CHAPTER - 3

THE PROBLEM / HYPOTHESIS

Introduction

There are mainly two groups of taxes direct and indirect taxes. In India, direct taxes include income tax, wealth tax etc. whereas indirect taxes include excise duty, customs duties, VAT, service tax etc.

It has been proposed that the majority of the exiting indirect taxes be subsumed into one tax which would be applied across India on all transactions. Goods and Service Tax or GST as it is traditionally known, is a proposed all-encompassing tax to be applied both on goods and services at the time of their manufacture, sale and consumption.

GST is proposed to be a destination based consumption tax. (There are discussions around treating them as origin based in certain cases of B2C services).

It is proposed that the input tax credit or ITC of GST paid on the acquisition of goods and services will be available against the output GST liability generated due to supply of goods and services. Since GST would include both the current taxes on goods and services like excise and service tax and VAT, conceptually a service provider would get ITC of VAT paid on input goods against service tax output liability and a trader would get ITC of service tax paid on input services against his output VAT liability.

This is expected to bring down the double impact of tax on tax thereby resulting in reduction in final prices of products. Obviously, the final consumer of the goods/services is where the ITC chain would break and the final consumer would be the one paying the final GST without availing the ITC thereof.
Thus GST is expected to reduce prices which would manage inflation, lead to more consumption and hence enhance the production and economy. GST is also expected to boost tax collections for the country, augment the economic growth and development of the country and ease the load of tax administration and compliances. For GST to be effective, the base for taxation of goods/services, the exemptions, abatements etc. would need to be common across all states and with the centre. This would help in reducing the distortion in the tax rates between states and as a result break the imperceptible tax barriers between the states of India.

Description

As mentioned earlier, GST is proposed to include the various state and central taxes like octroi, excise, central sales, entry tax, value added tax etc. thus bringing down the complexities of tax compliance and costs both. Thus GST is not an extra tax but a tax which would replace many existing taxes.

Further it is proposed that most existing goods and services be brought into the GST net and there should be minimal exemptions under the proposed GST. This would help avoid tax evasion and simplify tax administration. Also when there are minimum exemptions, the principle of uninterrupted ITC chain works and shows the desired result of lower prices. Exemptions only add to complications in compliance, increase in costs due to non availability of ITC and tax evasion.

GST is proposed to be a dual tax to be levied by both the Central and State Governments on transactions in both goods and services with no distinction between the two. Thus GST would be further broken up into Central GST – CGST, State GST – SGST. To take case of the interstate transactions it is proposed to charge Integrated GST – IGST instead of SGST. Exports are to be zero rated and imports are to be taxed in a manner where there cost is equal to that of similar goods procured locally.

CGST and SGST would be charged on every taxable transaction of manufacture, service etc. within the state. IGST would be charged in case the transaction is interstate. Further, rules to
avail ITC of CGST, SGST and IGST would be in place to avail credit of the same and reduce the final tax costs and hence the final price of products.

The current Central Sales Tax or CST charged by the state of origination on interstate transactions of goods would be removed. Thus CST would be completely abolished since IGST would be there for interstate transactions.

The base for taxation of both CGST and SGST is proposed to be identical; however each is supposed to be separately administered though the assessment and collection procedures would be uniform. The crucial part of the proposed GST would be the Place of Supply rules (a form of the current Place of Provision of Services Rules, 2012). These rules would determine the state where the SGST would need to be paid.

Governments of Madhya Pradesh, Tamil Nadu etc. are not in favor of implementing GST since they feel that the dual model will adversely impact their revenue collections. They are seeking assurance from the Central Government that their interests will be protected. Additionally they are apprehensive that the required Information Technology – IT support and administrative infrastructure is not in place for implementing GST.

However, given the potential gain of $15 billion a year by implementing GST, government is concentrating step by step on bringing it in. GST would result in export promotion, raise employment and boost growth. It will split the tax burden fairly between manufacturing and services.

**Details**

**GST Composition**
GST is proposed to be a dual tax consisting of both CGST and SGST for every transaction. For interstate trade, full SGST (in addition to the CGST) would be levied on interstate exports under what is called the Integrated GST (IGST). Exporters would collect the IGST from importers and pay it to the Centre. The Centre will collect the IGST and give credit of the same to the destination state. Against this credit of IGST received from the centre the destination state will allow SGST-credit to the importers (like reverse charge credit). Thus IGST mechanism would not raise any revenue but would solely be used to check and keep account of the interstate trade through a mechanized reporting and corroboration process. Though in theory this sounds easy it has huge challenges from an IT and administrative perspective. An alternative to this is that like in import from outside the country, at the time of importing from outside the state, the importer pays SGST under reverse charge and avails ITC of the same. However there is still no consensus on the mechanism to be adopted for interstate transaction taxes and their ITC.

