GST ON INDIAN PHARMACEUTICAL INDUSTRY

AUTHOR :NEERAJ BHAGAT & CO.

https://taxguru.in/goods-and-service-tax/gst-indian-pharmaceutical-industry.html

An Overview of the Goods and Services Tax

The Goods and Services Tax (GST) is a historic step taken by the Government of India to boost the GDP and introduce a more effective tax regime.

GST is a win-win deal for the whole country. It brings benefits to all stakeholders from industry, government and consumer. It will reduce the cost of goods and services to boost the economy and make products and services globally competitive. By subsuming most central and state taxes into a single tax and allowing set-off of pre-stage taxes for transactions across the value chain, it will reduce the ill effects of cascading and improve the competitiveness and liquidity of businesses.

Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

GST is a destination-based tax, and it will be levied on the value of goods or services that are consumed within the territory of India. Tax will be collected by the person who is responsible for the final consumption of the goods or services.

Page Contents

Indian Pharmaceutical Industry

The pharmaceutical industry in India was estimated to be worth US$ 42 billion in 2021. India is the largest provider of generic drugs in the world, accounting for 20% of total global pharmaceutical exports. It is also the world's largest vaccine supplier by volume, accounting for over 50% of all vaccines manufactured in the world. With mega production capabilities at par with industry standards and a large number of skilled domestic workforce, Indian exports meet the standards and requirements of the highly regulated markets of USA, UK, EU and Canada.

By 2021, the majority of pharmaceuticals made in India will be low-cost generic drugs comprising the majority of India's pharmaceutical exports. Patented medicines are imported. APIs are imported from China (60% of supplies by volume at US$2.4 billion) and Germany (US$1.6 billion) as well as the US, Italy and Singapore. To promote an Atmanirbhar Bharat by enhancing R&D, Make in India product development and high value production capabilities, import substitution and domestic manufacturing of active pharmaceutical ingredients (APIs), the government has launched a US$ 2 billion incentive program which Will run from 2021- 22 to 2027-28.

Major pharmaceutical hubs in India: Vadodara, Ahmedabad, Ankleshwar, Vapi, Baddi, Sikkim, Kolkata, Visakhapatnam, Hyderabad, Bangalore, Chennai, Margao, Navi Mumbai, Mumbai, Pune and Aurangabad.

Impact of GST on Indian Pharmaceutical Industry

The impact of GST on the Pharmaceutical industry. The enactment of the much-awaited Goods and Services Tax (GST) Bill caught the attention of all industries in India. It has benefitted most of the sectors and made taxation easier as compared to the current taxation system.

The Goods and Services Tax is having a constructive impact on the Indian pharmaceutical industry as it has increased the manufacturing cost. Most of the drugs mentioned in the 5% tax bracket under GST were earlier in the 4% tax bracket under VAT. This will eliminate the cascading effect of multiple taxes applicable on a single product. Under GST, Ayurvedic medicines may become costlier as they will be taxed at the rate of 12% which was earlier covered by the 4% tax bracket under the VAT regime. Due to this increase in tax rates, the MRP will have to be revised to absorb the overall impact.

GST Rate on Medicines, Effect of GST on Medicines in India, GST on Medical Services, GST on Medical Equipment's, GST on Hospitalization Charges, and many more. GST levy on pharmaceutical products can range between different tax rates, i.e. nil, 5%, 12% and 18%. The lowest rate generally applies to life-saving drugs and vaccines, while the 18% rate applies to products such as nicotine gum.

GST Rate on Medicines and Other Pharmaceuticals

1. Nil GST rate on Medicines

The following types of drugs and pharmaceutical products are exempt from GST:

- Human blood and all components of human blood.
- All types of contraceptives.
- Services provided by rehabilitation professionals for activities covered under the Rehabilitation Council of India Act, 1992.

2. 5% GST rate on Medicines

The following types of drugs or medical products attract 5% GST rate:

- Vaccines made from animal or human blood
- Hepatitis diagnostic kits for all kinds of hepatitis
- Deferiprone or Deferoxamine injection
- Cyclosporin
- Medications (including veterinary medicines) utilised in butilisedal systems but not labelled as such.
- Salts for oral rehydration
- Diagnostic test kits, as well as drugs or medicines, including their salts and esters
- Pharmaceutical formulations made from bulk medicines Coronary stents/stent systems for use with cardiac catheters
- Artificial kidneys
- Wheelchairs, Crutches, Artificial limbs, Walking frames, etc.

The above list is only illustrative, and there could be more items on which 5% GST rate is applicable.

3. 12% GST rate on Medicines

The following drugs and pharmaceutical items are subject to a GST rate of 12%:

- Organs for organotherapeutic purposes, dried or powdered; extracts of glands or other organs or their secretions for organotherapeutic purposes;
- Heparin and its salts;
- Any human or animal substances prepared for therapeutic or prophylactic purposes, not otherwise specified or included.
- Antisera and other blood fractions, as well as changed immunological products, whether or not created through biotechnological methods;
- Toxins, microbe cultures (except yeasts), and similar goods.
- Ayurvedic, Unani, homoeopathic Siddha, or Biochemic systems medicaments put up for retail sale, consisting of mixed or unmixed products for therapeutic or prophylactic uses in measured doses (including those in the form of transdermal administration systems) or forms or packing for retail sale, including Ayurvedic, Unani, homoeopathic Siddha, or Biochemic systems medicaments.
- Wadding, gauze, bandages, and similar materials impregnated or coated with medicinal substances or packaged for retail sale for medical, surgical, dental, or veterinary uses (for example, dressings, adhesive plasters, poultices).
- Sterile surgical catgut and comparable sterile suture materials (including sterile absorbable) are examples of pharmaceutical goods.

