GST IN INDIA: TWO STEPS FORWARD OR ONE STEP BACK?

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ABSTRACT

The shift from the Value Added Tax system to the Goods and Services Tax has been an intriguing topic of discussion for many years. The proposed Goods and Services Tax is a uniform, harmonised, comprehensive tax levied on goods and services at every stage of the production-distribution chain with applicable set-offs in respect of the tax remitted at the previous stages. The Constitution (122nd Amendment) Bill, 2014 in the Lok Sabha which embodies the salient features of the proposed GST model, seeks to introduce this landmark reform to the indirect taxation system currently prevailing in India.

The proposed GST Model will impact every stakeholder in the society right from the manufacturer, to distributer to the consumer. It brings with it several advantages to overcome the drawbacks of the current taxation system by improving the GDP, reducing the incidence of tax evasion, and removing the cascading effect of the Value Added Tax. However, there are several emerging issues that must be looked into before the introduction of this GST reform to prevent any peril on the economy and various stakeholders of the society.

The purpose of this paper is to study the Constitution (122nd Amendment) Bill of 2014, critically analyse the proposed clauses of the amendment, and suggest practical changes that ought to be made before passing the Bill, in order to successfully implement the Goods and Service Tax in India.

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I. BASIC CONCEPT AND RATIONALE

The Goods and Service Tax (hereinafter referred to as "GST") is a tax on goods and services which is levied at the point of sale or provision of service, in which at the time of sale of goods or providing the services the seller or service provider may claim the input credit of tax which he has paid while purchasing the goods or procuring the services.[1] GST is levied on every stage of production, from the distribution chain to the retail level with the applicable setoffs in respect of the taxes levied at the previous levels. This system of tax is designed to simplify the current indirect tax system by subsuming taxes such as the Union excise duties, Custom Duties, Service tax, and the state VAT into a single broad-based, comprehensive tax levied on goods and services consumed in the economy.

The introduction of this tax system was recommended for the first time in 2004 by the Dr. Kelkar Task Force on implementation of the Fiscal Responsibility and Budget Management Act, 2003. The Kelkar Task Force pointed out that although the indirect tax policy in India has been steadily progressing in the direction of the VAT principle since 1986, the existing system of taxation of goods and services still suffers from many problems and thereby suggested a simple, transparent and efficient system of indirect taxation based on the principle of VAT.[2]

The primary rationale behind the introduction of the GST is to overcome the difficulties t hat arise from the VAT. Although the VAT system is considered an improvement over the earlier tax systems in India, over the years, several disadvantages of this system have come to light, at the both the Central as well as State level. According to the Report of the Select Committee,

> "The multiplicity of taxes at the State and Central levels has resulted in a complex indirect tax structure in the country that is ridden with hidden costs for the trade and industry. Firstly, there is no uniformity of tax rates and structure across States. Secondly, there is cascading of taxes due to 'tax on tax'. No credit of excise duty and service tax paid at the stage of manufacture is available to the traders while paying the State level sales tax or VAT, and vice-versa. Further, no credit of State taxes paid in one State can be availed in other

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[1] The Institute of Chartered Accountants of India, Background Material on GST (Popularly known as VAT Globally), Sahitya Bhawan Publications (June 2015).

[2] Department of Revenue, Ministry of Finance, Government of India, Introduction (Good and Service Tax), *available at*: http://dor.gov.in/Gstintro.

States. Hence, the prices of goods and services get artificially inflated to the extent of this 'tax on tax'.[3]

One of the main problems with VAT is that it taxes inputs and outputs at different rates. This poses as a problem because what is an input to one taxpayer may be an output to another. For example, sugar is an input for a restaurant; however it is an output for a household.[4] Another major problem is that VAT rates and regulations vary from state to state. In some states the VAT rate may be extremely high, whereas in another state it may be low, resulting in a loss of revenue to the central and state governments.

The Central VAT (CENVAT) and State level VAT schemes also have several shortcomings. The CENVAT is narrow in scope and does not include several central taxes. CENVAT is levied only at the stage of production, and the value added in subsequent stages is not included in the base. Further, there is no credit of duty paid on inputs or service tax paid on input services if the final products are exempted from central excise duty or service provided in exempt from service tax. Currently, service tax is levied on selected services, many services are not be taxed, thereby once again leading to a loss of revenue for the Government. In some ways, the State level VAT is also ambiguous due to the classification of goods under different tax schedules. Retailers, consumers and other taxpayers face several difficulties as each product is taxed differently, and repetitive reference needs to be made to the tax schedules. Furthermore, many of the States continue to indirect taxes such as luxury tax, entertainment tax, etc.