This along with the states resistance to the GST regime since it could impact their revenues is the main roadblock for the proposed GST. Further the Constitution Amendment Bill needs to be 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.

A different model for collecting GST on interstate transactions is the Compensating VAT (C-VAT). Under the C-VAT interstate trade (zero rated under state VATs) would be subject to an export tax administered by a central agency which would use the revenue to finance an equivalent tax rebate on imports.

Though this model operating in few federal economies of the world is ideal to reduce the compliance obligations of assessees, it may not get implemented in Indian political scenario. This is because under this model the powers and control of the States are very low or nonexistent for interstate trade.
Another model is where the central government taxes all interstate transactions and states tax transactions within their jurisdiction. The base for taxation, exemptions, abatement etc. is the same for both. The Central Government then distributes the tax collected on interstate transactions on some agreed proportion.

Again even this model though operating in few federal economies of the world is ideal to reduce the compliance obligations of assessees, it may not get implemented in Indian political scenario.

**Rate of GST** – The Kelkar committee had recommended a combined GST rate around 12% (6% CGST and 6% SGST). However, with the Constitutional Amendment Bill being prepared for passing, the anticipated rate of GST in India is in the range of 23-26%. (The proposed GST rate is of 26.68% of GST which is 12.77% of CGST and 13.91% of SGST). It is expected that the rate should not cross 24% and with time be brought down to 12%.

**Exemptions** – Products like alcohol, petrol, octroi, tobacco were to be kept out of the GST. However, currently there is no consensus on the same and it seems like petrol and octroi will not be kept out of the proposed GST. Further it is proposed that states/centre have powers to further tax tobacco over and above the CGST and SGST.

The threshold exemption is supposed to be INR 10 lakhs for service providers and INR 1.5 crores for manufacturers.

**GST and financial services - Issues**

Financial services are the extremely difficult to tax under GST. This is on account of the following:

- Financial service consists of two parts. One is bringing the borrower and lender together and the other is the actual lending of the money. The value to be attributed to the intermediation charge or charges for providing the financial services which should
be taxed is very difficult. Separation of the rate of interest or return on capital which should not be taxed, from the charges imbibed for getting a borrower and lender together which should be taxed is very difficult.

- Further, given the intangible nature of service, and the differing place of supply rules, determination on where the service is provided and where it is consumed is extremely difficult leading to confusion on the state where the SGST should be paid. This also has confusion on whether the service is provided within the country or outside and within the SEZ or outside. All this again has an impact on the classification of the income which can lead to problems in availing the credit of ITC.

- Incomes like financial intermediary services, interchange income, correspondent bank charges, are imbedded in transactions and hence ideally should be taxed only once. However, some countries including India tax these incomes at every stage of sharing without giving corresponding ITC leading to high costs of doing business.

- Most countries (including India) exempt financial services completely or partially since the consideration received towards these services is ideally not liable to GST. This leads to under taxation of consumers of financial services and over taxation of business users. This is because the financial institutions do not get ITC of their inputs since their services are considered exempt. Hence they tend to recover costs of the said sunk ITC from their business customers.

- To circumvent this, countries like New Zealand, Australia and Singapore zero rate financial services provided to business users, while they exempt consumer use. Thereby, in B2B cases the service recipient gets ITC and in B2C cases it becomes a cost.

History

Global Status
Most countries (almost 140) across the world have implemented the unified GST. Only a few countries like Brazil, Canada, Papua New Guinea, and Australia with a modified version follow the dual system of GST as proposed by India. Also the EU VAT is similar to the proposed GST since it involves a common VAT charged across the various member countries of the EU. In each of these countries the treatment of financial service is different and the place of supply rules is different. Further even availability of ITC is different. (Input taxed approach or destination based consumption approach)

India needs to draw from these countries and their provisions and of course from its current legislation and the issues faced by the financial services industry for drafting the provisions relating to the proposed GST.

**GST in Brazil**

**Dual Taxes** - In Brazil basically there are the following taxes – State Value Added Tax which is called ICMS, Federal Value Added Tax which would be the Central tax and is called IPI. There are further local city taxes like the Municipal Service Tax – ISS and the tax on revenue are called the Federal Gross Receipt Contributions (PIS-PASEP/COFINS).