4. 18% GST rate on Medicines

The following drugs and pharmaceutical items are subject to a GST rate of 18%. This list is not exhaustive :

- Nicotine polacrilex gum.
- Products for oral or transdermal application or application otherwise containing nicotine and intended to assist tobacco use cessation.
- Hygienic or pharmaceutical articles such as teats, hot water bottles, Ice bags, etc.
- Preparations for oral or dental hygiene and dental floss, sold in individual retail packages
- Surgical, medical, dental or veterinary furniture such as operating tables, hospital beds, examination tables, etc., with mechanical fittings; dentists’ chairs; barbers’ chairs, etc.
- Razors and razor blades.

- Organic surface-active products and preparations for washing the skin, whether or not containing soap.
- Infrared thermometers, pyrometers, barometers, psychrometers and hygrometers.

GST on Medical Services

All Non-Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neonatal Intensive Care Unit (NICU) room rents in a hospital or clinical establishment in excess of Rs 5,000 per day Will be responsible for GST at 5% (without input tax credit). This is effective from 18 July 2022.

Any medical services rendered by the following ways will attract a **nil GST rate**:

Use of Intensive Care Unit (ICU) or Critical Care Unit (CCU) or Intensive Cardiac Care Unit (ICCU) or Neonatal Intensive Care Unit (NICU) rooms.

Clinical establishment, or health care services by an authorized doctor or para-medics, other than the above for renting a room, where the room charges do not exceed Rs.5,000 per day, to the person receiving such health care services.

Transportation of patient in an ambulance, other than the services specified above.

GST on Hospitalisation

The Authority of Advance Rulings (AAR) in Kerala had ruled in 2017 that supply of drugs, surgical items, implants, stents and other consumables to a patient during hospitalization would be treated as a composite supply and S.O. Notification No. 74 of **12/2017 – Central Tax (Rate) dated 28 June 2017**. In June 2022, the Tamil Nadu Authority for Advance Rulings issued a similar decision.

Impact of GST on import of pharmaceuticals

Import of drugs attract IGST and customs duty. Following is the bifurcation of applicable taxes:

- Basic Customs Duty: 10% on Customs assessable value
- Social Welfare Surcharge: 10% on BCD
- IGST: 5%/12%/18% on the value after adding to the assessable value both Customs Duty and Basic Customs Duty and Social Welfare Surcharge.

Positive Effects of GST on Pharmaceutical Industries

GST removes the cascading effect of tax which consists of multiple taxes applied on only one product. The costing and taxation system would be easier with only three accounts mountain. It will create a common market for each individual with equal opportunity towards development in different states.

- Under GST, life-saving vital drugs like oral rehydration salts, diagnostic kits to detect all types of hepatitis and many other life-saving injections and drugs come under the 5% slab.
- Bonus/discount schemes, free-drug samples, interstate stock transfers, etc. are said to be costly for firms due to the applicability of supply chain stages.

- Pharmaceutical manufacturing generic/branded formulations/dietary supplement companies which were suffering due to heavy excise duty will see a huge benefit due to condensed taxation and lower industrial cost for all firms.
- The highest GST on bulk drugs is 18% and on formulations it will be maximum around 5% and 12%. This means facilitators will pay more tax by way of GST. Thus, he will be charged a lesser amount on the formulation. This means that input credit will be accumulated which will automatically be reversed.
- Pharmaceutical companies and corporate leaders will find a lack of restrictions to locate strategic supply chains and distribution channels.
- CENVAT credit is an amount deposited in a bank account which can be reversed/adjusted towards Central Excise duty on purchase or payment of final product. Charging GST for goods and services seems to be the end of the day for the pharmaceutical industry.

Negative Effects of GST on Pharmaceutical Industries

With helpful effect, there are a few unhelpful effects on the pharmaceutical industry:

- Many **Ayurvedic products** are comes in the category of 12% to 15% as many of the ayurvedic products comes under cosmetic range.
- GST increase the indirect tax paid by pharmaceutical companies by 60 % and MRP by 4 % Thus, leaving a Tax rate of 15% which is said to be 18% for diagnostics and reagents.
- Other pharmaceutical drugs, medicines, pharmaceutical products, and medical technology products are taxed at a total tax (including VAT) ranging from 5% or 12%, often from 11.5 to 12.5 percent to 18%.

Conclusion

However, GST has both positive and negative effects on pharmaceutical businesses through various points mentioned above. But the quantum of positive impact is high and the government is still working towards changes to reduce the negative impact and such activity is a continuous process for further improvement. Lack of proper knowledge, training, and infrastructure requirement for the implementation of GST was also a hindrance in smooth implementation of GST but now it is becoming easier and more adaptable.

*****

About the Author : 

The author is Ruchika Bhagat, FCA helping foreign companies in setting up and closing businesses in India and complying with various tax laws applicable to foreign companies while establishing a business in India. Neeraj Bhagat & Co. Chartered Accountants is a well-established Chartered Accountancy firm founded in the year 1997 with its head office in New Delhi.