Overall, there are several such issues with the existing tax system which The Constitution (One Hundred and Twenty Second Amendment) Bill, 2014 or the Goods and Service Tax Bill, 2015 seeks to overcome. This Bill which is to be implemented from April 2016, proposes for a national Value Added Tax on all goods and services in India.

II. OVERVIEW OF THE CONSTITUTION (122ND AMENDMENT) BILL, 2014

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3 SELECT COMMITTEE ON THE CONSTITUTION (ONE HUNDRED & TWENTY-SECOND AMENDMENT) BILL, REPORT, 2014, (INDIA).

4 Govinda Rao, *Goods and Services Tax: Some Progress Towards Clarity*, XLIV Economic & Political Weekly, (December 19, 2009).

The Bill amends the Constitution to make way for the goods and service tax. Both the Union and State governments have the legislative powers to make laws on GST, although it is only the Parliament which can levy an integrated GST on the interstate supply of goods and services, and imports.[5]

i. GST COUNCIL

Article 279A of the Constitutional Amendment Bill provides for the apportionment of the IGST, wherein the GST Council comprising the Union Finance Minister, Union Minister of State for Revenue, and state Finance Ministers (as per the 2011 Bill, which has now been modified) , makes recommendation related to such apportionment. This Council also makes recommendations on the formulation of the principles that govern the place of supply.[6] The 2014 Bill modifies the composition stated in the 2011 Bill to state that one of the members could either be the Union Minister of State in charge of Revenue or Finance.[7] Every decision of the GST Council is to be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles[8]:

a. The vote of the Central Government is to have a weightage of one third of the total votes cast.

b. The votes of all the State Governments taken together are to have a weightage of two thirds of the total votes cast.

The function of the GST Council as enshrined under Article 279A is make recommendations on the following:[9]

i. taxes, cesses, and surcharges levied by the Centre, States and local bodies which may be subsumed in the GST[10];

ii. goods and services which may be subjected to or exempted from GST;[11]

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5 PRS Legislative Research, *available at:* http://www.prsindia.org/billtrack/the-constitution-122nd-amendment-gst-bill-2014-3505/.

6 PRS Legislative Research, Goods and Services Tax: Comparison of the 2014 Bill with the 2011 Bill, *available at:* http://www.prsindia.org/billtrack/the-constitution-122nd-amendment-gst-bill-2014-3505/.

7 Ibid.

8 Ibid.

9 Ibid.

10 Article 279A(4) (a), Constitution (122nd Amendment) Bill of 2014.

iii. model GST laws, principles of levy, apportionment of ICGST and the principles that govern the place of supply;[12]

iv. the threshold limit of turnover below which goods and services may be exempted from GST;[13]

v. rates including floor rates with bands of GST;[14]

vi. any special rates for a specified period, to raise additional resources during any natural calamity or disaster;[15]

vii. special provision with respect to Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and,[16]

viii. any other matters.

ii. ADDITIONAL TAX

The Bill proposes for an additional tax of up to 1% on the supply of goods to be levied by the Centre in the course of inter-state trade or commerce. This tax is to be assigned to the States from where the supply originates and will last for two years or longer, as recommended by the GST Council. The net proceeds of the addition tax on supply of goods in any financial year does not form part of the Consolidated Fund of India and is deemed to have been assigned to the States from where the supply originates. This clause does not apply to the proceeds attributable to the Union Territories.

iii. COMPENSATION TO STATES

The Parliament may provide for compensation to the States for loss of revenue arising on account of implementation of goods and service tax for period not exceeding five years.[17]

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[11] Article 279A(4) (b), Constitution (122nd Amendment) Bill of 2014.
[12] Article 279A(4) (c), Constitution (122nd Amendment) Bill of 2014.
[13] Article 279A(4) (d) ,Constitution (122nd Amendment) Bill of 2014.
[14] Article 279A(4) (e), Constitution (122nd Amendment) Bill of 2014.
[15] Article 279A(4) (f), Constitution (122nd Amendment) Bill of 2014.
[16] Article 279A(4) (g), Constitution (122nd Amendment) Bill of 2014.

iv. EXEMPTIONS

Alcohol for human consumption is exempted from GST. Clause (12A) of Article 366 defines goods and service tax as,

> "any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption."

