, *Italy withdraws VAT rise to 25% on COVID-19 worries*, May 15, 2020 <https://www.avalara.com/vatlive/en/vat-news/italy-withdraws-vat-rise-to-25--on-covid-19-worries.html>

³² Italy: Tax developments in response to COVID-19, <https://home.kpmg/xx/en/home/insights/2020/04/italy-tax-developments-in-response-to-covid-19.html>

³³ Richard Asquith, *New Zealand GST COVID-19 measures*

³⁴ *Id*

³⁵ Dr. Mohan Kumar, COVID-19 Challenges for the Indian Economy: Trade and Foreign Policy Effects, https://www.eepcindia.org/eepc-download/617-Covid19_Report.pdf

- ▶ They should release the outstanding GST compensation to the states and also some additional amount for the states to overcome the crisis.
- ▶ The 5 year period of compensation to the states which was promised during the implementation of GST in 2017 should be extended.

CONCLUSION

In principles of taxation and even in ‘*Puranas*’ it is said that the state could tax the subjects at a high rate during the necessity, but this is a crucial period where the Government as well as the individuals are in crisis. So they should realise the tax without causing much burden to the people. Especially in the case of indirect taxation where the ultimate burden falls on the consumers, the govt. should be extremely cautioned while reframing the tax policies.

This health cum economic crisis has put unexpected stress and pressure on the people. So the Central Government should provide measures to go through the wretched situations by going with hand in hand with the State Government upholding the true spirit of federalism.