

IMPACT OF COVID19 ON GST IN INDIA DURING CORONA

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Abstract: The outbreak of Corona virus has caused a significant impact on day to day living of the common man, government coffers and business operations. Though lockdown remains the only way to slow the spread, it will also continue to push economic operations to the brink. The corona virus will have a significant impact on various provisions under GST law such as GST return compliance, eligibility of input tax credit, the charge of tax on outward supplies, e-way bill and goods sent for Job work. In this topic, we have outlined the GST impact due to the Corona virus pandemic so that the taxpayers can make informed decisions and be aware of the compliance requirements.

Keywords: GST, Lockdown, Covid-19, Tax, India, Economic, Business, Government, etc.

Introduction:

With corona virus impacting trade and business, the all-powerful GST Council headed by Finance Minister Nirmala Sitharaman is set to discuss the implications of the virus outbreak on revenue collection. Seeking to correct the anomalies in the inverted duty structure, ease of doing business and lower compliance burden, the GST Council is also expected to rationalize rates of four key items - footwear, mobile phones, fertilizer and man-made fibers, among other goods. Official sources claimed that the increase in rates on various items would lead to "very marginal increase" in prices for the consumers. The increase in rates on chemical fertilizers from 5 per cent to 12 per cent would result in a little subsidy burden for the government. In case of other items, the impact on prices would be minor; Inverted duty refers to tax rates on inputs being higher than those levied on finished products. This results in higher input credit claims by goods besides several administrative and compliance issues. Currently, chemical fertilizer attracts a GST of 12 per cent, while its inputs are taxed at 12 per cent. Similarly, mobile phones attract 12 per cent duty, but GST on their inputs is levied at 18 per cent. The official quoted above said that Infosys would make a presentation on GST system related issues and fixing them to ensure that taxpayer' grievances are resolved in time. Ahead of the GST Council meeting, a group of officials comprising Central and state governments met on Friday in the national capital to discuss various taxpayer issues.

What is GST?

Goods and Services Tax (GST¹) is an indirect tax (or consumption tax) used in India on the supply of goods and services. It is a comprehensive, multistage, destination-based tax: comprehensive because it has subsumed almost all the indirect taxes except a few state taxes. Multi-staged as it is, the GST is imposed at every step in the production process, but is meant to be refunded to all parties in the various stages of production other than the final consumer and as a destination-based tax, it is collected from point of consumption and not point of origin like previous taxes.

Goods and services are divided into five different tax slabs for collection of tax - 0%, 5%, 12%, 18% and 28%. However, petroleum products, alcoholic drinks, and electricity are not taxed under GST and instead are taxed separately by the individual state governments, as per the previous tax system. There is a special rate of 0.25% on rough precious and semi-precious stones and 3% on gold. In addition a cess of 22% or other rates on top of 28% GST applies on few items like aerated drinks, luxury cars and tobacco products.¹²¹ Pre-GST, the statutory tax rate for most goods was about 26.5%, Post-GST; most goods are expected to be in the 18% tax range.

The tax came into effect from 1 July 2017 through the implementation of the One Hundred and First Amendment of the Constitution of India by the Indian government. The GST replaced existing multiple taxes levied by the central and state governments.

The tax rates, rules and regulations are governed by the GST Council which consists of the finance ministers of the central government and all the states. The GST is meant to replace a slew of indirect taxes with a federated tax and is therefore expected to reshape the country's 2.4 trillion-dollar economy, but its implementation has received criticism. Positive outcomes of the GST include the travel time in interstate movement, which dropped by 20%, because of disbanding of interstate check posts.

COVID-19 impact: States see sharp erosion in GST collections:

The COVID-19 ²outbreak and nationwide lockdown is severely denting the revenue collections of states pushing them to look at possible revenue earning measures including phased opening of liquor vends and pan and gutka shops in the first phase of relaxations for restarting economic activity post lockdown.

Sources in the state government departments said that GST collections, one of the prime sources of revenue for the states, is seriously compromised in the month of April with several state governments reporting serious fall in collections that are as high as 80-90 per cent some cases.

