ARTICLE

Good and Simple Tax: Challenges, Hiccups and Solutions

This article delves into the journey of GST, examining initial hurdles encountered by businesses and its administration, analyzing implemented solutions, and assessing the path ahead. It highlights the transformation of GST towards a more streamlined system, despite ongoing challenges like rate rationalization and the exclusion of certain sectors, emphasizing the continuous collaborative efforts required for its complete realization.

CS Nitin Dabriwal, FCS
Dabriwal & Associates, Kolkata, West Bengal
dabriwalandassociates@gmail.com

INTRODUCTION

THE GRAND VISION OF "GOOD AND SIMPLE"

Prior to the advent of the Goods and Services Tax (GST), India's indirect tax landscape was a labyrinth of complexities, characterized by a multiplicity of levies such as Central Excise Duty, Service Tax, Value Added Tax (VAT) varying across states, Central Sales Tax (CST) on inter-state sales, octroi, entry tax, and various cesses. This fragmented system suffered from a severe cascading effect, where tax was levied on tax at every stage of the supply chain, significantly inflating the final price of goods and services. The absence of seamless Input Tax Credit (ITC) across different taxes and state borders stifled businesses, creating a fragmented national market riddled with check-posts, bureaucratic hurdles, and a cumbersome compliance burden of dealing with numerous tax authorities and varying regulations.

In this intricate environment, GST was envisioned as a monumental reform, promising a paradigm shift for various stakeholders:

- **Manufacturers** anticipated reduced production costs due to the elimination of cascading effects and streamlined inter-state movement.
- **Traders** looked forward to simplified compliances, abolition of CST, and access to a truly unified national market.
- **Consumers** were expected to benefit from transparent pricing and potential price reductions stemming from a more efficient tax structure.
- **The Government** aimed for a broader tax base, higher tax buoyancy, and enhanced compliance through a cleaner, more digitalized administration.

Globally, many large economies had already transitioned to Value Added Tax (VAT) or GST systems. However, India's journey was uniquely challenging given its vast federal structure, necessitating unprecedented consensus among diverse states, and its large informal sector, which posed significant hurdles in transitioning to a formal, digital tax regime.

The Goods and Services Tax (GST), heralded as independent India's most significant tax reform, commenced its journey on July 1, 2017. The very slogan "Good and Simple Tax" encapsulated the ambitious vision behind its introduction: to consolidate a plethora of central and state indirect taxes into a singular, unified levy. This transformative step aimed to eliminate the cascading effect of taxes, streamline supply chains, broaden the tax base, and foster a truly common national market. It was envisioned as a catalyst for economic growth, ease of doing business, and enhanced transparency in tax administration. For businesses, the promise was simplicity in compliance, a reduction in the multiplicity of forms and processes, and a more predictable tax environment. For consumers, it was expected to lead to a more equitable and transparent tax burden.

However, the transition from this vision to ground-level reality was, predictably, not without its complexities. Like any monumental reform impacting a diverse economy of India's scale, GST's initial years were marked by significant challenges, unexpected hiccups, and a continuous process of learning and adaptation. This article delves into the journey of GST, examining the initial hurdles encountered by businesses and the administration, analyzing the solutions that have been progressively implemented, and assessing the path ahead towards truly realizing its foundational promise of being "Good and Simple". For Company Secretaries, understanding this evolution is not just about compliance, but about strategic advisory and ensuring robust corporate governance amidst an evolving tax landscape.

INITIAL CHALLENGES AND HICCUPS

The initial months and years of GST implementation were a steep learning curve for all stakeholders. The "simple" aspect of the tax proved to be particularly elusive due to a confluence of technological, conceptual, and administrative hurdles.