**ICMS** is chargeable by the states on taxable activities like circulation and importation of goods, and supply of transport, electricity and communication services. The rate of ICMS ranges from 1.5% to 35% and is charged on the supply of goods and services within the state. The standard rate is 17%.

**IPI** is charged by the federal government on finished goods and national goods. Again there are several exemptions for exports. The IPI ranges from 0% to 365% depending on the nature of the good and its classification.

**ISS** is charged by the local city municipalities on services not taxable under ICMS. The ISS rate ranges from 2% to 5% depending on the city. The PIS-PASEP/COFINS are based on the turnover of the entities. They are chargeable on imports but not on exports.

**ITC and treatment of financial services** - Financial services are liable to a separate tax on financial operations –IOF which is nominal. Thus financial services being in the nature of
services do not get charged to IPI and they are exempt from ICMS (services earning income in the form of interest). Hence no ITC is available.

ITC of the ICMS paid is available to registered ICMS businesses. For imported goods the ICMS is charged after adding IPI to the price of the imported good. ITC of IPI is available against IPI output liability. Further it is difficult to obtain refunds of blocked excess ICMS or IPI. No ITC of ISS is available and consequently it is an irrecoverable cost.

**Place of provision/supply - ICMS** - Imports are liable to ICMS however exports are exempt from ICMS. The ICMS rates are different for supplies made outside the state to taxable entities and depend on the state where the customer is located. **ICMS** is generally paid to state where transaction originated. **ISS** is payable generally to the city where the service provider is located.

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**GST in Canada**

**Dual taxes** - Canada has a federal government similar to India. The federal government imposes a 5% sales tax known as the Goods and Services Tax (GST). When a transaction takes place or a supply is made in a “participating province or state,” the tax rate is increased by the additional provincial component of 8%, 9% or 10%, depending on the province. Such a rate which comprises of both the federal GST and the provincial tax rate is known as the Harmonized Sales Tax (HST).

Thus the federal GST is constant and the provincial state rates differ. Hence the total HST differs as per the province. When the participating province implements the HST they repeal their individual retail sales taxes and share in the revenues generated by the HST.

In cases where the HST has not been adopted both the GST and provincial sales tax or PST apply separately. Further in Quebec the Quebec Sales tax or QST is applied over and above the federal GST applied. Thus in cases where the PST/RST or QST is retained the rates are different for federal GST and the local PST/RST or QST.
Thus the rate starts at the basic GST of 5% and goes up to 15% depending on the province where the taxable goods or services are supplied.

**ITC and treatment of financial services** - Financial transactions are considered as ‘exempt services’ in Canada and are hence not eligible to avail ITC. This results in providers of financial services recovering such sunk ITC through the charges they recover for their services.

**Place of provision/supply** - There are specific rules to determine the supply of taxable goods or services i.e. goods or services liable to HST within the participating province. Services are considered as liable to pay the tax in the province where the customer is located and if that information is not available then tax is payable in the province where the service is performed.

**GST in Australia**

**Dual Taxes** - GST in Australia is a common tax on goods and services sold or consumed in the country. It is a national tax levied by the Central Government which is then distributed between the states and territories on an agreed basis. The distribution is thus not based on where the transaction takes place.

**ITC and treatment of financial services** - ITC of GST paid is available against the output GST. Financial services are input taxed which means that the service providers do not charge output GST and do not get any ITC on their inputs/input services. There is a system of availing reduced input tax credit similar to the 50% restriction in India. This reduced system results in approximately 75% ITC being available.

**Place of provision/supply** - The place of supply of the service is destination based.

**GST in PNG**

**Dual Taxes** - In Papua New Guinea – PNG, there is a dual government and the GST is shared between the National Government and local provinces in an agreed ratio. The
National Government receives all GST on all imports and 40% of the internal collections and the provinces 60% of the internal collections. However, this arrangement is undergoing a change as many of the provinces are not very happy with this arrangement. The ratio may be replaced with provinces being compensated by the centre depending on their level of development. For this the current distribution ratio can be changed as 60% continue for provinces, only 20% to the national government and 20% kept aside for lesser developed provinces as an aid. The lesser developed provinces to substantiate their need for finance from this 20%.

ITC and treatment of financial services - Further financial services are treated as exempt with ITC getting restricted if output consists of exempt supplies. ITC is available only for taxable output or in proportion of taxable output.

Place of provision/supply - The place of supply is destination based.