¹ GST – Good and Services Tax

² COVID-19 – Corona Virus Diseases 2019

Concerned about the steep fall, the Centre is yet to declare the GST collection numbers for April though monthly GST collection numbers for a particular month is announced on the first day of the next month. The delay, officials say, is because the government deferred allowed delayed filing of GSTR 3B³ returns for 15 days from the due date of April 20 to ease compliance burden on taxpayers during lockdown.

The worst hit seems to be states such as Delhi, West Bengal, Assam, Andhra Pradesh that are reporting fall in April GST collections to the tune of 90 per cent. In case of Delhi, officials have indicated that they have collected just Rs 300 in April against normal monthly collection of Rs 3,000 crore. Similarly, Assam seems to have collected just about Rs 200 crore as GST in April against close to Rs 1,000 crore at this point of the years.

West Bengal is also facing serious fall in tax collections as lockdown has completely stopped service sector activity while manufacturing also remains suspended. GST collections have been badly hit in hilly states that depend largely on tourism and hospitality for revenue.

"We anticipate that April GST collections may fall to a third of average monthly collections of just over Rs 1 lakh crore. The collection data could see some improvement in later dates as tax return filing dates have been extended for April," said a tax expert a not willing to be named.

Due to concerns on GST, several states are looking at resuming economic activity under the permissions given by the Home Ministry on relaxations during lockdown. In this regard, opening of liquor shops and increasing sales of petrol and diesel through increased transportation activities is being looked by states. Taxes on fuel and liquor alone provides close to 40-50 per cent of state revenue. So start of these activities would provide some relief.

Services accounts for almost 60-70 per cent of GDP while manufacturing about 25 per cent. Both the activities have been seriously hit in the lockdown pushing analyst to project India GDP⁴ growth at just 1-2 per cent in FY⁵21.

Impact of COVID 19, GST Perspective:

Impact on Outward Supplies:

1. Interest / penalty charged for delayed payment by customers:

In case the invoice or the agreement stipulates that the overdue fine shall be applicable for delay in payment by the customer, GST shall be applicable on such overdue fine. GST to be remitted at the time of receipt of such fine/interest/penalty as per provisions of section 15 of CGST⁶ Act, 2017.

³ GSTR-3B – is a monthly summary return filed by a taxpayer by the 20th of the next month

⁴ GDP – Gross Domestic Product

⁵ FY – Financial Year

⁶ CGST – Central Goods and Service Tax

2. Post-sale Discounts provided to customers:

In the wake of corona virus outbreak, post-sale discount may be provided to customer due to various reasons such as non-availability of funds, decrease in the market value of goods, etc. such discounts shall not be allowed as a deduction under GST law, unless:

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) Input tax credit as is attributable to the discount based on a document issued by the supplier has been reversed by the recipient of the supply

3. Subsidy provided by Government:

GST shall not be applicable to any subsidy provided by the Government. In case the subsidy is provided by any other association or industrial body GST may be applicable on the same.

4. Non – Export of Goods:

In case of Export under Bond or Letter of Undertaking (LUT⁷), the exporter is liable to pay tax along with interest if goods are not exported outside India within 3 months of issuing the export invoice. The delay may be caused due to various restrictions by customs, no availability of logistics and non-acceptance of goods by customers.

Note: Refund can be claimed post export of goods.

5. Goods or Services provided free of cost to the Customer:

As per Circular No. 92/11/2019-GST dated 7th March 2019. The goods or services or both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST. However, Input Tax Credit availed on such goods and services need to be reversed. GST shall be applicable if there is consideration involved. (Except supplies falling within the ambit of Schedule I of CGST Act, 2017)

⁷ LUT - Letter of Undertaking

6. Support services provided by Group Companies:

Any support services provided by group Companies/ head office to branch offices by way of setting up of IT⁸ infrastructure and capabilities to work from home to employees shall have GST impact. In certain cases, they said services may be provided by the group companies free of cost. In such cases, the activities shall fall under Schedule I of CGST Act, 2017 and may still be continue to be taxable.

