



**India's GST update: Impact, challenges,
and what's next**

The Dbriefs Geography Updates series

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Agenda

- Journey so far
- Key policy trends
- Industry trends
- What lies ahead
- Questions and answers

Journey so far

India GST update

Journey so far – some numbers

GST council meetings
held till date – 40



Tax notifications – 700+
Circulars/orders – 150+



Advance rulings: 1450+
applications filed, 1050+
disposed

As of June 2020



Committees for specific
issues: more than 12



Writ petitions filed against
various issues – rulings
awaited in most cases



Anti-profiteering: 150+
orders passed



India GST update

Journey so far

Policy-related achievements

- Single unified legislative provisions across the country
- Removal of tax cascading and seamless flow of input tax credits
- Increase in taxpayers base
- Rationalization of GST rates
- Destination based tax regime enabling the industry to set up a meaningful supply chain
- Free movement of goods across the country
- Document Identification Number a mandate for all CBIC communications
- A receptive policy team

Procedural implications

- Consistency in return details and filing across states
- Expedited and automated processing of GST refunds to exporters of goods and services
- Option of issuing a single debit/credit note for multiple invoices
- Rationalizing the manner of utilization of GST credit

India GST update

Journey so far (Cont'd)

Technology-related achievements

- Introduction of a single online GSTN platform for the entire country for undertaking compliances
- Smooth functioning of the e-way bill portal
- The government to embark on e-invoicing compliance platform from 1 October 2020

Key challenges

- Transition issues still persist
- Multiple audits – Centre and State
- Multiple registration requirements
- Frequent amendments with short time frame to implement
- States and Central notifications yet to be fully aligned
- Document Identification Number adoption by States pending

Key policy trends and GST developments

E-invoicing

Key updates

- 1 October 2020 to remain the Go-Live date with reduced number of targeted taxpayers (taxpayers with turnover \geq INR 500 cr)
- Excluded categories – SEZ units, goods and passenger transporters, entertainment service providers (cinemas, exhibitions), and banking sector including NBFC
- Changes in schema and validations
- Requirement of QR code for B2C transactions to be removed/deferred – announcement expected
- Open issues which include transition credit/debit notes; T+1 validation; reverse charge, self-supply and ISD etc., likely to be addressed soon
- New returns (ANX-1, ANX-2, and RET-1) dropped
- Current returns to be enhanced with features (from new returns)
- GSTN along with NIC to conduct webinars to discuss the road map

Implementation of e-Invoicing – 1 October 2020

Polling question 1

We are 6 weeks away from e-invoicing launch, what is your status?

- Already started and under implementation
- Yet to start and need support
- I am below INR 500 cr turnover and I want to comply voluntarily. Can I?
- Don't know/not applicable

Key jurisprudence and clarifications

Jurisprudence	<ul style="list-style-type: none">• Inverted duty structure – denial of refund of credit on input services is ultra vires the refund provision
	<ul style="list-style-type: none">• Interest recovery – High Courts have held that show cause notice is mandatory
	<ul style="list-style-type: none">• Transition credit – time limit prescribed under rules is directory and not mandatory. Retrospective amendment to act to enable time limit to be prescribed – matter before apex court
Recent clarifications	<ul style="list-style-type: none">• Director remuneration to be taxed in alignment with income tax provisions – if treated as salary, then no GST to be paid

Production linked incentives schemes

Large-scale electronics manufacturing

Incentives overview

- Incentives in the range of 4% to 6% on incremental sales of manufactured goods for a period of 5 years

Eligibility

- Threshold of incremental investment for manufacturing
- Applicant can operate new or existing manufacturing facility(ies)

Tenure and Application

- Scheme tenure: 2020-21 to 2024-35
- Application window of 4 months from 4 April 2020 (up to 31 July 2020) – may be extended further based on initial response from industry

“Under the Production-Linked Incentive Scheme, around 22 companies have applied. These companies will produce mobile phone and components in India worth Rs 11.5 lakh crores in the coming 5 years out of which products worth Rs 7 lakh crores will be exported.”

- Union IT Minister Ravi Shankar Prasad

Eligible segments	Global Mfr. Revenue# in excess of	Investment threshold	No. of applicants
• Mobile phones with per unit invoice value of INR 15,000 or more	INR 100 Bn	INR 10 Bn over 4 years	5
• Mobile phones (others) - Only available for domestic companies	INR 1 Bn	INR 2 Bn over 4 years	5
• Specified electronic components	INR 500 Mn	INR 1 Bn over 4 years	10
#including revenue from group companies			

Production linked incentives schemes

Pharma

Critical bulk drugs

Incentives overview

- Incentives at rate of 20% to 5% on incremental sales of KSMs/drug intermediates/APIs
- Incentives for 6 years on sale of 41 products covering 53 identified APIs