GST in EU

Dual Taxes – GST or VAT as it is called in the European Union is a tax on all activities involving goods and services and is principally charged on the consumption of the goods/services. The European Union of EU is a group of approximately 28 member states which have agreed to certain common set of rules/laws to regulate business and commerce, justice and home affairs between themselves. Institutes like European Council, European Central Bank etc. monitor these laws. The aim is also to have free movement of goods/services/people between the member states. Thus any tax charged under the EU including the VAT on a transaction will also have a corresponding member state VAT. For transactions between VAT registered businesses, the VAT is destination based. ITC of VAT paid is allowed between member states provided the proper documentation is available. The supplier deducts ITC and charges VAT on the supply for value addition only. The service/goods recipient in destination state has to provide his VAT number. The supplier quotes this number and charges VAT after ITC and supplies the goods/service. The recipient pays VAT on receipt under reverse charge in the destination state. In case the recipient is not
registered for VAT, the supplier will need to pay the VAT in the origination state. This VAT is separate from the local levies if any.

**ITC and treatment of financial services** - The financial services are generally treated as exempt throughout the EU. However, member states are allowed to opt in and follow taxing of financial services for certain or all transactions. Thus some member states allow taxation in B2B cases since service recipient can avail credits. But majorly the services are exempt from tax and hence ITC is not available resulting in higher costs due to hidden ITC.

**Place of provision/supply** - The Place of Supply Rules for e services, telecommunication services and broadcasting services from 1 January 2015 have been amended in the European Union.

In brief the new rules propose that the e services provided to private customers and non registered customers i.e. B2C supplies will be taxable in state where customer is located. This is contrary to the existing rules in the EU, where such supplies are taxable where the supplier is located.

The new rules make it mandatory to identify the nature of customer (registered not registered etc.) and also the state where the said customer is located, the rate applicable etc. in case of the supply being B2C. Once this is completed, compliance needs to be done in the state where customer is located irrespective of whether the supplier is having business in the said state or not. (Mini One stop Shop - MOSS registration etc. has been offered as an option). The minimum threshold will not apply and hence even one supply to a customer will trigger compliance in that EU member state. In case of the MOSS, the option has to be exercised across all EU member states.

Thus businesses will need to do two types of compliances, one in their domestic state and one for the MOSS registration which will include all services outside of their domestic state. The MOSS is then expected to distribute the VAT across the member EU states where the services are consumed.
Current Provisions in India and proposed provisions for GST in India

Dual Taxes - Under the proposed framework there will be a Central GST, State GST and Integrated GST for interstate transactions. The modalities for distributing IGST are not yet public, but the general consensus is that every transaction within the state will be liable to CGST and SGST. CGST will be a centre collection whereas SGST will be the state revenue. Whilst the IGST will be collected by the centre, its distribution between states and the method of ITC is being worked out.

There is also a proposed additional tax to be charged on all transactions and distributed between states for first 2 years after introducing GST. The states are also additionally to be compensated for loss of their taxes.

ITC and treatment of financial services - In India currently financial services are partially input taxed as 50% of ITC is available. Whilst currently there is no confusion on the reversal ratio or the reduced ITC, any step to go back to the earlier proportionate method would require explicit clarity on the nature of each of the incomes earned by the Banks so as to correctly calculate the reversal ratio. The proposed law is silent on the ratio of ITC.

Place of provision/supply - The current Place of Provision of Services introduced in 2012 - POPS are not very clear on the place of provision of financial services and have been discussed in this paper.

Rule 9 is relevant for financial services. It specifies as under:

Rule 9 of the POPS - Place of provision of specified services.- The place of provision of following services shall be the location of the service provider:-

(a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;

....
Further in other cases i.e. where the customer is not an account holder or the services are not those provided ordinarily in the course of business Rule 3 applies which states as under.

**Rule 3 of the POPS - Place of provision generally.** The place of provision of a service shall be the location of the recipient of service:

*Provided that in case the location of the service receiver is not available in the ordinary course of business, the place of provision shall be the location of the provider of service.*

The education guide gives the definition of “Account holder” to mean a person holding an account which bears interest to the account holder.

Further the education guide provides examples of the services provided by the Bank in ordinary course of business and services provided by a Bank which are not in the ordinary course of business. Services like those in relation to opening of a bank account, transfer of money etc. are considered as services in the ordinary course of business. Services like financial advisory services, merchant banking service, asset management services etc. are considered as services not in the ordinary course of business.

It is relevant to note that the meaning of account holder and services provided by Banks in the ordinary course of business are provided only in the education guide which does not hold much value legally.