Impact on Inward Supplies:

1. Restriction on input tax credit in case of delayed payment to supplier:

In case of non-payment to the supplier within a period of 180 days from the date of invoice, the input tax credit availed on such supplies need to be reversed along with interest.

2. Denial of credit on slow moving and non-moving stock disposed:

The input tax credit is allowed only in case in the inputs are used in business. In case there is disposal/ write off of stock due to lockdown. The same might require reversal of input tax credit.

3. Transfer of business assets:

If there is any transfer or disposal of business assets due to redundancy and other factors, the GST impact on such disposal to be carefully analyzed.

4. Input tax credit on employee related expenses:

The overall impact and admissibility of input tax credit on employee related expenses needs to be carefully examined. Some of the points which require consideration are given below:

1. Eligibility of input tax credit on medical insurance taken for employees

⁸ IT – Information Technology

2. Eligibility of input tax credit on reimbursement of expenses related to internet, telephone facility
3. Eligibility of input tax credit on expense incurred on providing food and shelter to migrant workers stuck at factory

5. Non-denial of credit due to non-uploading of invoice by Supplier:

Considering the extension of GST due dates and cash flow issues across industries, the Government has relaxed the provision of restricting the credit for non-uploading of details by Supplier in GSTR-1⁹ for the period February – August 2020

From auto sector to GST mop-up, economic impact of Covid-19:

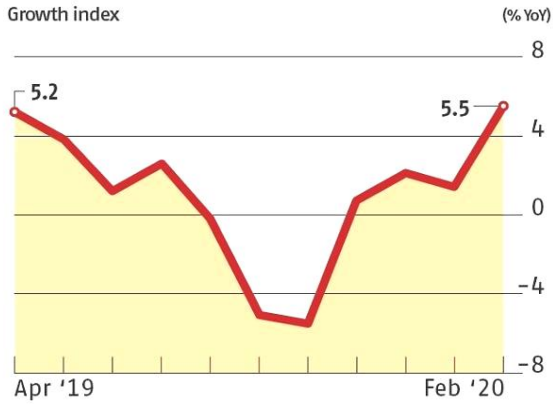
The latest data on most economics indicator is available till February, while the real economic impact of covid-19 came in March, some of the indicator peaked for the financial year 2019-20 in February. For instance, the core sector growth has done so (chart 1), and is likely to witness a major dampening impact in March. The sector comprises crucial industries such as coal, refinery, crude oil, cement, finished steel, fertilizer, and electricity generation. The only number available for March in real sense is PMI for manufacturing, which stood at 51.8 — the same as in the beginning of FY20 (chart 2).

Chart 3 again tells a story till February and shows the highest growth rate in services in any month during FY20. Given the fact that Covid-19 is affecting the services sector such as tourism and hospitality the most, the number is likely to see a major reversal in March. The auto sector was struggling before the Covid-19 outbreak as well, ranging from issues such as BS-VI to electric vehicles (chart 4). Chart 5 shows that the goods and services tax collection fell below the Rs 1-trillion mark in March for the first time after four months. Though these are for activities in February, companies may have witnessed difficulty in paying taxes in March. April may see a major correction if arrears are excluded.

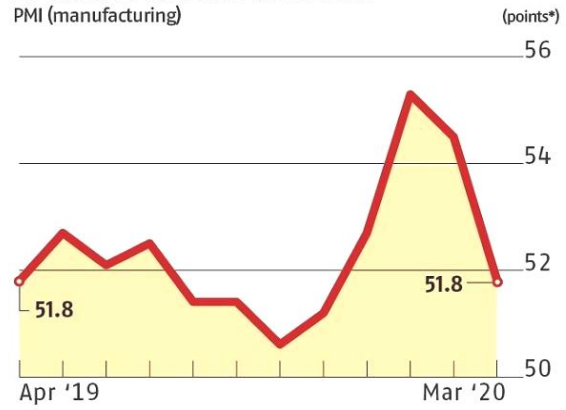
Given the state of the economy, none believes that 4.7 per cent gross domestic product growth rate, pegged by the official advance estimates (chart 6), and would come true. Therefore, FY20 would see less than 5 per cent economic expansion. The outlook for FY21 is more pessimistic (chart 7).