Eligibility

- Threshold of incremental investment for manufacturing critical KSMs/drug intermediates and APIs (ranges between INR 20 cr to 400 cr)
- **Criteria – net worth, domestic value addition, production capacity**
- Scheme is applicable only for **greenfield projects**

Tenure and application

- Scheme tenure: 2020-21 to 2029-30
- Application window of 120 days from 27 July 2020

Applicants	Products
Maximum 136 (2-4 per product)	<ul style="list-style-type: none"> • 41 products covering 53 identified APIs <ul style="list-style-type: none"> – 14 identified KSMs/ intermediaries/APIs – 27 identified KSMs/drug intermediaries/APIs

Medical devices

Incentives overview

- Incentives at rate of 5% on incremental sales of goods manufactured in India
- Incentives for 5 years subsequent to base year 2019-20
- Total outlay – INR 3,240 cr

Eligibility

- Specified segments of medical devices
- Incremental investment of INR 180 cr over 3 years period
- **Criteria – net worth, domestic value addition, production capacity**
- Scheme is applicable only for **greenfield projects**

Tenure and application

- Scheme tenure: 2020-21 to 2026-27
- Application window of 120 days from 27 July 2020

Applicants	Devices
Maximum 28	<ul style="list-style-type: none"> • Cancer care/radiotherapy medical devices • Anesthetics and cardio-respiratory medical devices including catheters of cardio respiratory category and renal care medical devices • Radiology and imaging devices (both ionizing and imaging devices) • All implants including implantable electronic devices like cochlear implant and pacemakers

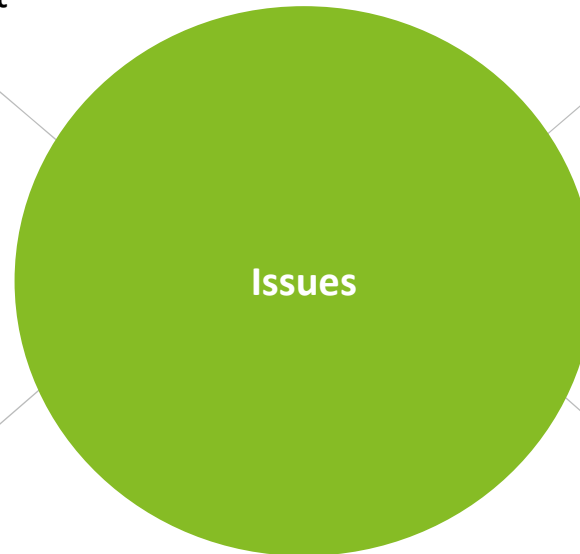
Industry – key issues

- **Stewardship services, in country – taxable?**

- Decision of the AAAR in the case of Columbia Asia – employee cost to be considered for valuation – appealed before the High Court

- **Marketing/back office support services**

- Decision of the AAAR in the case of Vserv – back office support services to overseas would be liable to GST as an intermediary



Issues

- **Usage of brand name/logo**

- Possible GST exposure on usage of logo. Increased scrutiny on import of free services

- **FOC transactions**

- Requirement to review contracts and analyze tax positions to understand if the support or software provided qualifies to be a “supply” from/to group companies

Recent industry trends

Industry – indirect tax considerations due to COVID-19

Overview of business areas impacted due to indirect tax considerations is given below

Procurement

- Analyze the impact of change in supply chain, if any
- Impact of financial difficulties faced by vendor
- Structure discounts to minimize GST impact
- List of compliances to be undertaken in case of decision to close registrations

