



*Full day Workshop on -*

## **GST for Financial Sector Entities**

*Intensive discussion on issues concerning financial sector entities*

*29<sup>th</sup> July, 2017 | Place : Mumbai*

**VINOD KOTHARI CONSULTANTS P. LTD.**

Kolkata | Delhi | Mumbai

## Objectives of the course

The introduction of Goods and Services Tax (GST) marks, unarguably, the most important fiscal change in the country since independence. As several indirect taxes get subsumed and replaced by a comprehensive tax, presumably uniformly across the country, business dynamics change all over. Experience with introduction of similar comprehensive levies in other countries has been that several businesses need to re-examine their business models.

While GST may have a huge impact on borrowers and businesses across the spectrum, there are significant tax issues that arise for Financial Sector Entities. Financial Sector Entities primarily deal with “money”, and transactions in money are generally exempt from GST levy. However, many financial transactions are structured innovatively, with all kinds of shades and shapes, and therefore, they may not simply be transactions in money. In lending business too, there is requirement for bills of supply; there are asset sales, whether acquired by way of repossession, or otherwise. Therefore, it is necessary for Financial Sector Entities to examine their revenue streams, as well as expense streams, to examine what all are and what all are not prone to GST levy. It is also important to examine the set-off rules, which provide a separate provision in case of Financial Sector Entities. There are also specific rules about point of taxability for overdue interest, penalties and late fees, etc. There are specific provisions about loss of input tax credit in case of capital goods which are sold by way of repossession – with a presumed depreciation rate, and the tax base being higher of the contractual price or the depreciated value. Crucial business decisions have to be made – as to whether majorly taxable supplies should be hived off and put into a different vehicle, or can be regarded as a different vertical. Entities will have to undergo a very careful analysis of the scenario that arises post implementation of GST. Obviously, the best time to do so is before we move whole-hog into the implementation.

GST is not merely affecting Financial Sector Entities – it may affect structuring of assets. For instance, there is a strong ground to hold that guarantees provided by “related persons” may trigger valuation rules to impose tax on an imputed value of the guarantee. Most lending transactions are supported by guarantees or collateral from related persons.

The impact of GST is not limited to assets – it pervades to the liability side as well, as several costs on sourcing money, including ECBs, will suffer GST, and the offset of input tax credit may be only proportional.

Structuring of securitization transactions in future will have to bear in mind GST implications as there is a strong likelihood of the sweep of excess spread as servicing fees.

For who all

- All finance sector companies – strategy heads, taxation officers
- Tax consultants and advisers to NBFCs
- Regulators, rating agencies, and the like

## Course outline

### 1. Overview of GST

- a. Overview of GST
- b. Structure of CGST, SGST and IGST
- c. Overview of major changes in the past regime and the GST regime
- d. How business practices get reshaped in the GST regime
- e. Concept of business verticals
- f. Difference between supply of goods and supply of services
- g. Place and time of supply rules

### 2. Overview of GST applicability on different financial products

- a. Applicability on lending products – taxable components of lending business
- b. Applicability to leasing and hire purchase transactions
- c. Sale of repossessed goods
- d. Assignment of receivables and securitization transactions
- e. Inventory financing, transactions in securities, transactions in derivatives, etc

### 3. Set off of inputs and the 50% set off rule

- a. Provisions of section 17 (2) and 17 (4) on proportional set off versus 50: 50 set off
- b. Does it make sense to hive off certain transactions into a new entity?
- c. New entity versus business vertical versus distinct segment of a business
- d. Factors that impact the choice

### 4. Applicability to leasing and rental transactions

- a. Applicability at the time of purchase – import of goods, inter-state purchases, local purchases
- b. Lease – supply of goods or service?
- c. Taxability of lease receivables – place and point of taxation
- d. Financial leasing and hire purchase – dual levy going away, impact on transactions
- e. Leasing of assets not eligible for GST – motor vehicles, medical equipment, etc
- f. GST set off accumulation and loss of time value – pricing by leasing entities

### 5. Applicability to assignment of receivables, factoring and securitization transactions

- a. Meaning of actionable claims
- b. Impact of the all-pervasive definition of “taxable supply”

### 6. Impact of GST on repossession and sale

- a. Meaning of immovable property for GST purposes
- b. Meaning of shares/securities and the carve out for securities
- c. Taxability of repossession sales

## Faculty

MR. VINOD KOTHARI CEO, Vinod Kothari Consultants P. Ltd. Director, Indian Securitisation Foundation



### About Mr. Vinod Kothari

Mr. Vinod Kothari, both a Chartered Accountant and a Chartered Secretary, is an internationally recognised author, trainer and consultant on specialised financial subjects, viz., securitisation, credit derivatives, asset-backed financing, accounting for financial instruments, Basel III, etc. Mr. Kothari has been a member of the consulting team of the Asian Development Bank to advise the Govt of India on security interest laws in India. He has his share of notable contributions to the literature of securitization and other financial and non-financial resources which are very much accepted and followed by readers.

He has extensive consulting experience in securitisation – offering comprehensive securitization related consulting services to a variety of clients including originators, investors, IT companies, etc. apart from one-off services to several companies in different countries. The locations where he has lectured on these subjects include New York, Washington, London, Milan, Frankfurt, Singapore, Hong Kong, Sydney, Faculty Colombia (South America), South Africa, Malaysia, Jordan, Dubai, Kuwait, Egypt, Sri Lanka, Bangladesh, etc.

