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## A STUDY ON IMPACT OF GST ON TELECOM SECTOR

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**ABSTRACT** :- Every nation will impose various taxes on people and thing in order to undertake developmental Work. In India the government of India recently enacted a law namely GST. GST also known as the Goods and Services Tax is defined as the giant indirect tax structure designed to support and enhances the economic growth of a country. More than 150 countries have implemented GST so far. However, the idea of GST in India was mooted by Vajpayee government in 2000 and the constitutional amendment for the same was passed by the Loksabha on 6th May 2015 but is yet to be ratified by the Rajyasabha. However, there is a huge hue and cry against its implementation. It would be interesting to understand why this proposed GST regime may hamper the growth and development of the country. The telecommunications industry has impact on every aspect of our lives, from the simple reality of enabling telephonic communication between people in different locations to enabling supply-chains to work seamlessly across continents to create products and fulfill demands. Telecommunication services are now recognized as a key to the rapid growth and modernization of the economy and an important tool for socio-economic development for a nation .This research study includes that what was the impact of GST on telecom sector.

**Keywords** :- Goods and Service Tax, Telecom sector.

**INTRODUCTION** :- Goods and Services Tax (GST) has been in the minds of the government for quite some time now and it was implemented on the 1st of July 2017. The implementation of GST is meant to regulate the telecom sector in terms of taxation. The telecom sector has seen several ups and downs in the past decade. For the same

reason, TRAI (Telecom Regulatory Authority of India) has played an important role in synchronizing the Indian telecom sector. The Department of Telecommunication (DOT) has also released a circular clearing the doubts about its effect on the telecom sector.

GST is a system of taxation that merges up individually applied taxes into single tax. This step has been taken to reform the indirect taxation in India. There are various aspects of the impact that GST has created on everything. But as India is embracing a single tax code, the effect on the telecom sector is going to be presumably immense as with the coming times there will be more clarity in the scenario of telecom sector.

**Current Scenario of Telecom Sector** :- The telecom sector in India has seen a revolution with the post liberalization economic growth after 1991. And the 1999 telecom policy has consolidated it even more. According to TRAI, in October 2015, we crossed a billion mark for the mobile subscribers and the total number of broadband subscribers in the end of October 2016 were 218.42 million. The arrival of smartphone has just increased the number of users exponentially.

The bigger players in the telecom service providers have shown a much promising picture to the consumers in terms of prices and benefits. The increasing competition has only brought the prices to a much beneficial realm for the consumers.

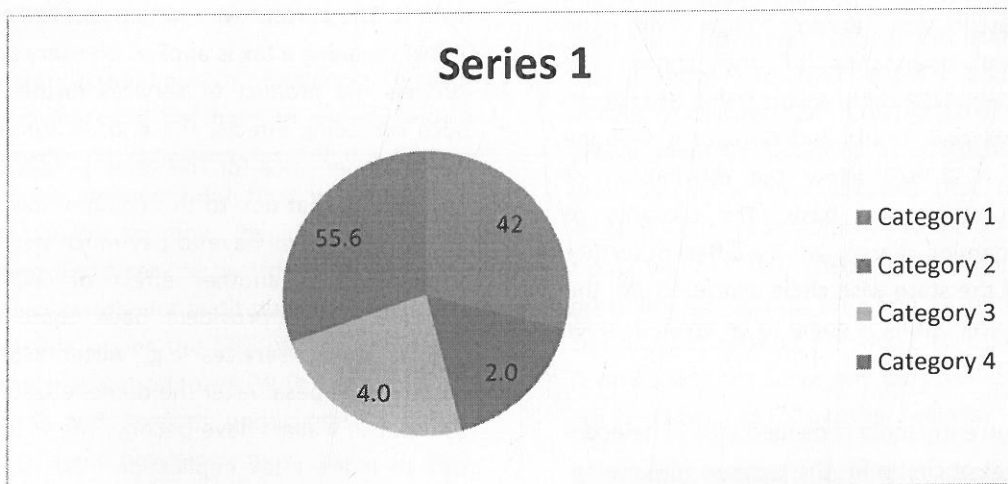
If we look at the trends in the Indian telecom sector for the year 2017, data realization per MB is going to fall by 20-25% in 2017. The fiberisation of network in India has not yet covered a large area, so it is going to be more prominent in 2017. The LTE and Volte enabled phones are going to be a lot cheaper in the coming

year. The growth in the mobile users is going to be 30+% from the existing 370 million users. And this is the reason behind the unexpected upsurge in the mobile advertising. The new GST regime will lead to a highly compliance cost from the telecom

companies. All in all, the number of wireless subscribers has increased and the statistics show that the number of users accessing the internet on high speed has also increased.