GST is not on levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. The GST Council shall recommend the date on which the GST shall be levied on the aforementioned petroleum products.[18] The proposed Bill has also exempted tobacco, tobacco products and electricity from the ambit of GST.

III. PROPOSED GST MODEL

The proposed tax system is the "dual GST" which is to be concurrently levied by the Central and State Government, both. This dual GST consists of:

i. Central GST (CGST) - levied by the Central Government.

ii. State GST (SGST) - levied by the State Government.

iii. Integrated GST (IGST) - levied by the Central Government on Inter- State supply of goods and services.

The CGST and the SGST are to be levied under different statutes; however, both will be levied on the same basis.[19] For example: if the base price of a good is Rs. 100, and the rates of CGST and SGST are 10%, then both the CGST and the SGST will be charged on Rs. 100 i.e. CGST will be Rs. 10 and SGST will be Rs. 10.

In 2009, the Empowered Committee of State Finance Ministers after much discussion with the Department of Revenue, Government of India, released the "First Discussion Paper on GST in

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[17] Clause 19, Constitution (122nd Amendment) Bill of 2014.

[18] Article 279A(5), Constitution (122nd Amendment) Bill of 2014.

[19] Shreyas Sangoi, *GST Model in India*, *available at:* http://www.cvocaassociation.com/resource/image/GST_Model_in_India.pdf.

India", which lays down the following parameters with regard to the GST Model to be followed in India:[20]

a. There will be a dual GST model for the country, wherein the first component, namely, Central GST will be levied and collected by the Central Government and the second component, namely, the State GST will be levied, collected and appropriated by each of the States. The proceeds of the Central GST would be shared between the Centre and the States on the basis of the devolution formula recommended by the Finance Commission and accepted by the Government.[21]

b. The proposed Central and State GST would be levied on all transactions involving supply of goods and services except those that are exempt or kept out of the purview of the GST.[22]

c. Integrated GST (IGST) would be levied on inter-State transactions of Goods and Services. This IGST would be equivalent to the sum of CGST and SGST. The exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer will claim credit of IGST while discharging his output tax liability in his own State. The Centre will transfer to the importing State the credit of IGST used in payment of SGST.[23]

d. GST will also be levied on imports. Input Tax Credit will be available of the GST paid on the import of goods and services.[24]

IV. SUBSUMATION OF CENTRAL AND STATE TAXES

The Empowered Committee, in 2009 recommended the following Central taxes to be subsumed under the Goods and Services Tax:[25]

i. Central Excise Duty

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[20] Standing Committee on Finance, Department of Revenue, Ministry of Finance, The Constitution (115th Amendment) Bill, 2011, Seventy Third Report, 2012-13, New Delhi.
[21] Ibid., at 16.
[22] Ibid.
[23] Ibid., at 17.
[24] Ibid.
[25] Empowered Committee of State Finance Ministers, Government of India, First Discussion Paper on GST, (2009), *available at*: http://www.empcom.gov.in/WriteReadData/UserFiles/file/Discussion%20Paper/first_dis.pdf.

ii. Additional Excise Duties

iii. Excise Duty levied under the Medicinal and Toiletries Preparation Act

iv. Service Tax

v. Additional CVD

vi. Special Additional Duty of Customs at 4%

vii. Surcharges

viii. Cesses.

Under State Taxes, the following were recommended to be subsumed:

i. VAT/ Sales Tax

ii. Entertainment Tax (unless levied by local bodies)

iii. Luxury Tax

iv. Taxes on Lottery, Betting and Gambling

v. State Cesses and Surcharges, in so far as they relate to supply of goods and services

vi. Entry Tax not in lieu of Octroi.

