SOLVING CHALLENGES IN THE LEVY AND COLLECTION OF THE GOODS AND SERVICES TAX ON VIRTUAL DIGITAL ASSETS (CRYPTOASSETS) IN INDIA

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Abstract

The upsurge in cryptoasset transactions in India has led the Indian Government to introduce the concept of virtual digital assets for the purpose of levying direct taxes. Although a direct tax mechanism has been formulated, a robust mechanism for the levying and collection of the Goods and Services Tax (GST), India's unified indirect tax system, has not been introduced to date. This has resulted in tax administration-related challenges for authorities dealing with the GST and has created legal interpretational ambiguities for companies in the virtual digital asset industry, leading to the possibility of endless litigation occurring. Therefore, this paper has been written with the objectives of identifying the difficulties that arise when levying and collecting the GST on virtual digital asset transactions and providing possible routes that can be taken in order to counteract such difficulties from the Indian perspective.

Keywords: Goods and Services Tax, Cryptoassets, Virtual Digital Assets, Cryptocurrency, Non-Fungible Tokens.

1. INTRODUCTION

Taxation is one of the most ancient forms of sovereign function carried out by a nation. As technological innovations continue to create new opportunities in the economy, reforms in taxation systems must complement such changes to ensure the protection of both government revenues, and the interests of companies and enterprises involved in such activities. The upsurge in commercial activity relating to cryptoassets has created several dilemmas for jurisdictions across the world since it has exposed the ineffectiveness of centralized tax administration when applied to decentralized commercial activity using cryptoassets, and India is no exception to this. In the Indian scenario, some sort of clarity and tax formalization has been received through the introduction of direct taxes on virtual digital assets, including cryptoassets (Bhattacharjee et al., 2022). However, significant qualms exist in the sphere of India's unified direct tax system, the GST. This is because multiple issues pertaining to tax treatment, classification, valuation, and tax administration challenges exist due to the non-existence of both legislative clarity and tax administrative mechanisms for levying the GST on virtual digital assets.

This paper aims to detail the challenges that currently exist when levying GST on cryptoassets (known as virtual digital assets) in the Indian context and to suggest potential solutions to such challenges. The need for such a study arises from the fact that a robust and uniform indirect tax system is an integral part of prosperous commercial activity. This is true in the Indian context

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as well, since the GST is levied on supplies of goods and/or services in the course or furtherance of business.

2. VIRTUAL DIGITAL ASSETS FROM THE INDIAN PERSPECTIVE

From a layman's point of view, all classes of cryptoasset are included within the ambit of virtual digital assets. A legal definition of virtual digital assets has also been introduced through the Finance Act, 2022 for the purpose of levying direct taxes. Section 3 of the Finance Act, 2022 added a clause—Section 2(47A)—to the Income Tax Act, 1961, which provided a legal definition of the term "virtual digital assets". Since the nomenclature stipulated in the definition is plain and clear, it has been reproduced below:

> 2(47A) "virtual digital asset" means-
>
> (a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
>
> (b) a non- fungible [*sic*] token or any other token of similar nature, by whatever name called;
>
> (c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify;
>
> Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.
>
> Explanation.— For the purposes of this clause,—
>
> (a) "non- fungible [*sic*] token" means such digital asset as the Central Government may, by notification in the Official Gazette, specify;
>
> (b) the expressions "currency", "foreign currency" and "Indian currency" shall have the same meanings as respectively assigned to them in clauses (h), (m) and (q) of section 2 of the Foreign Exchange Management Act, 1999. (Finance Act, 2022 (India), Section 3, Chapter 3, p. 20)

When analyzing the definition of virtual digital assets provided above, it is quite clear that cryptoassets, such as non-fungible tokens, security tokens, and cryptocurrencies, are included. Since cryptocurrencies are not recognized as legal tender in India (Rahman et al., 2018), they do not qualify as "Indian currency" and, hence, would be included under the definition of a virtual digital asset. However, the Central Bank Digital Currency issued by the Reserve Bank of India has the status of a legal tender and is, hence, excluded from the ambit of virtual digital assets (Press Information Bureau, 2023). The Central Board of Direct Taxes has excluded a certain class of non-fungible tokens from the scope of virtual digital assets. Notification No.