1. **Technological Gaps and GSTN Strain**

The Goods and Services Tax Network (GSTN) was the backbone of the new regime, designed to be the central IT infrastructure for registration, return filing, and payment. However, its nascent stages were plagued with significant performance issues:

- **System Glitches and Slowdowns:** Taxpayers frequently reported difficulties in logging in, uploading invoices, and filing returns, especially during peak periods. This led to immense frustration, missed deadlines, and a sense of anxiety among businesses. Persistent login failures and slow server responses were common, particularly during the last few days leading up to filing deadlines. Businesses often had to spend late nights or endure multiple attempts to simply access the portal. There was also an inability to upload invoices in bulk, frustrating businesses with high transaction volumes and forcing them to resort to manual entries or delayed filings.

- **Data Reconciliation Issues:** The core concept of seamless Input Tax Credit (ITC) flow relied heavily on robust invoice matching. However, discrepancies between GSTR-1 (supplier's sales) and GSTR-2A/2B (recipient's purchases) were rampant, leading to ITC blockages and working capital issues for businesses. Errors in auto-population of data in GSTR-2A led to discrepancies, severely hindering the promised seamless ITC flow. Many taxpayers reported that GSTR-2A data was incomplete, delayed, or incorrect, forcing them to reconcile manually or claim provisional credit at their own risk. The GSTR-2 and GSTR-3 returns, intended for detailed reconciliation, proved too complex and were eventually suspended.

> GST has played a pivotal role in the increased formalization of the Indian economy, bringing a significant portion of previously informal trade under the tax net, thereby broadening the tax base and improving transparency.

- **User Interface Challenges:** The portal's user interface was initially not intuitive enough for a vast number of taxpayers, particularly MSMEs with limited digital literacy.

2. **Complexity of Compliance and Frequent Changes**

The promised simplicity was overshadowed by a high initial compliance burden:

- **Multiple Return Filings:** The initial requirement of filing GSTR-1, GSTR-2, GSTR-3 (and GSTR-3B for summary) monthly was onerous for many businesses. The sheer volume and detail required proved challenging.

- **Frequent Rule Changes and Notifications:** The GST Council, in its earnestness to address immediate issues, issued a flurry of notifications, circulars, and clarifications. While necessary, this constant flux made it difficult for businesses and tax professionals to keep pace and implement changes effectively, leading to uncertainty.

- **Understanding New Concepts:** Concepts like Reverse Charge Mechanism (RCM) applicability, place of supply rules for services, and valuation rules for certain transactions proved intricate and prone to misinterpretation.

3. **Input Tax Credit (ITC) Conundrums**

The seamless flow of ITC was a cornerstone promise, but its implementation created significant liquidity and compliance challenges:

- **GSTR-2A/2B Discrepancies:** As mentioned, mismatches between supplier and recipient data led to legitimate ITC claims being denied or deferred, impacting cash flows.

- **Rule 36(4) Restrictions:** The introduction of restrictions on provisional ITC claims (e.g., limiting ITC to 105% or 100% of auto-populated GSTR-2A/2B) aimed at curbing fake invoices but penalized honest taxpayers due to supplier non-compliance. This rule, introduced in October 2019 and subsequently modified, significantly impacted businesses by restricting provisional ITC that could be claimed.

  - **Impact on Manufacturing and Construction:** Industries with long and often unorganized supply chains, such as manufacturing (e.g., auto components, textiles) and construction (e.g., sourcing materials from numerous small vendors), were severely hit. If their numerous small suppliers failed to file GSTR-1s on time or correctly, recipient manufacturers/contractors would see their eligible ITC blocked, leading to significant working capital blockages.

  - **Impact on Businesses with Unorganized Suppliers:** Any industry heavily reliant on unregistered or poorly compliant small suppliers faced challenges in ensuring their ITC was fully reflected in GSTR-2A. This forced businesses to chase suppliers, face ITC denials, or explore more expensive procurement channels.

  - **Impact on Businesses with Large Volumes of Transactions:** Companies with thousands of monthly purchase invoices found reconciliation under Rule 36(4) extremely arduous, leading to increased compliance costs and potential errors.

- **Refund Delays:** Businesses, especially exporters and those with inverted duty structures, faced considerable delays in processing GST refunds, leading to working capital blockages and increased compliance costs.

