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L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

GST Update No. 14
4th August, 2016

Rajya Sabha passes the GST Bill

The Rajya Sabha has passed the Constitutional (One Hundred and Twenty-Second) Amendment Bill, 2014 on 3-8-2016 [referred to as the 'GST Bill'] with some changes as discussed below:-

- **1% Additional levy goes**: The clause relating to levy of 1% additional tax to be levied on origination basis upto a period of two years or such other period as the GST Council may recommend, has been omitted.

  L&S Comments:

  - *Will reduce tax incidence, a welcome move*

- **Compensation to States for 5 years**: Parliament shall, by law, provide for compensation to the States for loss of revenue on account of introduction of GST for five years.

  L&S Comments:

  - *Only between the Centre and the States;*
  - *But if Centre is not able to find enough resources to meet the compensation required to be paid to the States, will they raise additional revenues in the form of higher CGST? Right now, no answer for this question.*

Dispute resolution mechanism: The GST Council is now mandated to establish a dispute resolution mechanism to adjudicate any dispute between the Government of India and/or one or more States on the one side and one or more other States on the other side, arising out of the recommendations of the said Council or implementation thereof.

L&S Comments:

- *May not have any direct impact on the trade and industry*

Exclusion from Consolidated Funds

- Following revenues from GST shall not form part of Consolidated Fund of India:

  a. State's share in the IGST
  b. IGST utilised for payment of State GST (SGST)

- SGST utilised for payment of IGST shall not form part of the Consolidated Fund of the State

L&S Comments:

- *It is a practical move; for taking moneys out of Consolidated Fund of India, parliamentary approval is required. In other words, for transferring funds from Centre to States, Parliament would have to pass the budget; similarly, States would have to pass a budget for transferring funds from the Consolidated Fund of the State to the Centre or to other States. This amendment will avoid such requirements.*

Distribution as per Finance Commission Award: The following revenues from GST shall also be distributed between Union and State as per Finance Commission recommendations as provided in Article 270

a. Central GST (CGST) collected by the Centre under Article 246A

b. CGST or IGST used for payment of CGST

c. CGST portion of IGST levied on inter-State supplies

L&S Comments:

- *No impact on trade and industry*

Way forward for the GST Bill

- Since the Constitutional Amendment Bill as passed by Lok Sabha has undergone the aforesaid changes when passed by the Rajya Sabha, the Bill as so passed by Rajya Sabha will now go back to the Lok Sabha for ratification of these changes.
- Thereafter the Constitutional Amendment Bill needs ratification by the Legislatures of at least half of the States before assent by the President of India.
- However, it is to be noted that the Constitutional Amendment will only empower the Centre and the States to levy GST. The actual levy will require specific legislation to be enacted by the Centre and by each of the States.

Way forward for the industry

- Study impact based on Constitutional Amendment as passed and the Model GST Law
- Represent to Empowered Committee and Government of India regarding GST policy dispensation, if necessary
- Devising new business models for more efficient shift to GST regime
- GST compliant Accounting and IT solutions
- Managing transition

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