Further both the law and the guide are silent as to which Rule to apply in cases where the customer is an account holder but receives services not in the ordinary course of business.

Thus broadly the current POPS suggest that for regular account holder i.e. B2C customers the place of provision is the place of business of the service provider and for non account holder customers the place of provision is the place of business of the customers.

For pure financial services the above rules apply. However in case of advisory services etc. in relation to financial services the place of provision is the place of the service recipient. This has led to ambiguity in terms of B2B customers who receive both types of services and could be account holders too.
Further place of provision in a GST environment is highly relevant since the State GST would be separate from Central GST as against today’s once central service tax. Hence such ambiguity would lead to unnecessary litigation for both the service providers and service recipients. Further it would lead to issues in availing of SGST since there would be controversy around which state is the one where the SGST is payable.

The draft ‘Place of Supply’ rules have been proposed by the Sub group formed by Empowered Committee. These rules provide for the general rule that in case of service provided to a GST registered person the place of supply would be the location of service recipient and in other cases location of service provider. Further for banking which is a specified service the place of supply of services will be location of service recipient. The location will be based on address provided by service recipient. If the service provided is not in relation to the account held by the service recipient then the place of supply will be the location of service provider. Again the explanation of ‘services provided not linked to the account of the receiver’ etc. is not provided. This can lead to a lot of litigation. Further compliance based on location of service recipient similar to the current EU legislation can cause tremendous load on the industry. The industry will need to track all customers address and determine every time nature of service, whether it is provided in relation to the account and then determine the state where the compliance has to be carried out.

**Criticality – Current provisions and proposed provisions – Financial services and GST in India**

The criticality of the current provisions of law in service tax compared to the proposed provisions in relation to financial services and proposed GST in India are studied and discussed in the research based on the following key indicators.

**Taxing of financial services – Clarity in definitions, inclusions etc. critical**

As is evident from the above, globally financial services pose a great challenge in taxing in terms of indirect taxes. This is because it is very difficult to put a numerical value separately for the value add provided by a Bank in getting a borrower and lender together. Interest or discount income received by the Banks is a return for both types of services i.e. getting a borrower and lender together and a return on capital. However what portion of this is for the service of getting together two people is not possible to value and hence financial services
globally are either zero rated with ITC allowed or input taxed with no ITC. In case ITC is not allowed it leads to higher costs to final consumers.

Thus from a banking industry point of view it is very necessary to determine what is to be included in taxable income and what in the non taxable income. Further there has to be complete clarity in whether the non taxable portion is non taxable, exempt or export. This is highly relevant if the ITC is allowed based on proportion of taxable/non taxable or total services.

Thus the legislation defining the scope of banking services, the taxability or otherwise of each of these services is of paramount importance. Currently the law is ambiguous on the exempt and taxable status of each of the incomes of banks. Whilst the taxability can be decided based on legal interpretations, clear and explicit provisions would reduce costly litigations especially in the GST regime.

**Dual Taxes – Critical to have explicit provisions for deciding CGST/SGST/IGST and the related compliances**

Globally GST is a unified single tax across the taxable jurisdiction. However, in India, both states and the centre have the power to levy taxes and the types of taxes levied by each are different. So in India, we would need to develop a system which would blend in with our federal economy. Further it needs to be ensured that the revenue collections of both centre and state are not affected.

Globally, in Brazil services are not charged to the central taxes, only state level taxes. Canada like India has both state and central taxes depending on the provinces. Where the province has adopted the GST, the tax is commonly applied known as Harmonized Sales Tax (HST) and administered by the province for both centre and state. Else the GST is applied separately by the centre and states administer and apply their own state level taxes. In Australia, it is a national tax levied by the Central Government which is then distributed between the states and territories on an agreed basis. In PNG, there is a dual government and the GST is shared between the National Government and local provinces in an agreed ratio. EU would be similar to Canada with an EU VAT and the member state VAT.
India would need to address this issue now with the introduction of GST since till now the taxing domains of the centre and state were exclusive. Currently, on a broad level, goods manufacturing is taxed centrally, sale of goods is taxed within states and services are taxed centrally. Additionally both centre and states have levies on goods like purchase tax, octroi, entry tax etc.

Under the GST, based on the material available in public domain, it is proposed that all centre taxes be included in Central GST or CGST and all state taxes in State GST which is SGST. Further for interstate transactions the centre is to apply IGST which is equal to addition of CGST and SGST. The centre is supposed to then distribute the SGST portion of the IGST either to the destination state or origination state depending on the Place of Supply rules. Further, ITC will be available of IGST so transferred.