4. **Classification Dilemmas and Litigation**

The promise of "Good and Simple Tax" often hit a roadblock when it came to the practical application of classification, leading to numerous disputes that demanded clarity from Advance Ruling Authorities (ARAs) or even the higher courts.

- **HSN/SAC Code Issues: Disputes over Classification and Tax Rates**

  The Harmonized System of Nomenclature (HSN) for goods and Service Accounting Codes (SAC) for services are the bedrock of GST classification, aiming for global standardization. However, their application in a diverse economy like India frequently led to interpretational challenges and direct disputes over applicable tax rates. A classic example is the classification of 'flavoured milk' – whether it's plain milk (exempt or 0% GST) or a beverage containing milk (12% or 18% GST). This was a prominent dispute with conflicting rulings from various Advance Ruling Authorities. Similarly, for services, the distinction between "works contract" and pure "supply of services" created ambiguity, impacting the applicable GST rate and ITC implications. This often led to businesses seeking specific Advance Rulings, consuming significant time and resources, or facing potential litigation.

- **Definition Ambiguities: Fueling Confusion and Disputes**

  Beyond classification, the nascent stages of GST also saw considerable confusion arising from the interpretation of fundamental definitions, which underpin the very levy of tax.

  a. **'Supply':** The definition of "supply" under Section 7 of the CGST Act, 2017 is extremely broad, often leading to debates. A significant dispute arose regarding the taxability of canteen services provided by employers to their employees. The Kerala AAR in the case of Caltech Polymers Pvt. Ltd. ruled that recovery of food expenses constituted a 'supply' under GST, making it taxable, even when companies merely recovered nominal charges without profit. This ruling highlighted how activities perceived as welfare measures could fall under the tax net if they involved a 'consideration'. Another common area of ambiguity involved whether activities like "agreeing to tolerate an act" (e.g., liquidated damages for contract breaches, notice pay recovery from employees) amounted to a 'supply' of service.

  b. **'Consideration':** The concept of 'consideration' extends beyond monetary payments. Disputes emerged on how non-monetary transactions or adjustments would be treated. Barter transactions or supplies between related parties without immediate monetary exchange often required scrutiny to determine 'deemed consideration'.

  c. **'Recipient':** Pinpointing the 'recipient' could also be complex, especially in tripartite agreements or complex supply chains involving intermediaries. Incorrect identification could lead to issues with place of supply and incorrect levy of CGST/SGST versus IGST.

  d. **'Inter-state/Intra-state Supply':** While seemingly straightforward, the determination of 'Place of Supply' (PoS) for certain services, particularly those delivered digitally or involving installation across state lines, posed significant challenges. For example, correctly determining the PoS for telecommunication services with customers across states, and thus applying IGST or CGST/SGST, became a recurring point of contention. Similarly, advertising campaigns running across multiple states often led to debates on the correct PoS.

GOVERNMENT'S RESPONSE AND STREAMLINING EFFORTS

Recognizing the initial hurdles and feedback from taxpayers, the GST Council and the government demonstrated a commendable willingness to adapt, simplify, and refine the GST regime. This iterative approach has been central to moving towards the "Good and Simple Tax" ideal.

1. **Technological Advancements and GSTN Stabilisation**

- **Enhanced Server Capacity and Stability:** Significant investments were made to upgrade GSTN's infrastructure, leading to improved uptime and reduced slowdowns, especially during peak filing periods.

- **Introduction of E-invoicing:** Mandated for larger taxpayers and progressively expanded, e-invoicing has been a game-changer. It automates invoice data submission to GSTN, facilitates real-time data population in GSTR-1 and GSTR-2B, and largely addresses the ITC mismatch problem. This is a crucial step towards true seamlessness.

- **E-way Bills:** The successful implementation of the e-way bill system for inter-state and increasingly intra-state movement of goods has ensured better tracking, reduced road blockages, and deterred tax evasion.

- **Offline Tools and Apps:** Development of various offline utilities to help taxpayers prepare returns even without continuous internet access, catering to businesses in remote areas.