75 of 2022 (Income Tax), dated 30 June 2022, excludes those non-fungible tokens from the scope of virtual digital assets where the underlying tangible asset's legally enforceable ownership is transferred during the sale or trading of such non-fungible token (Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, 2022). In such circumstances, where the sale or trading of the non-fungible tokens results in a change of ownership of the underlying asset (legally enforceable), the tokens would not receive the tax treatment of a virtual digital asset but would receive the tax treatment of the underlying asset of the non-fungible token.

Albeit that the aforesaid is applicable for direct taxes, the GST laws in India can also be used with reference to their counterpart direct tax law, the Income Tax Act, 1961, to ensure uniformity in the definition of virtual digital assets for the purpose of levying GST. Legislative history in India has shown that such references to other legislations are often made in order to define particular words, terms, and phrases, thus could prove to be practical for assessees and indirect tax administration alike.

3. THE SCHEME OF THE GST LAWS IN INDIA

The GST is levied in India through five statutes: the Central Goods and Services Tax (CGST) Act, 2017, the State Goods and Services Tax (SGST) Act, 2017, the Union Territory Goods and Services Tax (UTGST) Act, 2017, the Integrated Goods and Services Tax (IGST) Act, 2017, and the Goods and Services Tax (Compensation to States) Act, 2017.

Section 9 of the CGST Act, 2017, Section 9 of the SGST Act, 2017, and Section 7 of the UTGST Act, 2017 provide the charging mechanism for the levy and collection of GST on intra-state supplies of goods or services or both. Intra-state supplies refer to supplies that are made within a provincial state or union territory. Where goods and/or services are supplied within a state, CGST and SGST are levied proportionately, and when goods and/or services are supplied within a union territory, CGST and UTGST are levied proportionately. The reason for such proportionate levy of GST is that it is inherently based on the principle of cooperative federalism between the central and the state governments (*Union of India & Anr. v. M/s Mohit Mineral Pvt. Ltd., Civil Appeal No. 1390 of 2022* [Supreme Court of India]).

Section 5 of the IGST Act, 2017 provides the charging mechanism for the levy of GST on inter-state supplies of goods or services or both. Since Article 269A of the Constitution of India (2022) only permits the central government to levy taxes on inter-state supplies, there is no concept of proportional levy and IGST is collected at the full rate.

Section 8 of the GST (Compensation to States) Act, 2017 levies a cess on the CGST or IGST value being paid for a specific number of goods that are notified by the central government. Generally, these goods include luxury or demerit goods, such as cigarettes, tobacco, aerated waters, motor vehicles, coal, yachts, and aircraft for personal use.

The substratum of GST is "supply" since it is the taxable event under the GST statutes. This is because a transaction will only be treated as a supply if it qualifies as a supply that is made in the course or furtherance of business. For this purpose, Section 7 of the CGST Act, 2017 envisages the scope of supply, which covers sale, transfer, barter, license, rental, exchange, lease, disposal, import, activities covered under Schedule I that may be made without consideration, and deemed supplies covered under Schedule II.

The classification of goods under the GST statutes are aligned to the First Schedule to the Customs Tariff Act, 1975, which, in turn, is aligned to the Harmonized System of Nomenclature (HSN) (Ministry of Finance, 2017). This is compliant with India's obligations under the International Convention on the Harmonized Commodity Description and Coding System (World Customs Organization, 2021). The classification of services is aligned to the United Nations Central Product Classification (GST Council, 2017). For the purposes of assigning specific rates of tax for goods as well as services, Section 9 of the CGST Act, 2017 and Section 5 of the IGST Act, 2017 permitting the central government to issue notifications and rate notifications prescribing the applicable rates of GST have been introduced accordingly. Currently, the rate of tax slabs under GST are 0.25%, 3%, 5%, 12%, 18%, and 28%. Where goods or services cannot be classified as per the rate notifications, the residuary rate of 18% applies.

Under the general scheme of GST, tax is levied on a forward charge basis. This means that a supplier of goods or services collects the amount of GST from the purchaser by raising an invoice and, after collecting the said amount, deposits the tax component in the Government Treasury and appropriates the consideration amount. However, under exceptional circumstances, and in the scenarios notified by the central government as per subsections (3) and (4) of Section 9 of the CGST Act, 2017, and subsections (3) and (4) of Section 5 of the IGST Act, 2017, GST can also be levied under the reverse charge mechanism. In this scenario, the supplier of goods or services is not authorized to collect the GST amount from its customers, and the purchasers have to declare such transactions in their returns and pay GST on them.