V. ADVANTAGES OF GST IN INDIA: TWO STEPS FORWARD

The introduction of GST is considered one of the biggest tax reforms in Indian tax history. Some say that is the biggest reform in the country since Independence in 1947. This taxation system aims at creating a uniform taxation system applicable to the entire nation. It has the following benefits:

i. SIMPLIFY TAX STRUCTURE

The GST is a rationale, simplified, and harmonised system of tax in consonance with the rest of the world. It addresses the cascading effect under the erstwhile system by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has resulted in a major simplication of the rate structure and broadening of tax base.[26] Further, according to Dr. Vijay L. Kelkar, Ex-Chairman, Thirteenth Finance Commission,

> "This policy initiative should witness a higher compliance and an upsurge in revenue collections. This will also have an indirect positive impact on direct tax collections. Further, given the fact that GST will trigger an increase in the GDP, this in turn would yield higher revenues even, at existing level of compliance. Another important source of gain for the Government would be the savings on account of reduction in the price levels of a large number of goods and services consumed by the Government."[27]

Cutting down the large number of taxes imposed by the Central and State Governments will lead to the creation of a unified market, which would facilitate seamless movement of good across states and reduce the transaction cost of businesses.[28]

ii. IMPROVE THE ECONOMY

Efficient allocation of productive resources and providing full tax offsets is expected to result in gains for GDP, returns to the factors of production and exports of the economy.[29] The implementation of the GST regime has the potential to push India's GDP by one or two per cent, according to Finance Minister Arun Jaitley.[30] Further, the National Council of Applied Economic Research has estimated an increase in the Government's tax revenue by about 0.2%, and a growth in the GDP by about 0.9 to 1.7%.[31] Further, exports will also get a boost as they are zero-rated taxes which will reduce the cost of manufactured goods and services under GST will increase the competitiveness of Indian goods and services in the international market.[32]

iii. INCREASE EMPLOYMENT

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[26] R. Vasanthagopal, *GST in India: A Big Leap in the Indirect Taxation System*, 2 International Journal of Trade, Economics, and Finance 2, (April 2011).

[27] SELECT COMMITTEE ON THE CONSTITUTION (ONE HUNDRED & TWENTY-SECOND AMENDMENT) BILL, REPORT, 2014, (INDIA).

[28] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.

[29] National Council of Applied Economic Research, *Moving to Goods and Services Tax in India: Impact on India's Growth and International Trade*: *Final Report*, (December 2009).

[30] Press Trust of India, *GST to Increase India's GDP by 1-2%*, Business Standard ,April 17 2015.

[31] National Council of Applied Economic Research, *Moving to Goods and Services Tax in India: Impact on India's Growth and International Trade*, Final Report, December, 2009.

[32] Varun Sinha, *How GST Will Change the Face of Indian Economy*, NDTV Profit, November 22, 2014.

Economic improvement and growth will lead to increase in employment opportunities i.e. to the extent it enhances economic efficiency, it will also create new opportunities for employment which would obviously benefit the relatively poor section of the society and improve equity.[33] The implementation of GST will witness an increase in the real returns to land, labour and capital (as shown in the NCAER study). Therefore, the rural poor (which comprises of small and marginal farmers and landless labourers) will also enjoy an increase in their income.[34] Similarly, the urban poor will also benefit from new employment opportunities.[35] The Kelkar Task Force estimated that GST could help add productive employment of as much as 4 to 5 million.[36]

iv. REDUCE CASCADING EFFECT

The primary objective to introduce a new indirect tax policy is usually to remove cascading effects and make input tax credits/ set-off mechanism more consumer friendly.[37] The GST system is a subsumed tax consisting of all the multiple indirect taxes levied by the Centre and State, thereby enabling the government to stop pilferage and rationalize the overall taxation regime. Separate taxation of goods and services often require splitting of transaction values into value of goods and services for taxation, which leads to greater complexities, administration and compliances cost.[38] With a continuous chain of set-offs from the point of production to that of retail, the all cascading effect of CENVAT and Service Tax will be removed. Further, other Central and State Taxes will be included in GST, thereby reducing the final net burden of tax on goods and services.[39] The GST is expected to give relief to industry, trade and agriculture through more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of Central and State taxes in the GST and phasing out of CST.[40]

v. REDUCE PRICES OF GOODS AND SERVICES

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[33] Report of the Task Force on Goods and Services Tax, Thirteen Finance Commission (December 15, 2009).
[34] Report of the Task Force on Goods and Services Tax, Thirteen Finance Commission (December 15, 2009).
[35] Ibid.
[36] Amol Agrawal, *India's Good and Services Tax- A Primer*, STCI Primary Dealer Limited, March 2011.
[37] Rajib Dahal, *Basic Concepts and Features of Goods and Service Tax in India*, 10.2139/ssrn.1615472.
[38] Anshu Jain, *An Empirical Analysis on Goods and Service Tax in India: Possible Impacts, Implications and Policie*s, 2 International Journal of Reviews, Surveys and Research 1, January 2013.
[39] Ibid.
[40] Ibid.