#### Indian Telecom Industry Analysis

Composition Of Telecom Subscribers (FY 16)	
Urban wireless	55.6
Rural wireless	42.0
Urban wire line	2.0
Rural wire line	4.0



SOURCE: Telecom regulatory authority of India TechSci Research

#### Wireless Segment Dominates the Market

- In march 2016, India's telephone subscriber base reached 1, 058, 86 million
- In March 2016, the wireless segment (97,62percent of total telephone subscriptions) dominated the market, with the wire line segment accounting for an overall share of 2.4 percent.
- urban regions accounted for 57.6 percent share in the overall telecom subscriptions in the country, while rural areas accounted for the remaining share

**Impact of GST on Telecom Sector :-** From the arrival and implementation of GST, the government proposal is to levy 18 % tax on the telecom services. The current figure is 15% of tax and so the difference is of 3%. The hike in taxes may have a varied impact on the pricing policies of the telecom companies.

According to the government's press release, currently, the telecom service providers are neither eligible for credit of VAT paid on goods nor of special additional duty (SAD) that is paid on imported goods nor equipment. But under the GST regime, the telecom service providers would avail

credit of IGST paid on domestically procured goods as also imported goods.

### Is GST Going To Benefit The Telecom Sector?

Telecom sector has millions of subscribers and it is one of the most basic infrastructural services for subscribers. The current ways of indirect taxes have several challenges which is the reason GST has many promising prospects for the future. GST will turn out to be an absolute solution that will become more concrete with the coming times.

In the current situation, the telecom sector is regulated by TRAI and licenses are distributed by the Department of Telecommunication (DoT). Telcos get circle-wise licenses to provide telephony services. Circle wise license distribution doesn't align with the geographical boundaries of the states. For example, Delhi NCR circle covers Delhi, Ghaziabad, Noida, Faridabad, Noida and Gurgaon telephone exchanges. GST will allow the distribution of license on state wise basis. The disparity of incurring roaming charges will be different further because of the state wise circle allocation. So, the state wise accounting is going to be applied under the GST regime.

Currently India is divided into 22 telecom service areas or circles for the purpose of licensing. Under the effects of GST, it will be levied in 29 states and 7 union Territories (UTs). The IT and billing systems will require a redesign to ensure GST compliance.

The finance ministry has already asked the phone companies to cut down prices of the telecom services, as the higher tax credits is unlikely to exceed the 1% of revenue, which is way below the 3% hike in the tax rate on telecom services.

**REVIEW OF LITERATURE :-** Das and Gupta (2004): They stated that the tax compliance can be improved by implementing simple reforms in

personnel policy in Indian income tax .He concluded that the GST will lead to higher tax compliance and lower tax evasion by Indians.

Gang and Ira N (2000): They concluded that the tax structure India, some tax structure changes were implemented to reduce tax evasion.

Thirupathi and Sweta (2011): They examined VAT is a type of indirect tax that is imposed on goods and services, and they advocated the tax impact on budget and revenue

Sijbren (2013): Sijbren and others suggested, A modern goods and services to alleviate the problems of India's current indirect tax system.

**GST As A Game Changer :-** If we look at the concept of GST then the prices are going to reduce with it. The current way of taxation has cascading effect meaning a tax is applied on every stage that propels the product or services further. Due to such cascading effects, the end consumer has to pay a higher price for the same product. So it is speculation that due to this common tax scheme, the consumer will have to pay much lesser prices. If we look at another effect of GST, several telecom service providers have come up with mobile wallet services e.g. Airtel Money and Vodafone M-pesa. After the demonetization drive, the mobile wallets have become rife in usage and due to indirect tax implication. . But the mobile wallet services have a very clouded opinion regarding the point of taxation. It varies with the service provider.

It is a concrete speculation that under the GST regime, the wallet services would be clearly defined whether it falls in the service ambit or just a plain transaction. This is just one of the several challenges. The telecom sector is ready for such challenges and GST is here for an unprecedented assistance to the establishment.

### SELECTIVE ISSUES PERTAINING TO THE TELECOM SECTOR UNDER THE CURRENT INDIRECT TAX LEGISLATION AND EVALUATION UNDER GST

**1. The Concept of Necessity Service:** One of the major drawbacks of the GST regime could be the direct spike in the service tax rate from 14% to 20-22 %. Being a regressive taxation system, the burn of increased tax rate will directly be faced by the end consumer unless the credit is passed on to the next in business chain. Given the importance of communication services in our lives, they could easily qualify as "Necessity Services". Thus, one could hope that the government considers allotting telecom services under the lower rate category and, in turn, charge a reduced GST rate reserved only for Necessity goods. Nevertheless, this ambitious demand could be presented but is less likely to be accepted.

**2. Mandatory annual audit Compliance:** Telecom service providers did not have to comply with a mandatory "audit obligation" as per the finance Act 1994 (as amended). But they were certainly liable to "audit scrutiny" by the service tax department if the service provider was identified as the select assessee for audit purpose. It is widely perceived that under the GST regime, VAT audit procedures may get adopted. With the merger of both goods and services under one authority, mandatory audit provisions may apply to both goods and services providers alike. As a result, telecom operators may need to engage with at least two entities, one for compliance and another for audit, failing which a possibility of conflict of interest may arise. Such dual engagement with tax firms and management services providers will further lead to an adverse hike in compliance cost.