Logistics

- Re-alignment of warehouses
- Review of logistics and transportation cost



Legal

Contractual clauses would be invoked/re-negotiated

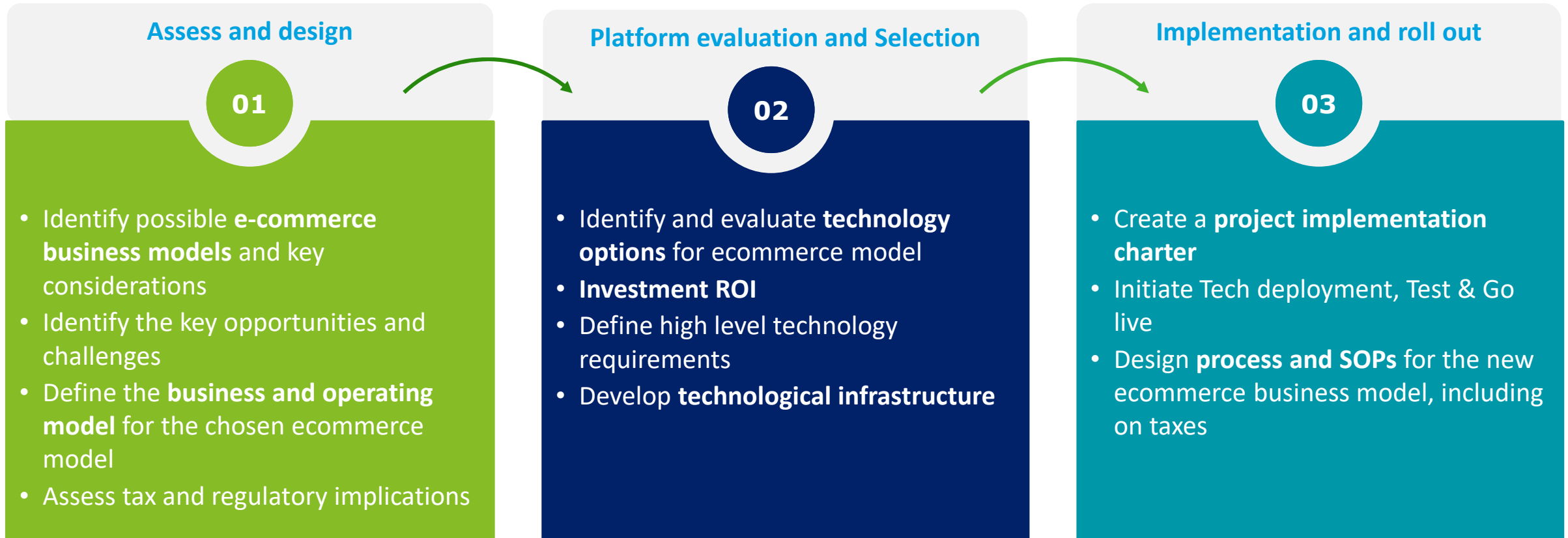
- Study the clauses being invoked and assess its GST impact
- Determine areas where contract can be structured to minimize the GST impact while meeting commercial objective

Sales

- Closely monitor debtors. Check possibility of sales return in case of goods where a debt is tuning bad
- Follow up with customers for issuance of invoices where services are already provided to minimize interest impact
- Structure discounts to minimize GST impact

Industry – change in consumer behavior and adaption by Industry

- Traditional FMCG/FMCD companies are now looking at foraying into omni-channels and domestic production by exploring options such as in-bond manufacturing. Typical implementation for omni-channel as follows



Key industry responses

Managed services: efficiency in indirect tax



- **Optimize through managed services for:**
 - GST Compliances and Reconciliations
 - GST record-keeping
 - Handle MIS reporting
 - Handle assessments and notices
 - Offer advisory services
 - Support litigations
 - E-invoicing support

Manufacturing incentives



- **Take benefit of Government incentive schemes, for expansions and investments**
 - Evaluate product eligibility, business projections and quantum of potential benefits
 - Prepare project report and file an application
 - Incentive claim support
 - In-bond manufacturing

Polling question 2

In-bond manufacturing, would you want to explore this scheme for your existing manufacturing operations?

- Need more information
- Yes
- No
- Don't know/not applicable

What lies ahead

Key representation areas being considered by the Industry

1

Cross utilization of CGST credit between distinct persons

- GST is registration specific and registration has to be taken in every state from where he has made supply of goods/service
- While the GST law does not provide any provisions relating to transfer of credits to the other GST registration of the same legal entity, which leads to accumulation of credit in one state and cash outflow in other states
- Therefore, to enhance liquidity and to unblock working capital, **GST laws to allow use of CGST credit across states within the same entity**

2

Reverse charge liability allowed to be discharged through credit

- GST law stipulates that the amount payable under RCM shall be paid by debiting the electronic cash ledger (cash payment)
- Payment of such liabilities through cash unnecessarily results in blockage of working capital
- **Law prevailing in certain countries (including Singapore, UK) do not require RCM liabilities to be mandatorily discharged through cash**
- Similar provision should be incorporated in India GST to allow RCM payment through ITC

3

Conversion of accumulated credit into tradable scrips

- Companies face issue of accumulation of credit due to complex business structure or inputs being higher as compared to output (inverted duty structure in case of input services)
- **A specific mechanism should be introduced in the GST law to convert the accumulated ITC into tradeable scrips in the market**
- This would also reduce cash flow for the companies which have substantial accumulation of credit

4

Grouping of multiple registrations within group entities for ITC utilisation

- Companies having multiple registrations across states often face issue of accumulation of credit in one state and cash outflow in other states due to complex business structure – a “input credit distribution” system can please be evaluated
- Need to allow **grouping of multiple registrations for “group entities” for utilisation of input tax credit to avoid unnecessary credit blockage**

GST – what's expected next?

Expansion of GST
to include power,
real estate,
petroleum

Jurisprudence to
evolve (writ
petitions, appellate
proceedings)

GST assessments,
litigation
proceedings to
commence soon

New Customs law,
Foreign Trade
Policy may be
introduced

Compliance
framework to
evolve and stabilize

GST law(s) would continue to evolve over next 3 – 5 years

Question and answers

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