Elimination or reduction of the cascading effect of indirect taxes on goods and services will result in the fall of their prices. The GST system permits businesses to set off the taxes they pay when they purchase any raw material, good or service. By minimizing the number of taxes levied, subsuming major Central and State taxes, and continuous chain of set-off of input goods and services,[41] the prices of these goods and services will reduce. It is anticipated that with the set-off provision, business will be refunded the taxes paid on inputs, thereby service providers, producers and distributors will see a significant dip in costs.[42] By eliminating various indirect taxes, the tax ultimately paid by the final consumer will come down in most cases. Lower prices of goods and services will result in increased consumption, thereby improving the economy and employment opportunities.

vi. IMPROVE INTERNATIONAL TRADE

This comprehensive tax system will improve international trade in India, as tax on exports is fully eliminated. Importers of goods and services may be affected due to the change in tax rates and the probable withdrawal of exemption high-seas sales under the CST Act.[43] Exporters, on the other hand, shall continue to be zero-rated and are eligible to claim refund of input tax credit.[44] Consequently, both export oriented industries and import substituting industries would become internationally more competitive.[45] Therefore, while exports can be expected to register an increase, imports are likely to decrease. The gains in exports are expected to vary between 3.2 to 6.3% and imports are expected to gain somewhere between 2.4 and 4.7%.[46]

vii. WIDEN TAX BASE

GST will give credits for all taxes paid earlier in the goods/ services chain incentivising tax-paying firms to source inputs from other registered dealers.[47] This will bring in additional revenues to the government as the unorganised section, which is not part of the value chain, would be drawn

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[41] R. Vasanthagopal, *GST in India: A Big Leap in the Indirect Taxation System, International Journal of Trade, Economics, and Finance*, Vol. 2, No. 2, April 2011.
[42] Babar Zaidi, *Will It Help Cut Prices*, Business Today, December 2009.
[43] The Institute of Chartered Accountants of India, Background Material on GST (Popularly known as VAT Globally), Sahitya Bhawan Publications (June 2015).
[44] Ibid., at 85.
[45] R. Vasanthagopal, *GST in India: A Big Leap in the Indirect Taxation System ,2* International Journal of Trade, Economics, and Finance 2, (April 2011).
[46] Report of the Task Force on Goods and Services Tax, Thirteen Finance Commission (December 15, 2009)
[47] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.

into the tax net.[48] Besides, states will be allowed to tax services (as opposed to only the Central government) under the GST.[49]

viii. REDUCE TAX EVASION

Dr. Kelkar also envisioned that a single and low rate of tax will help reduce tax evasion significantly and that there will be little incentive for the producers and distributors to evade their turnover.[50] An important aspect of GST is that, at every stage of a transaction(s), businesses will have to produce and register their invoices in order to claim input tax credits. This will ensure that a check is kept on any chance of tax evasion and curb corruption

VI. EMERGING ISSUES: ONE STEP BACK

Although the GST system seems beneficial, there are a few issues which may emerge after its implementation, that need to be addressed:

i. POLITICS OVER ECONOMICS

The GST, being a landmark tax reform in India, involves a Constitution Amendment Bill which must be passed by both the Houses of Parliament by a majority of its total membership and a majority not less than two-thirds of the members present and voting. Although it was passed in the Lok Sabha in May 2015,[51][52] it has failed to receive numerical qualification to be passed in the Rajya Sabha.[53] The Congress was not on board with the GST Bill drafted by the National Democratic Alliance Government and called it a "distortion" of the legislation drafted by the United Alliance Government.[54] Congress strongly opposed the 1% additional tax on inter-State transactions as it may have a cascading effect and dilute the very objective of a single destination tax.[55] Further, the Congress also addressed the issue of exemptions of tobacco and electricity from the tax, stating that

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48 Ibid., at 40.