**3. Status of exemption notification for distributors:** Telecom companies appoint agents and distributors for sale of SIM cards and recharge coupon vouchers. These agents/distributors are exempted from service tax as per Notification Sr.No.29 (f) of notification No .25/2012-ST. But, similar exemptions for distributors may or may not be available under GST. And, if the exemption is

rescinded, millions of mobile distributors will have to comply with the provisions of the previously unknown world of indirect tax.

**4. Distribution of input service credits:** Telecom companies usually incur high cumulative service costs such as advertising expenses, legal expenses etc. that are borne by the head office (HO) at the first point of contact. The input credit availed for the above is then split across revenue centres through the input service Distributor scheme (ISD) under service tax. But under the GST regime, an ISD scheme (or any equivalent) is still unheard of, mainly because of the remote practical possibility of splitting a state tax pool (SGST) across other states.

FOR EXAMPLE, a telecom company Ho may incur advertising expenses of INR 1 billion, with input tax credit (ITC) of INR 100 million of Maharashtra GST (MGST @10%) and INR 100 million of central GST (CGST@ 10%), being local procurement OF SERVICES. The telecom company then passes on the expenses (not the ITC) to revenue Centre's across its 22 circles. On the credit front, we can still, theoretically, mull over the possibility of passing on CGST to other revenue centres, but passing on MGST to other revenue Centre's will not serve any purpose as MGST will not be allowed as ITC in other regions.

**5. Mobile wallets:** in these changing times, telecom companies have also evolved tenfold in order to optimize their customer service. From mere communication service, they have grown to include complex services such as value added services, internet services, advertising services etc and next up is the mobile wallet service. Top telecom service providers including Airtel and Vodafone have already launched their mobile wallet; airtel money and Vodafone M-pesa. Most mobile wallet in India follow either the closed model or the semi-closed Model, which restricts the utilization of credit money to a specified set of services.

**6. Inter-linking charges /charges for access to other circles :** inter-linking charges are charges

paid by telecom companies to one another (telecom peers) for usage of each other's network and towers when their usage are outside there, subscribed region. Currently, these charges may get covered under the definition the term services and hence, service tax is applicable.

**7. Cenvat credit on towers :** Infrastructure provider also known as tower companies, are one of the three broad segment of the telecom sector. In this regard, it is relevant to refer to bharti airtel Ltd VS commissioner of central excise, pune, wherein credit on the towers. Its parts thereof and pre-fabricated building material used for providing telecommunication service, was denied on the grounds that the goods under consideration would neither qualify under the definition of capital goods nor inputs as defined under cenvat credit rules, 2004. Accordingly, due to the factor of immovability in the goods, there is ambiguity with respect to availing such credit.

**8. Place of supply for telecommunication :** currently in case where both the telecom services provider and service receiver are in India, services would accrue at the place of service receiver through Rule 3 of the place of provision of service Rules: but given its central nature the complication of chargeability were not pondered upon in depth. However, under GST, it would be pertinent to determine the state that will receive the revenue of the GST so paid and hence, the telecom companies will require a detailed explanation as to what could be perceived as the place of supply of service.

**9. Power and fuel :** power and fuel comprise around 5-10% of the total expense in the telecom industry. And unfortunately, at present, indirect tax in the form of electricity duty, exercise and state levy on both these expenses cannot be availed as input tax credit. On one hand, petroleum consumption is not considered as an input under the cenvat credit rules thus, remaining ineligible for credit availment: and on the other electricity duty also cannot be claimed as a creditable tax as it is a state levy.

**10. Sale of SIM cards: Sale of goods or provision of service? :** The crux of the various judicial ruling is that the amount received by the cellular telephone company from its subscribers towards SIM cards will form part of the taxable value for levy of service tax as the SIM cards on their own, without the services, would hardly have any value. However, there is a contradiction, wherein certain state VAT legislation (e.g. Andhra Pradesh, Goa, Gujarat etc.) have specifically included SIM cards in the VAT schedules. So it is not clear whether sale of SIM cards is a sale of goods or provision of service.

**CONCLUSION :-** The telecom sectors presently the tax rate is 14%. By the causes of GST the tax rate on telecom sector would have to increase as 18%. So the result of GST on telecom sector will be negative. The public sector is to be critical. In future the concept of "one tax and one nation" caption is not suitable for Telecom sector. India will emerge as a leading player in the virtual world by having the highest internet users by 2025, there is great untapped potential in the rural market for telecom companies. In order to achieve the congruent goal of broadening the telecom business and attaining socio-economic development, it is essential that the cost of consumption of telecom service goes down, for which it is necessary that lawmakers draft the GST framework considering the issue under the current indirect tax legislation with the intention of curtailing it or having clarity on the same. Additionally, the lawmakers should also consider the advanced products telecom companies offer to their customers (such as mobile wallets) and should seek to cover such transactions appropriately under the new indirect tax legislation with a vision of having minimal litigation at a future date. Furthermore, given the unsettled parliamentary conditions, the industry should step forward and urge the government to clear the GST bill as soon as possible and help spur overall growth.

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