⁹ GSTR-1 – is a monthly or quarterly returned filed by taxpayer to disclose details of their outward supplies for the month – along with their tax liability.

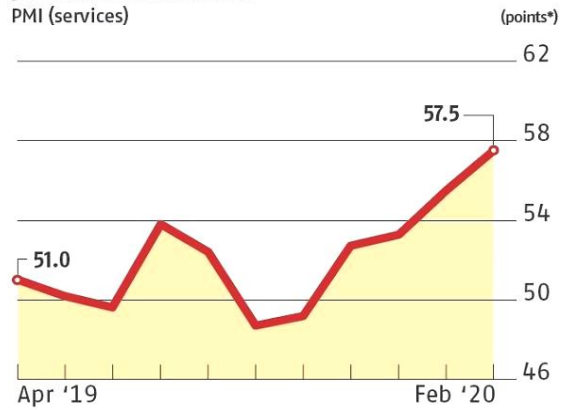
1: CORE SECTOR GROWTH PEAKED IN FEBRUARY



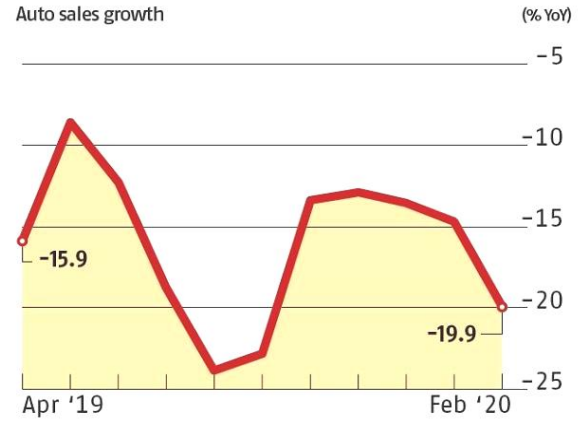
2: BACK TO WHERE FY20 BEGAN



3: TREND IN SERVICES

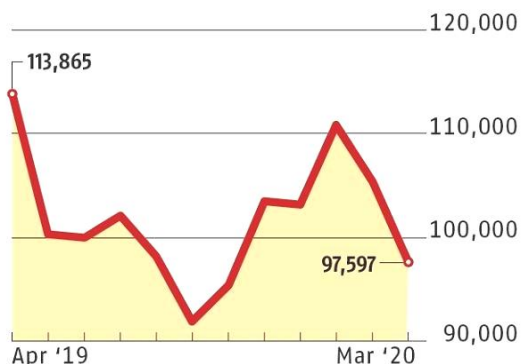


4: AUTO SECTOR: NO GROWTH IN SIGHT

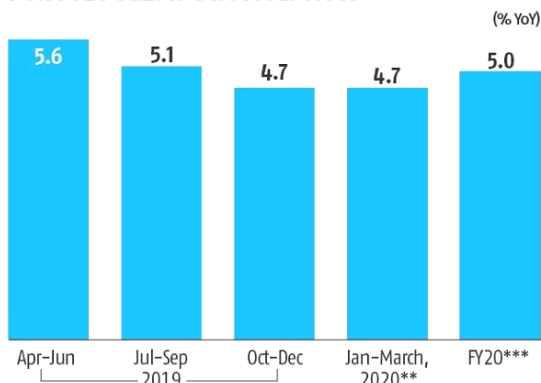


5: PRESSURE ON GST COLLECTION

Collection fell below the ₹1-trn mark after four months (₹ crore)