49 Ibid.

50 Thirteenth Finance Commission, Ministry of Finance, Government of India, 2010-2015.

51 Gaurav Choudhury, *GST Bill Passed in Lok Sabha: Here's All You Need To Know*, Hindustan Times, May 6 2015.

52 Puja Mehra, *GST Bill Sails Through Lok Sabha, Congress Walkout Helps*, The Hindu, May 7, 2015.

53 Parliament's Monsoon Session Washed Out, GST Bill Not Passed, The Indian Express, August 13, 2015 available at: http://indianexpress.com/article/india/india-others/live-gst-bill-unlikely-to-be-passed-in-monsoon-session-of-parliament/.

54 Kavita Chowdhury, *Passing GST Bill in Its Present Form Makes No Sense: Moily*, Business Standard, July 3, 2015.

55 Kavita Chowdhury, *Passing GST Bill in Its Present Form Makes No Sense: Moily*, Business Standard, July 3, 2015.

this will only result in lower revenue. Furthermore, the Congress also expressed its concern over not having an dispute settlement mechanism and explicit compensation formula.

ii. CASCADING EFFECT

India Inc. anticipates that the GST will have a cascading effect given that the current GST framework does not provide for setting it off with CGST, SGST or even IGST.[56] In this case, the additional tax of 1% will result in adding to the cost of the product on every inter-state sale. Finished goods manufacturers who source raw material/ inputs from other states could face a cost push. In such a situation, the GST regime benefits of providing seamless credit and reduced transaction costs will not materialise.[57] According to R. Muralidharan, Senior Director, Deloitte India, the question is whether India should have the 1% origin-based tax at all under a consumption-based GST regime. This additional 1% tax on inter-State transactions is only going to add to the cost of the good or service.

iii. REVENUE LOSS

Exempting tobacco and alcohol from GST will result in a huge loss of revenue collections. Excise duty collections from tobacco products like cigarettes, bidis, chewing tobacco and gutkha stood at Rs 12,526 crore in 2008-09, compared with Rs 9,591 in 2007-08 and Rs 8,213 in 2006-07.[58] According to a study conducted in 2010, raising the taxes on bidis to Rs. 98 per 1000 sticks would add Rs. 36.9 billion to tax revenues, and increasing the taxes on cigarettes to Rs. 3691 per 1000 sticks would further add Rs. 146.3 billion to the tax revenue.[59] Exempting tobacco and tobacco products from the GST will not only lead to a loss in revenue but will also encourage premature deaths of smokers all over the nation. Further, in a similar sense, exempting alcohol from the ambit of GST will lead to major losses to the State Governments. Alcohol revenue is a major contributor to State coffers.[60] The liquor industry is the second largest contributor to State government exchequers, contributing more than Rs. 90, 000 crore in taxers per annum.[61]

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[56] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.
[57] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.
[58] Vrishti Beniwal, *Centre in Favour of GST on Alcohol*, Business Standard, December 12, 2009.
[59] John RM, Rao RK, Rao MG, Moore J, Deshpande RS, Sengupta J, Selvaraj S, Chaloupka FJ, Jha P. The Economics of Tobacco and Tobacco Taxation in India. Paris: International Union against Tuberculosis and Lung Disease; 2010.
[60] M.S. Mani, *Alcohol Should be Included in GST*, The Hindu Business Line, August 11, 2015.
[61] M.S. Mani, *Alcohol Should be Included in GST*, The Hindu Business Line, August 11, 2015.

iv. IMPACT ON THE POOR

One of the major drawbacks of the GST is that it is a regressive tax, which essentially means that the poor pay more, as it takes a higher percentage of low income than it does of higher incomes. Further, the proposed GST rate is between 20 to 27% as opposed to the 12.5% VAT. The issue rests in the fact the poor use most of their income for consumption. For example, a poor household in India may earn around Rs. 6000 per month, out of which Rs. 5500 will be spent on food, clothing, shelter and other basic necessities. If a GST at the rate of 15% is levied, the household will have to spend an additional Rs. 825 on tax. Therefore, the GST may severely impact the poor in our country.

v. GST COUNCIL

Under the proposed GST Model, it is the GST Council which will design the tax and the tax structure and not the Centre or states. Collective design and administration of the tax would mean an end to the ad hoc and whimsical policy making and non-transparent tax administration.[62] Thus, the GST would usher in the new era of co-operative federalism.[63] Experts fear that the power given to the Council is a snub on federalism.

