

**One Day National Seminar on GST and Centre-States Financial Relations**

**Seminar Date - 25<sup>th</sup> February, 2017 (Saturday)**

**Venue – West Bengal National University of Juridical Sciences, Kolkata**

**CONCEPT PAPER**

Indian tax system has long been suffering from the vices of multiple taxes, lack of transparency and cascading effect imposed under scores of laws *in spite* of introduction of VAT at Centre and States level. The Goods and Service Tax (GST) is being considered the panacea to cure all the existing anomalies and complexities in the indirect system in the country and to make nation as one market.

The long waiting period is over on 8<sup>th</sup> September 2016 with the assent of the President to the Constitution (101<sup>st</sup> Amendment) Act 2016 (“**Amendment**”). The successful passing of the amendment has paved the ways for introduction of the GST in the country.

The amendment provides for the levy of tax on supply of goods and services (i.e. GST) by the Centre and the States by subsuming almost all the important indirect taxes of the States and the domestic indirect taxes of the Centre. India being a federal country, single GST was not practically possible, therefore, the amendment envisaged for dual GST i.e. the Centre and States both will have concurrent power to levy GST on supply of goods and services to be known as Central GST (CGST) and State GST (SGST). Insofar as inter-State transactions are concerned, the Centre will have exclusive power to levy GST on inter-state transaction to be called as Integrated Goods and Service Tax (IGST).

In order to ensure uniformity in the levy and administration of GST, the amendment provides for the creation of the GST Council which is supposed to be a super legislature in the matter of GST. If it happens so, it has potentiality to affect the Centre-State financial relations and particularly the State’s fiscal autonomy which is vital for sound federation.

The Amendment envisages as under:

- a) To subsume various Central indirect taxes and levies such as Central Excise Duty/CENVAT, Additional Excise Duties, Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, Service Tax, Additional Customs Duty commonly known as Countervailing Duty, Special Additional Duty of Customs,

and Central Surcharges and Cesses so far as they relate to the supply of goods and services;

- b) To subsume State Value Added Tax/Sales Tax, Entertainment Tax (other than the tax levied by the local bodies), Central Sales Tax (levied by the Centre and collected by the States), Octroi and Entry tax, Purchase Tax, Luxury tax, Taxes on lottery, betting and gambling; and State cesses and surcharges insofar as they relate to supply of goods and services;
- c) To dispense with the concept of 'declared goods of special importance' under the Constitution;
- d) To levy Inter-state Goods and Services Tax on inter-State transactions of goods and services (IGST);
- e) To confer concurrent power upon Parliament and the State Legislatures to make laws governing goods and services tax;
- f) To cover all goods and services, except alcoholic liquor for human consumption, for the levy of goods and services tax. In case of petroleum and petroleum products, it has been provided that these goods shall not be subject to the levy of Goods and Services Tax till the Goods and Services Tax Council decides otherwise.
- g) To compensate to the States for loss of revenue arising on account of implementation of the Goods and Services Tax for a period of five years;
- h) To create Goods and Services Tax Council to examine issues relating to goods and services tax and make recommendations to the Union and the States on parameters like rates, exemption list and threshold limits, etc. The Council shall function under the Chairmanship of the Union Finance Minister and will have the Union Minister of State in charge of Revenue or Finance as member, along with the Minister in-charge of Finance or Taxation or any other Minister nominated by each State Government. It is further provided that every decision of the Council shall be taken 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:—
  1. The vote of the Central Government shall have a weightage of one-third of the total votes cast, and
  2. The votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast in that meeting.
- i) Unlike the original Amendment Bill introduced by the Dr. Manmohan Singh government, there is no separate body for dispute settlement in the 101<sup>st</sup> Amendment.

It is for the GST council to establish a mechanism to adjudicate the disputes between the Union and States and State(s) and State(s) arising out of the recommendations of the council or implementation thereof.”

**THE AMENDEMENT SHALL HAVE THE FOLLOWING IMPACT-**

- Manufacturing States will get affected as the GST is going to be destination based consumption tax. However it will bring benefit to the most of consuming States.
- State’s fiscal autonomy will be altered to a great extent once the GST Council takes over as the authority.
- Article 279A (11) of the Constitution of India cloaks GST Council with powers on adjudication of intergovernmental disputes. This is copied verbatim from the text of Article 131 which gives Supreme Court its Original Jurisdiction in Intergovernmental disputes.
- Despite all the constitutional fanfare, the GST Council is essentially an administrative body which has the power to make recommendations on what is to be taxed how to impose tax and at what rate should the tax be imposed, etc. If these recommendations are binding, it creates a constitutional hurdle as the Legislatures will be losing out on an essential legislative function to an administrative body.
- The “adjudication” mechanism that is to be established by the GST Council is another body that has the power to alter the financial autonomy of the Legislature. If the decision of the dispute resolution mechanism is not binding it changes nothing, but if the decisions are binding then that would invariably mean fetters on the fiscal autonomy.

**Themes of the conference:**

1. Historical Background of GST; Making of the 101<sup>st</sup> Amendment and the relevant laws
2. Co-operative federalism.
3. States’ fiscal autonomy.
4. GST Council – its place and status in the constitution.
5. Dispute settlement in GST Council and the Supreme Court.
6. Best practices in other countries *vis-a-vis* India with reference to GST
7. The big and peripheral changes: emerging trends

The Seminar intends to bring together the major actors and stakeholders like bureaucrats, judges, lawyers, academics, industrialists at a common platform so that a productive discussion and proposition of solutions can be achieved in an academic atmosphere.

## **PARTICIPATION INFORMATION**

**ELIGIBILITY:** It is open to all concerned bureaucrats, lawyers, stakeholders, academicians, judges, researchers and students.

**PAPER WRITING AND PRESENTATION:** Papers are invited from all the stakeholders. Only selected papers will be allowed to be presented in the conference. And also, the paper may also be published. The paper should be of around 5000 to 6000 words.

**SUBMISSION OF ABSTRACT:** All abstracts should be submitted on or before 23:59 on **20<sup>th</sup> of January, 2017**. Abstracts shall not exceed 500 words. A cover letter along with the abstract, indicating your educational background, institution and contact details should be submitted to [nujsgst2017@gmail.com](mailto:nujsgst2017@gmail.com) on or before **20<sup>th</sup> of January, 2017**.

**FEES-** Nominal Registration Fee of Rs. 500/- only is applicable for registration kit, refreshment and lunch. Payment can be made by cheque, or demand draft or NEFT OR Bank transfer in favour of 'THE WBNUJS CFRGS A/C' NEFT details – A/C NO. 066300101009922; IFSC CODE- CORP0000663; CORPORATION BANK, NUJS BRANCH.

### **IMPORTANT DATES:**

**Last date for submission of abstracts:** **20<sup>th</sup> January, 2017**

Intimation of abstract acceptance and invitation to submit full length papers: **23<sup>rd</sup> January, 2017** (Kindly note that in case of high number of submissions, only the successful candidates will be intimated).

**Last date for submission of full length papers:** **22<sup>nd</sup> February, 2017**

**Date of conference:** **25<sup>th</sup> of February, 2017.**

### **FOR FURTHER DETAILS, PLEASE CONTACT:**

1. Dr. Sanjay Kumar, Assistant Professor of Law, WBNUJS  
Ph. 094 77 091658, Email: [nujsgst2017@gmail.com](mailto:nujsgst2017@gmail.com)