2. **Compliance Simplification and Rationalization**

- **Rationalization of Return Forms:** The most significant simplification was the introduction of GSTR-3B, a summary return, which replaced the more complex GSTR-2 and GSTR-3. This greatly reduced the monthly compliance burden. The original GST return mechanism was designed with an ambitious three-return system and stringent invoice-matching. GSTR-1 was filed by the supplier, detailing outward supplies. GSTR-2 was the proposed inward supplies return, meant to be auto-populated from suppliers' GSTR-1s for reconciliation. If a supplier failed to file or made an error, the recipient's GSTR-2 would not reflect correct ITC, leading to denial of credit. The system relied on perfect and timely compliance from all entities. GSTR-3 was envisioned as a monthly summary auto-populating from GSTR-1 and GSTR-2. However, due to GSTR-2 glitches, GSTR-3 could not be operationalized. The reliance on perfect two-way matching led to the suspension of GSTR-2 and GSTR-3, resulting in the introduction of GSTR-3B as a temporary, summary-based self-declaration return, which has since become the staple.

- **Quarterly Filing with Monthly Payment (QRMP Scheme):** Introduced to ease the burden on small taxpayers (with turnover up to ₹ 5 crore), allowing them to file GSTR-1 and GSTR-3B quarterly while still paying taxes monthly. This significantly reduced the number of filings.

- **Annual Return (GSTR-9) and Reconciliation Statement (GSTR-9C) Streamlining:** The processes for annual returns were simplified, and for many taxpayers, the mandatory requirement of GSTR-9C certification by a Chartered Accountant or Cost Accountant was replaced with self-certification, reducing compliance costs.

- **Amnesty Schemes:** Periodically, the government has introduced amnesty schemes for past non-filers or those with pending compliances, encouraging broader tax base participation.

3. **ITC Management and Refund Streamlining:**

- **GSTR-2B Introduction:** A fixed, auto-drafted ITC statement (GSTR-2B) provides recipients with a clear picture of eligible ITC. This has brought much-needed certainty and reduced the reliance on real-time matching, aiding reconciliation.

- **Refund Process Automation:** The refund application process has been largely automated through the GSTN portal, leading to faster processing and disbursement of refunds, thereby easing liquidity issues for businesses, particularly exporters.

- **Clarifications and FAQs:** The government and GST Council have consistently issued clarifications, circulars, and FAQs to address ambiguities in law and procedure, leading to greater clarity for taxpayers.

4. **Dispute Resolution and Anti-Evasion Measures**

- **Establishment of Appellate Authorities:** The framework for appellate tribunals is being strengthened to expedite dispute resolution.

- **Data Analytics for Non-Compliance:** Tax authorities are leveraging data from e-invoicing, e-way bills, and various return filings, and are increasingly using data analytics to identify potential non-compliance and tax evasion, moving towards a more intelligence-driven enforcement rather than broad-brush audits.

- **Crackdown on Fake Invoicing:** Continuous efforts and technological interventions to identify and penalize entities involved in issuing fake invoices, which had previously plagued the ITC system.

OTHER CHALLENGES AND FUTURE PATH

Despite the significant strides made, the journey towards a truly "Good and Simple Tax" is ongoing. Certain inherent complexities and areas requiring further reform persist.

1. **Rate Rationalization and Harmonization**

- **Multi-Tiered Rate Structure:** India's GST has multiple tax slabs (0%, 5%, 12%, 18%, 28%, plus cess). While this caters to economic sensitivities, it adds complexity in classification and compliance compared to countries with 1-2 rates.

- **Debate on Ideal Structure:** The ongoing debate about merging rates (e.g., 12% and 18% into a single rate) aims to reduce complexity but faces challenges in revenue implications and impact on specific sectors.

- **Inclusion of Excluded Items:** Major sectors like petroleum products, alcohol for human consumption, and electricity currently remain outside the GST purview. Their inclusion would truly complete the "one nation, one tax" vision, eliminate residual cascading effects, and enhance the tax base, but faces significant political hurdles due to revenue implications for states.

2. **Further Simplification for Small Businesses**

- **Compliance Burden for MSMEs:** Even with QRMP, many small businesses find the monthly tax payment and quarterly return filing, coupled with annual compliances, daunting.