With regard to valuation, the general rule is that the value of goods or services shall be the transaction value ascertained by the price actually paid or payable. Such price actually paid or payable includes taxes, cesses, duties, fees, and charges that are statutorily levied, as well as incidental expenses, interests, late fees, and subsidies, but specifically excludes discounts to the price. There are few exceptions to the general mechanism for valuation and such instances are provided under the CGST Rules, 2017.

The fundamental objective of replacing the old indirect taxation system in India with GST was to eliminate the cascading effect of indirect taxes and to introduce a "seamless flow" of input tax credits (*Union of India & Ors. v. VKC Footsteps India Private Limited* (2022) 2 SCC 603 [Supreme Court of India], Part D, 14, iii). The "seamless flow" of input tax credits (*Union of India & Ors. v. VKC Footsteps India Private Limited* (2022) 2 SCC 603 [Supreme Court of India], Part D, 14, iii) has been given prime importance due to the fact that the GST statutes are value-added, destination-based taxes, and the ultimate burden of taxes is borne by the end consumer. This being said, Section 16 of the CGST Act, 2017 stipulates the conditions on the basis of which input tax credits can be availed, and Section 17 stipulates the list of instances known as blocked credits where input tax credits cannot be claimed. For business entities, the benefit of being able to claim input tax credits is that such credits can be directly utilized against future tax liabilities, resulting in reduction of the actual amount paid as taxes from their pockets.

4. CHALLENGES FACED WHEN LEVYING GOODS AND SERVICES TAX ON VIRTUAL DIGITAL ASSETS IN INDIA AND WAYS TO ELIMINATE THEM

There has been an absolute lack of clarity in respect of how GST is to be levied on and collected from the virtual digital asset (cryptoasset) industry. So far, crypto exchanges and non-fungible token marketplaces, including the various service providers related to the industry, have been paying tax under protest as a result of investigation proceedings in which it has been alleged that they have engaged in tax evasion (Choudhary, 2022). Such levies of the residuary tax rate can threaten the long-term survival of the industry and, hence, it becomes necessary to discuss the various interpretational challenges that have stood in the way of the effective classification, valuation, levy, and collection of GST on virtual digital assets. Such challenges and potential solutions, with regard to cryptocurrency, non-fungible tokens, security tokens, and blockchain service providers, will be discussed in detail below.

4.1. Cryptocurrencies and Crypto Exchanges

In the Indian context, a cryptocurrency has so far been defined as unregulated digital money, the issuers and controllers of which are the developers themselves (*Internet and Mobile Association of India v. Reserve Bank of India, Writ Petition (Civil) No. 528 of 2018* [Supreme Court of India]). Blockchain technology is used by cryptocurrencies for the purposes of storage and transfer, and by crypto exchanges in order to execute trades (Rajput et al., 2019).

The significant challenge faced when levying GST on cryptocurrency in India is the ascertainment of a cryptocurrency's nature as goods, services, or money. Undoubtedly, the Central Bank Digital Currency issued by the Reserve Bank of India has the status of legal tender (Press Information Bureau, 2022). However, other cryptocurrencies are not legal tender since they are treated as unregulated digital money, the issuers and controllers of which are the development companies themselves. Under such circumstances, a cryptocurrency would not be treated as money as defined under Section 2(75) of the CGST Act, 2017 since the primordial requirement for it to be recognized as a legal tender or a foreign currency by the Reserve Bank of India is not satisfied. As far as goods are concerned, Section 2(52) of the CGST Act, 2017 defines them as:

> every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Section 2(102) of the CGST Act, 2017 states that the word services:

> means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

Since cryptocurrency can have ownership assigned to it, and its inherent characteristics represent those of an intangible movable property, its nature, for the purposes of GST law, seems to lean towards the goods side (Bhattacharjee, 2022).

The difficulty with treating cryptocurrency as goods is that the classification of goods in India is aligned to the HSN, which does not recognize digital goods such as cryptocurrencies. This is because the World Trade Organization's Moratorium on Customs Duties on Electronic Transmissions (International Chamber of Commerce & International Trade Centre, 2023) prevents the levy of customs duties on digital and electronically transmitted goods. Therefore, recognition by the HSN would result in countries having to treat such transmissions as goods and levy customs duties on their import. This being the scenario, in the absence of a specific treatment of cryptocurrency as goods or services, there is lack of clarity in respect of the true nature of cryptocurrency for the purpose of levying GST.