There is also a proposal to charge additional 1% on the interstate supply of goods for the first two years after introduction of GST. This amount is to be given to the originating state in the interstate transfer of goods in order to compensate the originating state. (GST is otherwise proposed to be destination based). There is also a proposal for the states to be compensated for 5 years for loss incurred by them due to inclusion of all taxes in SGST.

Thus for a dual GST structure to function in India a lot of hurdles need to be sorted out, the primary ones being:

- **Constitutional amendment** - The first hurdle to the GST is the constitutional amendment which is necessary so that centre can tax sale of goods and states can tax sale of services.

- **Place of Supply Rules** - There need to be explicit Place of Supply Rules to determine the state where transaction originated and the destination state. This is more crucial in a banking industry where the transactions are in services and hence intangible and customers are geographically far flung. Without this it would be an impossible task to
distribute the IGST, comply with the laws, take ITC and so on for the services industry.

- **CGST/SGST/IGST** – There needs to be clarity in law on the taxes included in each of CGST, SGST, and IGST. Further the ITC rules need to be very clear for each of these taxes. The order for setting off each of these taxes against the output, the method to claim refund of excess ITC, the compliances for each etc. all needs to be clear. The mechanism for determining the state where the IGST would be paid, compliance would be done etc. needs to be clear. The manner of credit mechanism for IGST needs to be clear.

- **Compensation** – The amount of tax and period for which states will be compensated needs to be decided since finally the burden will be on the final consumers to pay the additional taxes for the compensation.

**ITC and treatment of financial services – Critical since leads to higher costs**

Secondly, it is very important to determine the rate of recovery of input tax credit or ITC which is Cenvat credit for the banking industry. As discussed above, following are some of the methods:

- **Zero recovery of ITC** i.e. no ITC allowed on the basis that all output services are exempt

- **Flat Reversal of ITC** - Reversal of ITC at a flat rate - as is in existence in India currently @ 50%

- **Proportionate reversal of ITC** or reduced ITC availing – This method is similar to the earlier method of allowing credits in India based on ratio of exempt services to
total services or like in Australia on a reduced basis correlated to the status of the recipient and his income

- **Different treatment for output services to B2B and B2C customers** - ITC to be allowed if output service is B2B and not to be allowed if output service is B2C – Similar to method suggested in EU

- **Separate tax** to be charged on financial services to compensate for exempt output and full ITC to be allowed

**Place of provision/supply – Critical to determine state where tax payable**

The current **Place of Provision of Services ‘POPS’ introduced in 2012** - POPS are not very clear on the place of provision of financial services. Rule 9 applies to services provided to a customer who is an account holder and receives services in the ordinary course of business. On other cases Rule 3 applies. Further intermediary services are covered under Rule 9. Under Rule 9 the service is taxable at the location of service provider and under Rule 3 it is location of service recipient.

Further ‘services provided in the ordinary course of business’ are not defined in the law but form part of the CBEC education guide leading to possible litigation. Even meaning of intermediary services is provided in the guide and not the law. Thus it is evident that it is imperative that the law itself by sufficiently clear. This would be more so where the rules need to be relied upon not only for deciding whether a service is taxable in India or export but also to decide the state where it is taxable. This would finally decide the state where compliance would be undertaken, the ITC to be taken etc.

The **draft place of supply rules** provide that for banking which is a specified service the place of supply of services will be location of service recipient. The location will be based on address provided by service recipient. If the service provided is not in relation to the account held by the service recipient then the place of supply will be the location of service provider. Again the explanation of ‘services provided not linked to the account of the receiver’ etc. is not provided. This can lead to a lot of litigation.
Thus it is critical that the at least issues like meaning of the term banking, services included in banking, taxability of the services, place of provision of the services, the working of the CGST/SGST/IGST mechanism be amply clear before introduction of GST.

**To study the above critical elements the following hypothesis is set:**

1. There is no significant difference in the provisions for taxing financial services in the existing economy and the proposed GST
2. The assesses /tax professionals are not satisfied with the proposed provisions under GST to tax financial services and in relation to compliances

To test the above proposition, the null hypothesis will be drafted as follows:

Let “P” denote the proportion of assesses /tax professional not satisfied with the proposed provisions under GST to tax financial services and in relation to compliances

If this proportion is > 75% we say that the above proposition is true.

**Ho : P = 0.75**

**H1 : P > 0.75**