- **Access to Technology:** Digital literacy and access to necessary IT infrastructure remain challenging for very small businesses in remote areas, hindering seamless compliance.

- **Capacity Building:** There's a continuous need for education and handholding for MSMEs to navigate the digital compliance ecosystem effectively.

3. **Strengthening Dispute Resolution Mechanism**

- **GST Appellate Tribunals (GSTATs):** Despite legislative provisions, the establishment of GSTATs across India has been slow. Their full operationalization is crucial for speedy resolution of disputes and reducing the burden on High Courts.

- **Advance Ruling Authority (ARA):** While ARAs provide clarity, consistency in rulings across different states remains a concern, sometimes leading to conflicting interpretations.

4. **Evolving Compliance and Audit Landscape**

- **Dynamic Nature of Law:** GST law continues to evolve, necessitating continuous learning and adaptation from businesses and professionals.
- **Data-Driven Audits:** While beneficial for authorities, this means businesses need robust internal controls and meticulous record-keeping to withstand data-driven scrutiny.
- **Challenges of Non-Compliance Detection:** Despite technology, instances of fake invoicing and fraudulent ITC claims persist, requiring continuous vigilance and technological upgrades from the administration.

5. **The Role of Company Secretaries in Future Simplification:**

- **Advocacy:** CS professionals, through their representative bodies, have a vital role in advocating for further simplification and rationalization based on ground-level experience.
- **Internal Process Optimization:** Guiding companies in leveraging technology (ERP integration, automation) to simplify internal GST processes and ensure audit readiness.
- **Capacity Building:** Providing continuous education and training to internal teams on GST updates and best practices.
- **Risk Mitigation:** Proactively identifying potential compliance gaps and advising the Board on mitigation strategies.

CONCLUSION: TOWARDS A MATURE AND SIMPLIFIED GST REGIME

The journey of the Goods and Services Tax (GST) in India has been a profound testament to both ambitious reform and adaptive governance. Since its inception in July 2017, GST has achieved its core mandate of eliminating the insidious cascading effect of taxes, a pervasive flaw in the prior fragmented indirect tax system. This singular reform has undeniably created a common national market, dismantling internal barriers and fostering a smoother flow of goods and services across state lines. Furthermore, GST has played a pivotal role in the increased formalization of the Indian economy, bringing a significant portion of previously informal trade under the tax net, thereby broadening the tax base and improving transparency. While the initial years were indeed marked by significant "hiccups" that challenged the "simple" promise – from technological teething issues and complex return filing to liquidity concerns due to ITC discrepancies – the continuous efforts of the GST Council and the government in technological advancements, procedural simplifications, and active stakeholder engagement have brought considerable maturity and predictability to the regime.

Today, GST stands as a far more streamlined system than its initial iteration. However, the pursuit of ultimate simplicity and efficacy remains an ongoing endeavor. Key areas for future reform include rate rationalization to simplify the multi-tiered structure, the inclusion of currently excluded sectors like petroleum products and alcohol under the GST ambit to complete the unified vision, and the strengthening of dispute resolution mechanisms like the GST Appellate Tribunals to ensure quicker legal certainty. Achieving these next steps will require continued collaboration between the government, industry stakeholders, and tax professionals. It's this ongoing dialogue and collective effort that will truly hone GST into a "Good and Simple Tax" in its fullest sense.

For Company Secretaries, the evolving GST landscape represents a dynamic arena for strategic contribution. Beyond ensuring mere compliance, their expertise in governance, risk management, and legal advisory is invaluable in navigating the complexities, leveraging technological solutions, and championing best practices. As India progresses, the 'Good and Simple Tax' will continue to evolve, demanding informed adaptability and proactive engagement from professionals at the forefront of corporate governance. The Company Secretary, therefore, emerges not just as a compliance guardian but as an indispensable strategic partner, uniquely positioned to drive their organizations towards robust governance, greater efficiency, and sustainable success within this ever-evolving tax ecosystem.

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