The next challenge which has arisen in this respect is to decide whether GST is to be levied on the entire transaction value or only on the service commission component in respect of the facilitation and trading services provided by the crypto exchanges. Currently, GST is collected from crypto exchanges at the rate of 18%, as the services that the exchanges provide are treated as financial services, which are covered under chapter heading 9971 of the rate for services (Ministry of Finance, Government of India, 2017). Such tax is only collected on the value of the commission earned by the crypto exchanges. However, there have been proposals to levy GST on the entire transaction value of the cryptocurrency (Sinha, 2022). Operational difficulties would arise when attempting to levy GST on the entire transaction value of the cryptocurrency due to inability to identify the taxable person. The crypto exchange cannot be made to pay tax on the entire value of the transaction since it earns only commission for conducting facilitation and trading services. In many instances, there may not be a registered cryptocurrency supplier or recipient carrying out such transaction in the course or furtherance of business, and transactions may even be related to personal investments and not associated with any business activity. In the absence of an identified taxable person under the GST statutes, where tax is to be levied on the entire cryptocurrency value, there is lack of clarity in this respect.

In respect of valuation, instances may arise where cryptocurrency is being presented as consideration in a barter transaction. There is an absolute lack of legal clarification as to which portion of the transaction should be treated as the subject matter of tax and which portion of the transaction is to be treated as consideration, since this is subjective.

Unless a specific mechanism is brought forth by the central government in consultation with the Central Board of Indirect Taxes & Customs for the levy of GST on cryptocurrency, the best possible way in which to classify and pay GST in the status quo of the GST statutes would be to continue to levy it at the rate of 18% on crypto exchanges on the portion of commission earned by them for providing the financial services of trading and facilitation under chapter heading 9971 of the rate notification for services (Ministry of Finance, Government of India, 2017). Furthermore, to ensure that tax is collected on the entire value of the cryptocurrency transaction, crypto exchanges can choose to be treated as electronic commerce operators for tax purposes.

Section 2(45) of the CGST Act, 2017 defines an “electronic commerce operator” as any natural or juridical person “who owns, operates or manages digital or electronic facility or platform for electronic commerce” and the term “electronic commerce” is defined under Section 2(44) of the same Act as “the supply of goods or services or both, including digital products over digital or electronic network”. On a conjoint reading of sub-sections (44) and (45) of Section 2 of the CGST Act, 2017, a crypto exchange could fall within the ambit of electronic commerce operators for the purposes of GST since it hosts an electronic facility or platform for cryptocurrency trading and transfer on the blockchain, and the supply by the supplier to the recipient on such crypto exchange can be treated as a supply of a digital product, which is covered under the ambit of electronic commerce operators. The additional benefit of conferring the tax treatment of electronic commerce operators on crypto exchanges can help to resolve the dilemma about whether or not tax should be collected on the full value of the cryptocurrency. This is because electronic commerce operators often facilitate supplies between two persons who may or may not be registered under GST and may or may not be making such supplies in the course or furtherance of business. In order to prevent people from escaping taxation, Section 52 of the CGST Act, 2017 introduced the concept of tax collected at source, where the electronic commerce operator is required to pay 1% on the entire value of the supply taking place on its electronic commerce platform by collecting such amount from the purchaser. When applied to the context of crypto exchanges, this would be a workable solution since the government would not only receive GST on the commission earned by the crypto exchanges, but also on the entire value of the cryptocurrency supplied on such crypto exchange.

As pointed out initially, the general mechanism for valuation is that the value on which GST is to be levied is the transaction value. Wherever the transaction value is recognized, Section 15(1) of the CGST Act, 2017 would be applicable and GST would be leviable on such transaction value. However, in instances where the value of the cryptocurrency cannot be ascertained merely based on the transaction value, such as in a barter transaction, Section 15(4) of the CGST Act, 2017 would become applicable and the valuation rule under Rule 27, which requires the open market value of such supply to be treated as the taxable value of such supply, will apply. Accordingly, the open market value ascertained by the value of a particular cryptocurrency on the crypto exchange on the day when such cryptocurrency is supplied would become the value of such cryptocurrency in a barter transaction. Where it cannot be ascertained whether the cryptocurrency is the subject matter being supplied for other goods in consideration or if the cryptocurrency itself is the consideration, the commercial intent can be deciphered from a contract or the conduct between the parties, and the correct tax treatment can be applied on this basis.