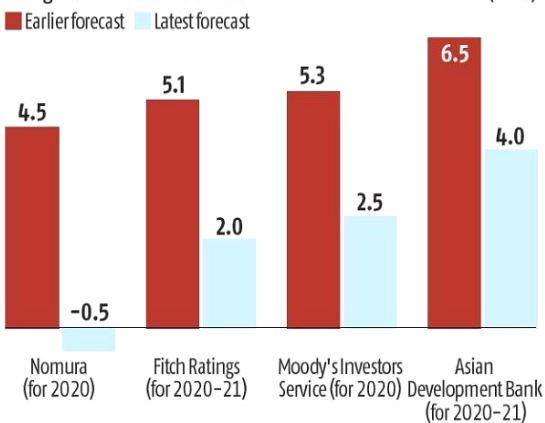


6: EVEN 5% GDP GROWTH RATE FOR FY20 SEEMS DIFFICULT NOW



7: ROUGH ROAD AHEAD

GDP growth forecasts for India (% YoY)



Covid-19: CBIC notifies additional relief under GST:

The Finance Minister had recently announced various (GST) and custom duty relief measures for businesses in view of the covid-19 pandemic. The CBIC issued notification to give effect to the said measures.

Additional relief announced by the CBIC:

. Extension of validity of e-way bill: Where an e-way bill has been generated on or before 24 March 2020 and its period of validity expires during the period 20 March 2020 to 15 April 2020, the validity period of such e-way bill shall be deemed to have been extended till 31 May 2020.

. Extension of due date for filing form GSTR-3B: The return in the form GSTR for the Months of January 2020 to March 2020 for registered person who principal place for business is in the union territory of ladakh, shall be furnished electronically through the common portal, on or before 20 May 2020.

. Extension of due date for filing annual return for FY 2018-19: The due date for furnishing annual return electronically for FY 2018-19 has been extended to 30 September 2020.

. Registration of Insolvency Resolution Professional (IRP¹⁰) / Resolution Professional (RP¹¹): The IRP/RP shall be liable to register in each of the states or union territories where the corporate debtor was registered earlier within 30 days of their appointment or by 30 June 2020 whichever is later.

. Return verification through Electronic Verification Code (EVC): A registered person who is also registered under the companies act, 2013 shall be allowed to furnish the return in form GSTR-3B verified through EVC¹² during the period from 21 April 2020 to 30 June 2020.

. Furnishing of return through SMS: A registered person who is required to furnish nil return in form GSTR-3B can file the said return through an SMS using the registered mobile number and the said return shall be verified by a registered mobile number-based one time password facility.

Few key points to be considered:

- 1.** Failure to raise invoice to customer within a period of 30 days from the date of provision of service due to complete lockdown of premises.
- 2.** GST Impact on non-receipt of consideration for exports of services within a period of 1 year.
- 3.** E-way bill cannot be raised twice for the same document, a situation where an e-way bill is raised and the validity has lapsed but goods not handed over to customers need to be analyzed.
- 4.** The eligibility of input tax credit on various expenses incurred during the Covid-19 crisis such as purchase of temperature reader, sanitizers etc. needs to be analyzed carefully.
- 5.** Denial of refund of input tax credit due to non-receipt of consideration.
- 6.** Non- receipt of Inputs and Capital Goods within the stipulated timeline from the job worker (1 year and 3 years respectively).
- 7.** Impact on eligibility of Input Tax Credit on expired stock / goods of perishable nature.
- 8.** Any recovery of damages due to non- fulfillment of obligations by customers/ suppliers and employees to be examined for GST implications.
- 9.** Impact due to enforcing of 'Force Majeure' clause either by the taxpayer or to the taxpayer.

¹⁰ IRP – Insolvency Resolution Professional

¹¹ RP – Resolution Professional

¹² EVC – Electronic Verification Code

Conclusion:

The entire contents of this document have been prepared on the basis of relevant provisions of the Act and as per the information existing at the time of the preparation by way notification, circular, order etc. Although utmost care has been taken to ensure the accuracy, completeness and reliability of the information provided, we assume no responsibility therefore. Users of this information are expected to refer to the relevant existing provisions of applicable Laws. The user of the information agrees that the information is not a professional advice and is subject to change without notice. We assume no responsibility for the consequences of use of such information.

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