“Seamless flow of credit under GST”. In principle or reality?

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As per the “Statement of Objects & Reasons” in the Constitutional Amendment (122nd) Bill, 2014 one of the primary objectives behind the introduction of GST is to enable seamless flow of input tax credit from one state to another, which would foster a common and seamless Indian market and contribute significantly to the growth of the economy. This seamless flow of credit between states is sought to be achieved by way of levy of IGST on all inter-state supply of goods/ services.

Under the present regime, taxes on inter-state supply of goods accrues to the originating State. Thus, taxes levied on inter-state supply is not available as credit to the receiver of goods, hindering inter-state movement of goods. However, under GST, this situation is sought to be tackled by levying IGST, which is accrues to Centre and is then allocated by the Centre to the State where the goods/services are consumed. By levying IGST, which is a summation of CGST and SGST, GST Regime seeks to provide seamless flow of input tax credit of centre and state taxes from one state to another.

As per the Draft IGST Act, a supply shall be deemed to be inter-state supply if the location of supplier and place of supply is in different state. In case of goods, place of supply generally is the location at which the goods are delivered to the receiver and in case of services, the POS is generally the location of service receiver. Further, there are specific rules for performance based and immovable property related activities. Say in case of goods assembled at site/ goods supplied on board a conveyance, place of supply is the assembly site/ or where goods are taken on board the conveyance. In case of service related to organization of events, the POS is the state where event is held. Therefore, as per Place of Supply provisions, there can be situations where the supplier and place of supply will be in the same state, but the receiver will be located in a different state. Such supplies will then be taxed as intra-state supply liable to CGST and SGST, **SGST portion of which will not be available as credit to the receiver of goods located in different state, completely defying the basic premise of seamless flow of credit between states.**

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For illustration:- A Supplier of goods is located in Delhi, assembly site where the goods are to be assembled is also located in Delhi, and receiver of goods is located in Maharashtra. In this case, since the place of supplier and place of supply is in the same state, the supply will not qualify as inter-state supply, and will be liable to CGST and IGST. The receiver of goods though will get the credit of CGST, but will not be eligible for SGST credit.

Another illustration: Supplier is located in Delhi providing hotel accommodation services in Delhi for service receiver located in Haryana. In this case, POS shall be in Delhi and accordingly the same will be intra-state supply liable to CGST and SGST. The receiver of service will not be eligible for SGST credit.

Though, GST as introduced by the Union Finance Minister claims to provide seamless flow of credit, it seems to achieve it halfheartedly so. Still there are supplies under GST Act where there is no seamless flow of credit from one state to another causing hindrance in free flow of trade. **One possible solution to this could be amendment in the concept of inter state supply. IGST Act may additionally provide that all supplies where location of supplier and receiver is in different state (irrespective of the place of supply) be treated as inter-state supply chargeable to IGST.**

It is imperative that all the States and Centre must address these issues and come to a common understanding that the place of supply is relevant for ascertaining the final consumption and not intermediate consumption thereby removing all the obstacle in allowing seamless flow of ITC across the states. Effective solution will lie in multilateral coordination by all the States and Centre, not in unilateral efforts by Centre or specific States.

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