4.2. Non-Fungible Tokens and Marketplaces

A non-fungible token is a digital token that has an underlying asset with intrinsic value and is recorded on the blockchain (Kraizberg, 2023). As its nomenclature suggests, such a token is non-fungible and represents a unique underlying asset which cannot be interchangeable and can only be represented by such tokens. Under Indian law, non-fungible tokens that result in the transfer of ownership of underlying tangible assets which is enforceable in law are not treated as non-fungible tokens (Central Board of Direct Taxes, Department of Revenue, Ministry of Finance 2022). This means that only non-fungible tokens that have intangible underlying assets—for example, unique art products, such as books, music, paintings, drawings, videos, audio recordings, games, objects in the metaverse, and any other form of unique information—would be taxable as non-fungible tokens under the GST. Undoubtedly, clear demarcation between underlying tangible assets and intangible assets for the purposes of treating such tokens as non-fungible has been introduced under the direct tax mechanism, but it is likely that such definition may be adopted under the GST in the form of referential legislation.

Currently, GST is only levied on the commission received by those in the non-fungible marketplace for providing financial services, such as the facilitation and trading of non-fungible tokens, under chapter heading 9971, at the rate of 18% (Ministry of Finance, Government of India, 2017). However, when it comes to the actual value of the non-fungible token that is being traded or the ownership of which is being exchanged, there is no pristine mechanism by which to effectuate smooth levy and collection. The main dilemma associated with non-fungible tokens is whether or not their classification and valuation need to be made on their value or that of the underlying assets. If classification is based on the value of the underlying asset involved, the GST rate will differ in every transaction. For example, when a painter or a music composer sells their original work as a non-fungible token, it falls under tariff entry 999693—Original works of authors, composers and other artists except performing artists, painters and sculptors"—and the rate of tax applicable would be 18% (Ministry of Finance, Government of India, 2017). However, when non-fungible tokens are being transferred in the course or furtherance of business with an e-book, which is being sold without the involvement of its original author, as an underlying asset, tariff entry 998431—"On-line text based information such as online books, newspapers, periodicals, directories and the like"—would apply, and the rate of tax charged would be 5% (Ministry of Finance, Government of India, 2017). Per contra, if the non-fungible token is to be taxed regardless of the underlying asset, it would be treated as an online information database access or retrieval service.

Section 2(17) of the IGST Act, 2017 defines "online information and database access or retrieval services" as those "services whose delivery is mediated over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology". It also provides a list of examples comprising: firstly, "advertising on the internet"; secondly, the provision of cloud services; thirdly, the "provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet"; fourthly, the provision of any "data or information, retrievable or otherwise, to any person in electronic form through a computer network"; fifthly, "online supplies of digital content (movies, television shows, music and the like)"; sixthly, "digital data storage"; and, seventhly, "online gaming" (IGST Act, 2017, Section 2(17), i-vii). The supply of non-fungible tokens can be seen as the supply of online information and database access or retrieval services since, in simple terms, unique information or artistic creation is being supplied through a token which is non-fungible over the blockchain network and, due to the inclusive and wide embracing scope of online information, database access, and retrieval services, the supply of non-fungible tokens can be covered under it. Thus, the applicable classification would be chapter heading 9984 of Ministry of Finance, Government of India (2017), which includes online content and information services.

This being said, levying GST on the non-fungible token itself instead of the underlying asset would be more suitable under the current scheme of the GST statutes and could help the industry to gain better clarity on the taxability of such tokens. However, this is subject to the requirement that the central government, in consultation with the GST Council, formulates a standard rate of tax applicable for the supply of non-fungible tokens.

If GST is levied at the full rate of the non-fungible token, as envisaged above, the question that needs answering is which taxable person is liable? This is because, as pointed out above, the non-fungible token marketplace pays 18% GST on the financial services of facilitation and trading provided by it to the supplier and the recipient. Generally, the marketplace does not collect the amount of consideration from the purchaser and, therefore, should not be subjected to GST on the full value of the non-fungible token. In the ordinary course of events, the supplier is often the creator of the non-fungible token and, therefore, the transaction would be treated as taking place in the course and furtherance of business, and tax can be collected from the recipient by the supplier and paid to the Government Treasury. Where the supplier is unregistered, the recipient of the non-fungible tokens can be specifically included under the reverse charge mechanism by way of an inclusion in the reverse charge notifications. In this manner, under the current mechanism, GST can be levied not only on the commission earned by the non-fungible token marketplace, but on the entire value of the transaction subject to the introduction of a uniform rate for non-fungible tokens.

