ABSTRACT

Goods and Service Tax or GST as it is known is all set to be a game changer for the Indian economy. The Finance Minister in his budget speech of Budget 2015 has announced time and again that the tax will be introduced on 1 April, 2016.

VAT or Value Added Tax was first introduced in France somewhere in 1954. The concept of VAT is applying a tax only on the value added by each person at each stage; by allowing the person input credit of taxes paid upto his stage of procurement. Thus the tax is expected to reduce the concept of ‘tax on tax’, increase the gross domestic product of the economy and reduce prices. Overall it is known to be beneficial to both the consumer, business and the Government.

In India, there are different indirect taxes applied on goods and services by central and state government. GST is intended to include all these taxes into one tax with seamless ITC and charged on both goods and services. Thus excise duty, special additional duty, service tax, VAT to name a few will get repealed and will be added into GST. For this, GST will have 3 parts – CGST, SGST and IGST. The central taxes like excise duty will be subsumed into CGST and state taxes like VAT into SGST.

For the introduction of GST in the above form, the Government needs to get the Constitution Amendment Bill passed so that the proposed objective of subsuming all taxes and allowing states to tax subjects in Union list and vice versa is achieved. Without these powers it is not legally possible to move towards GST.

Thus going forward on all transactions of both goods and services, only one tax will apply which is GST comprising of CGST and SGST. IGST would be applied instead of SGST for interstate transactions. Input credit of all these taxes will be available against all the respective outputs.
For successful implementation of GST, it is necessary that the Government at both centre and state levels, agree to merge all their taxes into CGST/SGST. Further, the base for taxation for both has to be the same. The exemptions, abatements etc. under GST need to be common for both centre and all states to avoid litigation. Further exemptions/exclusions should be minimum to avoid break of credit chain. The law needs to provide for single point compliances, absence of multistate audits etc. for the assessee.

Conceptually GST is expected to have numerous benefits like reduction in compliances in the long run since multiple taxes will be replaced with one tax. It is expected to bring down prices and hence the inflation since it will remove the impact of tax on tax and enable seamless credit. It is expected to generate revenue for the country as the tax base will increase as the GST rate will be somewhere around 27% with both goods and services covered. It is also expected to make exports from India competitive and India a preferred destination for foreign investment since GST is a globally accepted tax.

To this goal, in 2012 the Government introduced the Negative list regime of taxation and Place of Provision of Services Rules, 2012. They have also recently circulated the draft Place of Supply Rules towards GST which has certain drastic differences from the earlier rules. Even in the Budget of 2015, the Government has shown its intention of moving towards GST by increasing the excise rate to flat 12.5% and service tax rate to flat 14% and removing the applicable cesses. Thus once the Constitution Amendment Bill is passed the much awaited GST will be introduced.

Financial service industry – specifically financial institutions like Banks and NBFCs are the backbone of any economy. They are the drivers of the economy and contribute approximately 6% of the indirect taxes. Thus they are a significant player and an adverse impact on the sector impacts the economy. Further, Banks currently operate only in the service sector and are covered by Service Tax @ 12.36% currently. Going forward with GST, they will have to pay approx. 27% GST. Further
since all major Banks have multistate operations they would need to understand and implement multistate compliances under GST.

Thus before the impending GST, addressing issues faced by the financial service industry is important to address. The industry is currently facing issues inter alia on determining nature of taxability of their incomes, input credit recovery, deciding the place of provision of their service, issues like intermediary service income, interchange income, correspondent bank charges income, format of the service tax returns, time limits for compliances and revision of returns, and so on.

Unless these issues are addressed the industry would face major hurdles with GST. GST is a multistate tax with compliances expected in different states. Thus it is imperative to address the issue of “place of supply” with clarity before GST. Further double taxation issues like taxing intermediary services, interchange income, correspondent bank charges etc. needs to be addressed so that India is globally competitive. Issues around compliances need to be clarified since going forward there is an apprehension of multistate compliances and so on.

Thus the research paper starts with the existing issues faced by the industry under service tax laws and based on the available information in the public domain and the issues faced captures the issues which need to be addressed from a financial industry perspective for GST. Further the paper has analyzed data collected from research articles and information for global practices for similar issues and data collected through interview and questionnaire from people in the field. Based on this analysis, the paper goes on to suggest changes or requirements that GST should address from a financial service industry perspective.