He is renowned for offering services to a number of listed companies which not only include advisory or consultancy related services or conduct of due diligences, but also litigation related services. He, along with his team has conducted various successful summits on securitisation and various advance financial topics which has garnered appreciable response from the industry.

Mr. Kothari also is sought as faculty in various reputed colleges and institutions. He also has a vast experience in working with the various regulators like SEBI, NHB and Government of India and multilateral organisations like IFC and ADB.

Besides, Mr. Kothari has had the opportunity to serve as the Chairman of the Institute of Company Secretaries of India Eastern India Regional Council, Calcutta. In 1987, a voluntary organisation of Calcutta chose him as the Outstanding Young Person of Calcutta in the field of Finance and Taxation.

## Consulting Assignments:

- He is a part of a sub-committee created by SEBI for providing recommendations to the regulators on covered bonds in India.
- Director of Indian Securitisation Foundation, a representative body of the securitisation industry in India promoting capital market instruments in India.
- He carried out a study on covered bonds in India for the Asian Development Bank.
- He was an integral part in developing a toolkit for the IFC titled “India Toolkit for Low Income Housing Finance – A Practitioner’s Guide prepared in collaboration with Habitat for Humanity.
- He was sub-consultant to “Affordable Housing Finance Project” of IFC, awarded to IMaCS. He was retained by the National Housing Bank for assisting them in promoting Covered Bonds in India.
- He was a part of Working Committee formulated by National Housing Bank for promoting capital market instruments such as RMBS and Covered Bonds for the housing sector in India.
- He was been retained by Govt. of Jordan for suggesting and working on funding for a high-profile low-cost housing project.
- He was been retained by the Asian Development Bank, Manila for two important projects: to advise the Govt. of India on reforming secured lending law in India; and to develop securitisation-related legal framework in the Asian region.
- Claims extensive consulting experience in securitisation – offering comprehensive securitisation-related consulting services to a variety of clients including originators, investors, IT companies, etc, apart from one-off services to several companies in different countries.

## Author of Books:

- Securitisation Asset Reconstruction and Enforcement of Security Interests
- Banking Law and Practice in India, 26th Edition
- Law Relating to Insolvency & Bankruptcy Code, 2016
- Guide to Structured Finance – Incorporating Securitisation, Credit-Derivatives, Leasing and REITs, 2014 Edition
- Introduction to Securitization (co-authored with Frank J. Fabozzi)
- Securitisation: The Financial Instrument of the Future, Fifth edition 2006
- Taxation of Lease Transactions in India, co-authored by Sikha Bansal, 2013
- Lease Financing and Hire Purchase, Fourth Edition, 1996
- Credit Derivatives and Structured Credit Trading, 2009 Edition
- Guide to Structured Finance, 2014 Edition
- Author of 3 Chapters in Handbook of Finance, (editor Frank Fabozzi), published by Wiley, USA.
- Corporate Boards, Committees and Policies under the Companies Act
- Understanding Companies Act 2013, 2014 Edition
- Guide to Independent Directors, 2014 Edition
- Led a team of 17 specialist editors for the latest edition of Guide to the Companies Act, A. Ramaiya, 18th Edition
- Prepared the key highlights and reference tables for “Corporate Laws” second edition and “The Companies Act, 2013” published by Lexis Nexis Guide to Housing Finance – A comprehensive guide to mortgage lending, 2013 Edition

Lecturing:

- He is a visiting faculty at Indian Institute of Management, Joka, Calcutta for several years, teaching a full-fledged course for the final year students on Structured Finance and Taxation. Over 125 students sign up of the course every year.
- He is a guest faculty at the National University of Juridical Sciences- the subject taught here are insolvency and credit interest enforcement laws in India and other countries. The course included a comparative study of the insolvency and creditors' rights in USA, UK and Australia.

Articles:

- Vinod Kothari's articles on asset-based finance, securitisation etc. have appeared in several national and international journals including Duke Journal of Comparative International Law (USA), US Banker (USA), Export trader (Spain), Trade and Forfaiting Review (UK), Journal of International Banking Law and Regulation (UK), Equipment Finance Journal (USA), Monitor daily (USA), Analyst (India), etc.
- Vinod Kothari also contributed to Euro money's yearbooks on leasing and securitisation

For details contact –

Kirti Sharma – kirti@vinodkothari.com | 9871259056

Ameet Roy – ameer@vinodkothari.com | 033 2281 7715 / 3742 / 4001 0157

Vallari Dubey – vallari@vinodkothari.com | 022 2261 4021 / 3044 7498

<i><b>Kolkata</b></i>	<i><b>Mumbai</b></i>	<i><b>Delhi</b></i>
1006-1009, Krishna Building 224 AJC Bose Road, Kolkata – 700017 Ph – 033 40010157 / 22813742	403-406, Shreyas Chambers 175, DN Road, Fort Mumbai – 400001 Ph – 022 22614021 / 30447498	A/11 Hauz Khas Opp. Vatika Medicare Delhi – 110016 Ph – 011 65515340 / 41315340