VII. RECOMMENDATIONS

In is of great importance for the Government to thoroughly examine the 122nd Amendment Bill and make practical changes to the same. The GST model could be a huge success with a few modifications:

i. EXEMPT BASIC NECESSITIES

In a country like India where more than 22%[64] of the population i.e. 1.28 billion people are below the poverty line, it is of utmost important to give concessions on basic items such as food stuffs, soaps, medicines etc. This does not mean that all food items, drugs, detergents etc. should be exempted. It is the basic items such as pulses, legumes, *daals* and such that need to be exempted. The GST being regressive in nature is going to hit the lower income groups the hardest, as a major chunk

[62] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.
[63] Rakesh Joshi, *How GST Was Lost Again*, Business India, August 2015.
[64] Planning Commission, Government of India, Press Note on Poverty Estimates 2011-2012 (July 2013)

of their incomes are spent on survival. Several countries such as Nigeria, Nicaragua, South Africa, Australia, and Canada[65] have exempted basic food items from the GST. Even essential medicines and pharmaceutical items such as sanitary napkins, vitamins, contraceptives, aspirins should be not be charged GST, as it will become incredibly expensive to people living in rural areas.

ii. REDUCE BURDEN ON LOWER INCOME GROUPS

Making the GST a progressive tax will lower the burden on the lower income groups. For example, by giving set-offs on basic necessities to the lower income earners, subsidies on health care, education, community services etc., the overall tax burden on them will reduce. Countries such as Australia and have exempted supplies such as basic food, child care services, medical care, healthcare, farmland, charitable activities, and education to name few.[66] Further, Australia permits claiming of input tax credits for services such as financial supplies, rental of residential premises, supplies of precious metals etc. Incorporating such set offs will uplift lower income groups and reduce the disparity that the GST may create.

iii. REMOVE ADDITIONAL TAX

The Government should do away with the additional 1% tax which is levied on inter-state sales. This type of origin based tax seems to favour international trade over domestic, inter-state trade. Every time a product crosses a state border, into another state, within the nation, an additional non-vatable tax is levied. If a product is to be transacted from Delhi to Tamil Nadu, it needs to cross at least 4 States, which means that the additional tax charged on that product increase by 4 to 5%. This form of tax is only going to be an economic barrier to trade inter-state and must therefore, be removed from the Bill.

iv. INCLUDE ALCOHOL AND TOBACCO

Exempting high revenue generating products such as tobacco and alcohol from the GST is going to have major repercussions on the Indian economy. Alcohol and tobacco, which are

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[65] Ernst and Young, Worldwide VAT, GST and Sales Tax Guide, 2015, *available at:* http://www.ey.com/Publication/vwLUAssets/Worldwide-VAT-GST-and-sales-tax-guide-2015/$FILE/Worldwide%20VAT,%20GST%20and%20Sales%20Tax%20Guide%202015.pdf.

[66] Ernst and Young, Worldwide VAT, GST and Sales Tax Guide, 2015, *available at:* http://www.ey.com/Publication/vwLUAssets/Worldwide-VAT-GST-and-sales-tax-guide-2015/$FILE/Worldwide%20VAT,%20GST%20and%20Sales%20Tax%20Guide%202015.pdf.

considered demerit goods and harmful for health, should be kept under GST. States should also have the power to levy excise duty in addition to GST on alcohol.

VIII. CONCLUSION

A well-structured and self-sufficient GST can boost the GDP by not less than 2%. The 122nd Amendment Bill, if implemented efficaciously, can be one of the biggest and best reforms in the history of indirect tax in India. It will impact all stakeholders in the society, from the common man to the largest corporates. The question is, will the impact be a positive one or a negative one? Implementation of the GST may result in a tremendous boom in the economy on one hand, or tragic downfall on the other. In order to boost the economy and successfully implement the GST, it is essential to eliminate any possible threat to the tax system, tax authorities and more importantly tax payers. Further, a thought must be given to the products that ought to be exempted from the GST and the additional 1% tax on inter-state transactions. These clauses may not only affect income earners but also have dreadful consequences the economy as a whole. All in all, the GST will take our nation forward; however, the Bill in question is not completely ready to be passed. With a little tweaking, it will be good to go.