4.3. Security Tokens

A security token is a digital token issued on the blockchain by an issuer company with either that company's equity or debt securities as its underlying asset (Deloitte, King & Wood Mallesons, University of Hong Kong, & HKbitEx, 2020). Although there is an absence of clear identification of security tokens as a "security" under Indian law, security tokens possess inherent characteristics of investment contracts and derivatives, and also satisfy the Howey Test as laid down by the Supreme Court of the United States of America (*S.E.C. v. Howey* (1946) 328 U.S. 293 [Supreme Court of the United States of America]). As the Allahabad High Court has accepted the Howey Test under Indian law as well (*Paramount Bio-Tech Industries Limited v. Union of India* (2004) All. L.J. 2552 [Allahabad High Court]), a security token, by implication, would also be treated as a security under the Indian law. Section 2(101) of the CGST Act, 2017, assigns the definition of securities as is provided under the Securities Contracts (Regulation) Act, 1956. Section 2(h) of the Securities Contracts (Regulation) Act, 1956 provides an inclusive definition of securities which includes "shares, scrips stocks, bonds, debentures, debenture stock or other marketable securities of a like nature", as well as derivatives, collective investment scheme units, security receipts, mutual fund scheme units, "government securities", "rights and interests in securities" and such other instruments that are declared by the Central Government to be securities. On a conjoint reading of the definition of securities under Section 2(h) of the Securities Contracts (Regulation) Act, 1956 and the principles affirmed by the Howey Test, security tokens, in substance, would qualify as a security under Indian law. This being said, security tokens can be excluded from the entire ambit of the GST accordingly.

As discussed above, the definition of goods under Section 2(52) of the CGST Act, 2017 and the definition of services under Section 2(102) of the CGST Act, 2017 specifically exclude securities and, therefore, render them to be outside of the purview of taxability under the GST statutes. Considering the inherent nature and role of security tokens, it is best kept out of the purview of the GST statutes and the ideal way of taxing such security tokens would be to collect Securities Transaction Tax on every executed trade as per its mechanism (Malik, 2014).

4.4. Other Blockchain Service Providers

There are a few types of service provider on the blockchain that are indispensable for undertaking the trading and transfer of cryptoassets. These include blockchain wallet service providers, blockchain miners, and blockchain validators. Due to an upsurge of payment wallet and payment aggregator companies in India, there is clarity in respect of the taxability of such services. Accordingly, even blockchain wallet companies would be subjected to tax at the rate of 18% under chapter heading 9971 of the rate notification for services (Ministry of Finance, Government of India, 2017).

Blockchain miners and blockchain validators conduct the crucial tasks of securing and validating nodes containing information on the blockchain, verification, and cryptographic hashing functions. They receive "gas fees" as a reward for the computational resources that they use when carrying out such tasks (Azzolini et al., 2019). There could be an interpretational issue with regard to how such gas fees are to be classified under GST. This is because blockchain miners and validators could be seen as providing general business support services or information technology services, each of which are classified in different ways. However, as per the explanatory notes issued by way of annexure to the rate notification for services, the activities carried out by blockchain miners and validators possess the characteristics of information technology infrastructure and network management services and, therefore, would be classified under chapter heading 9983, attracting tax at the rate of 18% (Ministry of Finance, Government of India, 2017).

5. CONCLUSION

In pursuance of the discussions undertaken in the present paper, it is quite evident that even though a substantive recognition and method of classifying, valuating, and levying tax on virtual digital assets is possible, it is devoid of a concrete procedural and mechanical framework that renders such substantive recognition and the effective ability for the tax administration to levy GST on virtual digital assets otiose. In addition, prevailing ambiguities and the possibility that multiple interpretations will arise continue to risk an upsurge in disputes between the virtual digital asset industry and the tax administration, which could negatively affect the growth of the virtual digital asset (cryptoasset) industry and hamper the ability of the tax administration to collect GST in a structured manner. Therefore, the introduction of a detailed mechanism clarifying the classification, valuation, levy, and collection of GST on virtual digital assets in India is needed by this rapidly growing industry.

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